

TOWN OF NASHVILLE, INDIANA

CODE OF ORDINANCES

2021 S-12 Supplement contains:

Local legislation current through Res. 2020-13, passed 12-17-2020; and
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ORDINANCE 2005-02

AN ORDINANCE ENACTING A CODE OF ORDINANCES FOR THE TOWN OF NASHVILLE REVISING, REARRANGING, CODIFYING AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES OF THE TOWN OF NASHVILLE DEALING WITH SUBJECTS EMBRACED IN SUCH CODE OF ORDINANCES.

WHEREAS, the Acts of the Legislature of the State of Indiana empower and authorize the Town of Nashville to revise, codify and compile existing ordinances heretofore adopted and to incorporate such ordinances into a complete, simplified code;

WHEREAS, the Nashville Town Council has authorized a general compilation and codification of the ordinances of the Town of Nashville of a general and permanent nature and publication of such ordinance in a complete, simplified code;

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

Section 1. The ordinances of the Town of Nashville as revised, rearranged, codified and compiled in a complete, simplified code are hereby adopted as and shall constitute the "Code of Ordinances of the Town of Nashville".

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

TITLE I: GENERAL PROVISIONS

Chapter

- 10. General Provisions
- 11. Town Standards

TITLE III: ADMINISTRATION

- 30. Town Government
- 31. Town Policy
- 32. Town Records
- 33. Departments, Boards and Commissions
- 34. Finance; Town Funds
- 35. Civil Emergencies
- 36. Personnel Policies

TITLE V: PUBLIC WORKS

- 50. Garbage
- 51. Sewers
- 52. Waterworks

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TITLE VII: TRAFFIC CODE

- 70. Traffic Regulations
- 71. Parking Regulations
- 72. Traffic Schedules
- 73. Parking Schedules

TITLE IX: GENERAL REGULATIONS

- 90. Animals
- 91. Fair Housing
- 92. Nuisances
- 93. Streets and Sidewalks

TITLE XI: BUSINESS REGULATIONS

- 110. Business Licenses
- 111. Alcoholic Beverages
- 112. Amusements
- 113. Food Markets
- 114. Food Service
- 115. Horse-Drawn Carriage Business
- 116. Itinerant Merchants
- 117. Taxicabs

TITLE XIII: GENERAL OFFENSES

- 130. Offenses Against Property
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TITLE XV: LAND USAGE

- 150. Building Regulations
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- 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 Nashville Town Council and the Clerk is hereby authorized and ordered to file a copy of such Code of Ordinances in the Office of the Clerk.
- 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.

PASSED AND ADOPTED by the Nashville Town Council on this 3rd day of March, 2005.

R. Dale Cassiday /s/
 R. Dale Cassiday

Charles King /s/
 Charles King

Roger Kelso /s/
 Roger Kelso

Arthur Omberg /s/
 Arthur Omberg

Robert Kirlin /s/
 Robert Kirlin

ORDINANCE 2006-03

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

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2006 S-1 supplement to the Code of Ordinances of the Political Subdivision, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of this Political Subdivision; 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 Legislative Authority 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 LEGISLATIVE AUTHORITY OF THE TOWN OF NASHVILLE, INDIANA:

- Section 1. That the 2006 S-1 supplement to the Code of Ordinances of the Political Subdivision 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 Legislative Authority and the Clerk of the Political Subdivision 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.
- 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 Legislative Authority of the Town of Nashville, Indiana on this 20th day of April, 2006.

ATTEST:

Brenda K. Young /s/
Clerk-Treasurer

Nashville - Adopting Ordinance

<u>Roger Kelso /s/</u> Council President	<u>Yea</u>	Nay	Abstain
<u>Robert Kirlin /s/</u> Council Vice-President	<u>Yea</u>	Nay	Abstain
<u>R. Dale Cassidy</u> Councilmember	Yea	Nay	Abstain
<u>Charles King /s/</u> Councilmember	<u>Yea</u>	Nay	Abstain
<u>Arthur Omberg /s/</u> Councilmember	<u>Yea</u>	Nay	Abstain

ORDINANCE 2007-04

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

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2007 S-2 supplement to the Code of Ordinances of the Political Subdivision, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of this Political Subdivision; 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 Legislative Authority 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 LEGISLATIVE AUTHORITY OF THE POLITICAL SUBDIVISION OF THE TOWN OF NASHVILLE, INDIANA:

- Section 1. That the 2007 S-2 supplement to the Code of Ordinances of the Political Subdivision 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 Legislative Authority and the Clerk of the Political Subdivision 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.
- 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 Nashville Town Council this 16th day of August, 2007.

Roger D. Kelso /s/
Council President, Roger D. Kelso

Yea Nay Abstain

Robert Kirlin /s/
Council Vice-President, Robert Kirlin

Yea Nay Abstain

Nashville - Adopting Ordinance

R. Dale Cassiday /s/
Council Member, R. Dale Cassiday **Yea** Nay Abstain

Charles B. King /s/
Council Member, Charles B. King **Yea** Nay Abstain

Arthur Omberg /s/
Council Member, Arthur Omberg **Yea** Nay Abstain

ATTEST:

Brenda K. Young /s/
Clerk-Treasurer, Brenda K. Young

ORDINANCE 2008-06

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

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2008 S-3 supplement to the Code of Ordinances of the Political Subdivision, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of this Political Subdivision; 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 Legislative Authority 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 LEGISLATIVE AUTHORITY OF THE POLITICAL SUBDIVISION OF THE TOWN OF NASHVILLE, INDIANA:

- Section 1. That the 2008 S-3 supplement to the Code of Ordinances of the Political Subdivision 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 Legislative Authority and the Clerk of the Political Subdivision 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.
- 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 Nashville Town Council this 18th day of September, 2008.

Roger D. Kelso /s/
Council President, Roger D. Kelso

Yea Nay Abstain

Robert Kirlin /s/
Council Vice-President, Robert Kirlin

Yea Nay Abstain

Nashville - Adopting Ordinance

Council Member, R. Dale Cassiday

Yea Nay Abstain

Charles B. King /s/
Council Member, Charles B. King

Yea Nay Abstain

Arthur Omberg /s/
Council Member, Arthur Omberg

Yea Nay Abstain

ATTEST:

Brenda K. Young /s/
Clerk-Treasurer, Brenda K. Young

ORDINANCE 2012-11

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

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2012 S-5 supplement to the Code of Ordinances of the Political Subdivision, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of this Political Subdivision; 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 Legislative Authority 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 LEGISLATIVE AUTHORITY OF THE POLITICAL SUBDIVISION OF THE TOWN OF NASHVILLE, INDIANA:

- Section 1. That the 2012 S-5 supplement to the Code of Ordinances of the Political Subdivision 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 Legislative Authority and the Clerk of the Political Subdivision 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.
- 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 Nashville Town Council this 16th day of August, 2012.

Robert Kirlin /s/
Council President, Robert Kirlin

Yea Nay Abstain

Charles B. King /s/
Council Vice-President, Charles B. King

Yea Nay Abstain

ORDINANCE NO. 2013-11

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

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2013 S-6 supplement to the Code of Ordinances of the Political Subdivision, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of this Political Subdivision; 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 Legislative Authority 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 LEGISLATIVE AUTHORITY OF THE
POLITICAL SUBDIVISION OF THE TOWN OF NASHVILLE, INDIANA:**

- Section 1. That the 2013 S-6 supplement to the Code of Ordinances of the Political Subdivision 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 Legislative Authority and the Clerk of the Political Subdivision 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.
- 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 Nashville Town Council this 21st day of November, 2013.

Robert Kirlin /s/
Council President, Robert Kirlin

Yea Nay Abstain

Charles B. King /s/
Council Vice-President, Charles B. King

Yea Nay Abstain

ORDINANCE NO. 2016-08

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

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2016 S-8 supplement to the Code of Ordinances of the Political Subdivision, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of this Political Subdivision; 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 Legislative Authority 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 LEGISLATIVE AUTHORITY OF THE
POLITICAL SUBDIVISION OF THE TOWN OF NASHVILLE, INDIANA:**

- Section 1. That the 2016 S-8 supplement to the Code of Ordinances of the Political Subdivision 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 Legislative Authority and the Clerk of the Political Subdivision 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.
- 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 Nashville Town Council this 21st day of July, 2016.

Charles B. King /s/ _____ **Yea** Nay Abstain
Council President, Charles B. King

Jane Gore /s/ _____ **Yea** Nay Abstain
Council Vice-President, Jane Gore

Nashville - Adopting Ordinance

Alisha Gredy /s/
Council Member, Alisha Gredy

Yea Nay Abstain

Arthur Omberg /s/
Council Member, Arthur Omberg

Yea Nay Abstain

Dave Rudd /s/
Council Member, Dave Rudd

Yea Nay Abstain

ATTEST:

Brenda K. Young /s/
Clerk-Treasurer, Brenda K. Young

ORDINANCE NO. 2017-10

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

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2017 S-9 supplement to the Code of Ordinances of the Political Subdivision, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of this Political Subdivision; 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 Legislative Authority 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 LEGISLATIVE AUTHORITY OF THE
POLITICAL SUBDIVISION OF THE TOWN OF NASHVILLE, INDIANA:**

- Section 1. That the 2017 S-9 supplement to the Code of Ordinances of the Political Subdivision 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 Legislative Authority and the Clerk of the Political Subdivision 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.
- 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 Nashville Town Council this 28th day of September, 2017.

ORDINANCE NO. 2018-13

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

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2018 S-10 supplement to the Code of Ordinances of the Political Subdivision, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of this Political Subdivision; 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 Legislative Authority 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 LEGISLATIVE AUTHORITY OF THE POLITICAL SUBDIVISION OF THE TOWN OF NASHVILLE, INDIANA:

- Section 1. That the 2018 S-10 supplement to the Code of Ordinances of the Political Subdivision 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 Legislative Authority and the Clerk of the Political Subdivision 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.
- 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 Nashville Town Council this 18th day of October, 2018.

Nashville - Adopting Ordinance

<u>Charles B. King /s/</u> Council President, Charles B. King	<u>Yea</u>	Nay	Abstain
<u>Jane Gore /s/</u> Council Vice-President, Jane Gore	<u>Yea</u>	Nay	Abstain
<u>Alisha Gredy /s/</u> Council Member, Alisha Gredy	<u>Yea</u>	Nay	Abstain
<u>Arthur Omberg /s/</u> Council Member, Arthur Omberg	<u>Yea</u>	Nay	Abstain
<u>Dave Rudd /s/</u> Council Member, Dave Rudd	<u>Yea</u>	Nay	Abstain

ATTEST:

Brenda K. Young /s/
Clerk-Treasurer, Brenda K. Young

ORDINANCE NO. 2020-01

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

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2019 S-11 supplement to the Code of Ordinances of the Political Subdivision, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of this Political Subdivision; 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 Legislative Authority 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 LEGISLATIVE AUTHORITY OF THE POLITICAL SUBDIVISION OF THE TOWN OF NASHVILLE, INDIANA:

- Section 1. That the 2019 S-11 supplement to the Code of Ordinances of the Political Subdivision 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 Legislative Authority and the Clerk of the Political Subdivision 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.
- 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 Nashville Town Council this 20th day of February, 2020.

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§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the municipality of Nashville, Indiana shall be designated as the Code of Nashville and may be so cited.

§ 10.02 INTERPRETATION.

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

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

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

§ 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.05 DEFINITIONS.

(A) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

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

CITY, MUNICIPAL CORPORATION, MUNICIPALITY or **TOWN.** The town of Nashville, Indiana.

CODE, THIS CODE or **THIS CODE OF ORDINANCES.** This municipal code as modified by amendment, revision, and adoption of new titles, chapters or sections.

COUNTY. Brown County, Indiana.

MAY. The act referred to is permissive.

MONTH. A calendar month.

OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**.

OFFICER, OFFICE, EMPLOYEE, COMMISSION or **DEPARTMENT.** An officer, office, employee, commission or department of this municipality unless the context clearly requires otherwise.

PERSON. Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. 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 or **FOLLOWING.** Next before or next after, respectively.

SHALL. The act referred to is mandatory.

SIGNATURE or **SUBSCRIPTION.** Includes a mark when the person cannot write.

STATE. The State of Indiana.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

WRITTEN. Any representation of words, letters or figures, whether by printing or otherwise.

YEAR. A calendar year, unless otherwise expressed; equivalent to the words **YEAR OF OUR LORD.**

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this municipality shall be by the following rules, unless the construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance:

(A) **AND** or **OR.** Either conjunction shall include the other as if written “and/or,” if the sense requires it.

(B) **Acts by assistants.** When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, the requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

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

(D) **General term.** A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 10.07 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 10.08 REFERENCE TO OTHER SECTIONS.

Whenever in 1 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.

§ 10.09 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.

§ 10.10 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 that 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.

§ 10.11 REASONABLE TIME.

(A) In all cases where a section 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 Sunday, it shall be excluded.

§ 10.12 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

§ 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 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.

§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured or accrued under any ordinance previous to its repeal shall in any way be affected, released or discharged, but may be prosecuted, enjoyed and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause or provision, unless it is expressly provided.

§ 10.16 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 the 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.

§ 10.17 SECTION HISTORIES; STATUTORY REFERENCES.

(A) *Section histories.* As histories for the code sections, the specific number and passage date of the original ordinance, and the amending ordinances, if any, are listed following the text of the code section. Example:
(Ord. 10, passed 5-13-1960; Am. Ord. 15, passed 1-1-1970; Am. Ord. 20, passed 11-1980; Am. Ord. 25, passed 1-1-1985)

(B) *Statutory citations.*

(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. 5-4-1) (Ord. 10, passed 1-17-1980).

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

§ 39.01 PUBLIC RECORDS AVAILABLE.

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

Statutory reference:

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

§ 10.99 GENERAL PENALTY.

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 a fine not exceeding \$2,500. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

CHAPTER 11: TOWN STANDARDS

Section

- 11.01 Town limits
- 11.02 Official time

law (the advancement being commonly referred to as “daylight saving time”).

§ 11.01 TOWN LIMITS.

Be it ordained by the Board of Trustees of the town of Nashville, that “The Town of Nashville” or “Corporation” wherever the same may occur in this or any other ordinance hereafter ordained or established by the Board shall apply to all that portion of Washington Township, Brown County, in the state of Indiana, included and embraced in the following described boundary, to-wit: Commencing at a point 10 rods due west of the northwest corner of the northwest quarter of section 19 township 9 north of range 3 east, running thence east 5-1/2 degrees south, 191 rods, thence south, 5-3/4 degrees east, 162 rods, thence west, 5-1/2 degrees north, 193 rods; thence north, 5-3/4 degrees east, 162 rods to the place of beginning; the whole the northwest quarter of section 19 and 10-1/8 acres off of the east side of northeast quarter of section 24 in town 9 north, of range 2 east, including in all, in both sections 194-37/100 acres.
(Ord. 1, passed 8-5-1880)

(B) In all ordinances, resolutions, or orders of the Town Council and in all official notices, advertisements, or documents of the town, and in all contracts to which the town is a party, relating to the time of performance of any act by any officer or department of the town or relatives to the time within which any act shall or shall not be performed by any person, it shall be the official time of the town as herein prescribed.

(C) All clocks or other timepieces in or upon public buildings or other premises maintained at the expense of the town shall be set and run according to the official time as provided in the section. It is hereby made the duty of the person having control and charge of the building or buildings and premises to see that the clocks or other timepieces are set and run in accordance with the official time.
(Ord. 4-6-70, passed 4-6-1970)

§ 11.02 OFFICIAL TIME.

(A) United States standard time for the zone in which the town is located shall be the official time of the town, but if that time is not later than the mean astronomical time of the 90 degrees of longitude west from Greenwich, the official time for the town shall be advanced 1 hour from 2:00 a.m. on the second Sunday in March until 2:00 a.m. on the on the first Sunday in November in each year unless prohibited by

TITLE III: ADMINISTRATION

Chapter

- 30. TOWN GOVERNMENT**
- 31. TOWN POLICY**
- 32. TOWN RECORDS**
- 33. DEPARTMENTS, BOARDS AND COMMISSIONS**
- 34. FINANCE; TOWN FUNDS**
- 35. CIVIL EMERGENCIES**
- 36. PERSONNEL POLICIES**
- 37. VIOLATIONS AND CIVIL PENALTIES**

CHAPTER 30: TOWN GOVERNMENT

Section

General Provisions

- 30.01 Legislative districts
- 30.02 Town court
- 30.03 Purchasing agents

Town Employees

- 30.15 Clerk-Treasurer
- 30.16 Town Manager

Town Council

- 30.30 Number of members
- 30.31 Elections; terms

GENERAL PROVISIONS

§ 30.01 LEGISLATIVE DISTRICTS.

(A) *Establishment.* The boundaries of the town’s 3 legislative districts (District 1, District 2 and District 3) are hereby redefined according to the map attached to Ordinance 2011-09 as Exhibit A, and incorporated as if set forth in full herein.

(B) *Divisions.* The town is divided east from west by the northern extreme of Van Buren Street south to Mound Street then west to Jefferson Street then south to Main Street then east to Van Buren Street then south to the corporate limit. The town is divided north from south by Main Street.
(Ord. 1982-10, passed 12-16-1982; Am. Ord. 1992-8, passed 12-17-1992; Am. Ord. 2002-08, passed 5-16-2002; Am. Ord. 2011-09, passed 9-15-2011; Am. Ord. 2012-06, passed 5-17-2012)

§ 30.02 TOWN COURT.

(A) There is hereby created the Town Court.

(B) The court shall be a Court of Record and shall have all of the powers and the authority as created by Chapter 76, Acts of 1961, Section 1, pages 144 *et seq.*

© The town shall provide the court a seal with the words “Town Court of Nashville, Indiana.”

(D) The town shall provide for the court all books, dockets, papers and printed blanks necessary for the discharge of the duties of the court.
(Ord. 7-7-69, passed 8-4-1969)

§ 30.03 PURCHASING AGENTS.

(A) The Clerk-Treasurer and Town Manager shall act as the purchasing agents for the town.

(B) The purchasing agents shall have all the powers and duties authorized under I.C. 5-22, as may be supplemented from time to time by ordinances adopted by the Council and policies adopted by the purchasing agents.

© The Clerk-Treasurer or Town Manager shall act as the purchasing agents for every agency, board, office, branch, bureau, commission, council, department or other establishment of the town.

(D) The Clerk-Treasurer or Town Manager may designate in writing any employee of the town as a purchasing agent.
(Ord. 1998-9, passed 6-18-1998)

TOWN EMPLOYEES**§ 30.15 CLERK-TREASURER.**

(A) The Town Council authorizes the Clerk-Treasurer to make payment of items that need to be made in a timely manner, and include them on the next claim docket at the Council meeting for approval. (Res. passed 1-19-1959; Res. 1990-1, passed 1-18-1990; Res. 1991-2, passed 1-17-1991; Res. 1992-1, passed 1-28-1992)

(B) The Clerk-Treasurer's salary shall be set by ordinance. (Ord. 1-3-66, passed 1-3-1966; Am. Ord. 1989-12, passed 12-28-1989; Am. Ord. 1993-6, passed 12-16-1993; Am. Ord. 1993-8, passed 12-30-1993)

Cross-reference:

Clerk-Treasurer as Public Records Officer, see § 32.02

§ 30.16 TOWN MANAGER.

The Town Council shall create the position of Town Manager with the following conditions.

(A) *Employment; compensation; tenure.*

(1) The Town Council shall employ a Town Manager to be the administrative head of the town government and shall fix his or her compensation in the current salary ordinance.

(2) The Town Manager shall serve at the pleasure of the Town Council and may be removed from office by the board for cause at any time after notice and a hearing.

(3) The Town Council may appoint a qualified person to perform the duties of the Manager whenever he or she is absent or unable to perform his or her duties.

(B) *Performance bond.* The Manager must, in the manner prescribed by I.C. 5-4-1, execute a bond for the faithful performance of his or her duties.

© *Duties.* The Manager, under the direction of the Town Council, is responsible for the administrative duties of the Town Council. Unless a written order or ordinance of the Town Council provides otherwise, the Manager:

(1) Shall attend the meeting of the Town Council and recommend actions he or she considers advisable;

(2) Shall hire town employees according to the pay schedules and standards fixed by the Town Council or by statute;

(3) Shall suspend, discharge, remove or transfer town employees, if necessary for the welfare of the town;

(4) May delegate any of his or her powers to an employee responsible to him or her;

(5) Shall administer and enforce all ordinances, orders and resolutions of the Town Council;

(6) Shall see that all statutes that are required to be administered by the Town Council or a town officer subject to the control of the Town Council are faithfully administered;

(7) Shall prepare budget estimates and submit them to the Town Council when required;

(8) Shall execute contracts on behalf of the town for materials, supplies, services or improvements, after the completion of the appropriations, notice and competitive bidding required by statute; and

(9) May receive service of summons on behalf of the town.

(D) *Public works.* The Town Manager shall also act as the superintendent of the town public utilities and street department, hereinafter referred to as public works. These duties shall include:

(1) Appointment, supervision and dismissal of all employees of the public works;

(2) Employ unskilled labor when needed, without competitive examination;

(3) Investigate all claims against the public works;

(4) Oversee the operation of the public works and any construction work, repairs or alterations to the public works system; and

(5) Advise the Town Council in all matters that will bring about an efficient and economical operations and maintenance of the public works.

(E) *Police disciplinary body membership barred.* The Manager may not serve as a member of any body that hears disciplinary charges against:

(1) The Town Marshal; or

(2) A member of the Police Department.
(Ord. 1993-4, passed 7-15-1993)

Editor's note:

Wherever the words "Town Manager" appear in any section contained herein, the words "Town Administrator" or "designee of the Town Council" may be substituted in the application and construction of said sections (see Ord. 2005-03, passed 4-21-2005).

TOWN COUNCIL

§ 30.30 NUMBER OF MEMBERS.

(A) There shall be 5 Council members, composed of the following:

(1) *Existing Council seats.*

- (a) District 1;
- (b) District 2; and
- © District 3.

(2) *New Council seats.*

- (a) *At Large 1.* Any of the 3 districts;
- (b) *At Large 2.* Any of the 3 districts.

and

(B) All Council members are to be elected by all the voters of the town.

© The district map titled Exhibit 1, Ordinance to Redistrict, is attached to Ordinance 2002-08 as a reference guide. However, should a dispute arise from either the boundary description and/or the district map, the census tract and block information attached to Ordinance 2002-08 shall be used in resolving any disputes.

(Ord. 1995-12, passed 11-16-1995; Am. Ord. 2002-08, passed 5-16-2002)

§ 30.31 ELECTIONS; TERMS.

(A) *Districts 1, 2 and 3.* The Council seats of District 1, District 2 and District 3 shall be filled by the individuals receiving the winning vote total from the November 7, 1995 ballot for each existing district seat.

(1) The individual receiving the winning vote total in the ballot for District 1 shall be elected to serve a 3-year term on the Town Council, beginning January 1, 1996.

(2) The individuals receiving the winning vote totals in the ballot for Districts 2 and 3 shall be elected to serve 4-year terms on the Town Council, beginning January 1, 1996.

(3) All successors to the Council members elected on November 7, 1995, shall be elected to serve for terms of 4 years.

(B) *At Large 1 and 2.*

(1) The new Council seats, At Large 1 and At Large 2, shall be filled by the members of the Council at a regular or special meeting.

(2) The individuals appointed to the Council seats of At Large 1 and At Large 2 shall serve 4-year terms on the Town Council, beginning January 1, 1996.

(Ord. 1994-6, passed 9-15-1994; Am. Ord. 1995-12, passed 11-16-1995)

CHAPTER 31: TOWN POLICY

Section

General Provisions

- 31.01 Disposal of personal property
- 31.02 Disposal of valuable items
- 31.03 Smoking in public buildings
- 31.04 Right of review
- 31.05 Identity Theft Prevention Program
- 31.06 Internal control standards
- 31.07 Materiality threshold

estimated value of each item shall be stated thereon along with the reason for disposal clearly indicated.

(B) Approval for the sale of the described property shall be obtained from the Town Council a minimum of 10 days prior to the date of disposal.
(Res. 1994-2, passed 2-9-1994)

Purchase Orders

- 31.15 Protection of offers; status of documents as public records
- 31.16 Discussions with offerors responding to a request for proposals
- 31.17 Delay of opening of offers
- 31.18 Evidence of financial responsibility
- 31.19 Modification and termination of contracts
- 31.20 Purchase of services
- 31.21 Purchase of supplies manufactured in the United States
- 31.22 Fuel purchasing
- 31.99 Penalty

§ 31.02 DISPOSAL OF VALUABLE ITEMS.

All officials and employees of the town shall comply with the following procedure when disposing of any personal property, 1 item of which has an estimated value of \$1,000 or more, or more than 1 item is involved with an estimated total value of \$5,000 or more:

(A) An itemized list of the items for disposal shall be submitted to the Town Council. The estimated value of each item shall be stated thereon along with the reason for disposal clearly stated.

(B) Approval for the sale of the described property must be obtained from the Town Council in sufficient time to allow for newspaper advertising of the proposed disposal at least 10 days prior to the date of disposal.

GENERAL PROVISIONS

§ 31.01 DISPOSAL OF PERSONAL PROPERTY.

All officials and employees of the town shall comply with the following procedure when disposing of any personal property:

(A) An itemized list of the items for disposal shall be submitted to the Town Council. The

(C) Items of personal property of the value specified in this section may be sold at a public auction conducted by an auctioneer licensed under I.C. 25-6.1 after public advertisement. If an auctioneer is not engaged, the town shall sell the property at a public sale or by sealed bids delivered to the office of the disposing agent before the date of sale. The advertisement shall state whether it is to be a public sale or by sealed bid. All sales shall be made to the highest responsible bidder.
(Res. 1994-2, passed 2-9-1994)

§ 31.03 SMOKING IN PUBLIC BUILDINGS.

It shall be unlawful for any person to light a match or other flame-producing device or to smoke, light or carry a lighted cigarette, cigar, or pipe or similar article, in any public library, public school or public school building including gymnasiums and auditoriums, public theater or auditorium and similar buildings, unless authorized signs are displayed expressly permitting the same; provided, however, that this section shall not be construed to prohibit smoking on the stage of any theater when used in connection with theatrical performances.

(Ord. 4-6-70, passed 4-6-1970) Penalty, see § 31.99

§ 31.04 RIGHT OF REVIEW.

(A) *Purpose.* The welfare of the town and the people who live, work and do business in the town is tied to the Code of Ordinances and the legislative and executive decisions of the Town Council. In order to protect the rights of all to protest any action by the Town Council, the application of the Code of Ordinances, any decision of a board, commission or committee under the jurisdiction of the Town Council, it is necessary to establish a right of review process.

(B) *Procedure.*

(1) Any person, business or other entity who believes himself, herself or itself to be aggrieved by a particular decision of the Town Council, a particular application of the Code of Ordinances or the decision of any board, commission or committee under jurisdiction of the town may, upon proper written request, seek review of the decision. Requests made pursuant to this section must be filed with the Clerk-Treasurer within 10 working days following the date of final action by the Council, board, commission or committee. In the event that the individual person, business or other entity believes there is a particular grievance with regard to a specific ordinance, the request must be filed with the Clerk-Treasurer within 10 working days of the discovery of the particular grievance.

(2) After the filing of the written request for Council review of a decision of the Council's action, application of a particular ordinance or the decision of a board, commission or committee under the jurisdiction of the Town Council, the Town Council President or any 2 Council members, after considering whether sufficient time remains to notice the review for public hearing before a forthcoming Council meeting, shall set the date on which the Council will hold a hearing. Noticing shall be consistent with that specified under Indiana law. At the time of Council review of the matter, the Council may uphold the decision of the Council, the application of the ordinance, the decision of any board, commission or committee under the jurisdiction of the Town Council, amend the decision and/or conditions attached to the decision, overturn the decision, or remand the matter to the board, commission or committee for further consideration.

(Ord. 2000-4, passed 4-27-2000)

§ 31.05 IDENTITY THEFT PREVENTION PROGRAM.

The town hereby adopts the Identity Theft Prevention Program, as is set out in its entirety and as is more particularly set out in Exhibit A of Ordinance 2009-06, available in the Office of the Town Clerk-Treasurer.

(Ord. 2009-06, passed 4-16-2009)

§ 31.06 INTERNAL CONTROL STANDARDS.

(A) The town finds that its mission as related to an internal control system is as follows:

(1) Provision of a democratic governmental structure at the grassroots level;

(2) Provision of services as determined through the political process including but not limited to the streets, police, economic development, and other major services;

(3) Promotion of government efficiency, accountability, reliability and transparency; and

(4) Promotion of safeguards to reduce the risk of loss due to fraud, waste, abuse, mismanagement or errors.

(B) The town finds that its interrelated and often overlapping objectives as related to an internal control system are as follows:

(1) Operations objectives which involve the ways governmental services are performed and the performance of those providing governmental services including by way of example budgeting, purchasing, permitting, cash management and planning among others.

(2) Reporting objectives which involve the filing of financial and non- financial information to those inside the government and those outside of the government including by way of example filing the annual report, audit and examination cooperation, filing uniform conflict of interest forms and the other filings with any governmental agency or official or information required to be kept such as an OSHA log and responding to a public records request among others.

(3) Compliance objectives involve the adherence to law and regulations including by way of example following guidance documents such as the State Board of Accounts' manuals, bulletins, directives and the Department of Local Government Finance's forms and directions and including other outside of government trainings and documents such as IACT among others.

(C) The town adopts and directs the minimum level of internal control standards and internal control procedures for an internal control system that includes the following five standards to promote government accountability and transparency as described in the uniform internal control standards for Indiana Political Subdivisions guidance document from the State Board of Accounts dated September 2015 and as thereafter modified:

- (1) Control environment;
- (2) Risk assessment;

(3) Control activities;

(4) Information and communication; and

(5) Monitoring.

(D) The town adopts and directs the following principles in explanation of the pertinent standards above be followed at all levels of the town government:

(1) *Control environment.*

(a) The oversight body and management demonstrate a commitment to integrity and ethical values.

(b) The oversight body oversees the town's internal control system.

(c) Management establishes an organizational structure, assigns responsibility and delegates authority to achieve the town's objectives.

(d) Management demonstrates a commitment to attract, develop and retain competent individuals.

(e) Management evaluates performance and holds individuals accountable for their internal control responsibilities.

(2) *Risk assessment.*

(a) Management defines objectives clearly to enable the identification of risks and defines risk tolerances.

(b) Management identifies, analyzes and responds to risk related to achieving the defined objectives.

(c) Management considers the potential for fraud when identifying, analyzing and responding to risks.

(d) Management identifies, analyzes and responds to significant changes that could impact the internal control system.

(3) *Control activities.*

(a) Management designs control activities to achieve objectives and respond to risks.

(b) Management designs the town's information system and related control activities to achieve objectives and respond to risks.

(c) Management implements control activities through policies.

(4) *Information and communication.*

(a) Management uses quality information to achieve the town's objectives.

(b) Management internally communicates the necessary quality information to achieve the town's objectives.

(c) Management externally communicates the necessary quality information to achieve the town's objectives.

(5) *Monitoring.*

(a) Management establishes and operates monitoring activities to monitor the internal control system and evaluate the results.

(b) Management remediates identified internal control deficiencies on a timely basis.

(E) The town adopts the internal control standards above so as to establish an effective internal control system for the town through its design, implementation and operation.

(F) The town directs that the above standards be used to design, implement, operate and modify current operations, reporting and compliance objectives that will safeguard the assets of the town, promote reliability, accountability and transparency of financial and non-financial information and to assure compliance with laws and regulations for each office, department and personnel (as defined below) for an effective and reasonable internal control system of the town.

(G) The town authorizes the Clerk-Treasurer, the Town Manager/Economic Development Director, The Town Council President, the Police Chief (Fiscal Committee) together with the advice of the Town Attorney to review the current internal control system of the town and adopt a policy for the future internal control system to be effective after June 30, 2016 and perform an annual review, or more if determined necessary for compliance with this section.

(H) The personnel, whether an official or employee, of the town whose official duties include receiving, processing, depositing, disbursing, or otherwise having access to funds that belong to the federal government, state government, a political subdivision, or another governmental entity shall comply with these minimum internal control standards and procedures and any other policy regarding standards and procedures determined necessary by the town now and as modified in the future.

(I) The personnel of the town, whose official duties include receiving, processing, depositing, disbursing, or otherwise having access to funds that belong to the federal government, state government, a political subdivision, or another governmental entity shall be trained at least once during a calendar year and annually thereafter, unless on leave status, on the minimum internal control standards and procedures and any other standards and procedures determined necessary by the town and shall cooperate with the town fiscal officer or designee so that the fiscal officer can timely certify to the State Board of Accounts that the training was received annually by the personnel as provided by law.

(J) The town authorizes the Fiscal Committee, subject to the approval of the Town Council, to determine the position and person who are the personnel referred to in divisions (H) and (I) above and notify such personnel.

(K) The Town Council delegates to the Fiscal Committee, subject to Town Council approval, the authority and/or duties including creating the internal control systems policy.

(L) All elected and appointed officials and employees of the town are hereby directed to abide by and to cooperate fully in the implementation of the internal control system of the town.

(M) An employee who fails to abide by or cooperate with the implementation, compliance and certifications connected with the internal control system commits a violation of and may result in the discipline, including termination, of the employee.

(N) An elected or appointed official of the town who fails to abide by or cooperate with the implementation and the mandated certifications of the internal control system may be subject to any action allowed by law.

(O) This section may be implemented by any and all of the following actions or such others as authorized by this Council: (a) posting a copy of this section in its entirety in at least one of the locations in the town where it posts employer posters or other notices to its employees; (b) providing a copy of this section to its employees and elected and appointed officials; (c) providing or posting a notice of the adoption of this section; or (d) any such other action or actions that would communicate the policies established by this section to its employees and elected and appointed officials.

(Ord. 2016-07, passed 6-6-2016)

§ 31.07 MATERIALITY THRESHOLD.

(A) The town calls upon the Clerk-Treasurer, town officials, employees, and agents to enforce and comply with the policy on materiality and process for reporting material items.

(B) All erroneous or irregular variances, losses, shortages, or thefts shall be reported immediately to the Clerk-Treasurer. The town shall maintain records and documentation concerning erroneous or irregular variances, losses, shortages, or thefts in accordance with generally accepted accounting principles and the internal control standards provided by the Indiana State Board of Accounts.

(C) It will be the policy of the Clerk-Treasurer to report to the State Board of Accounts any erroneous or irregular variances, losses, shortages, or thefts of cash in excess of \$500. In addition, all erroneous or irregular variances, losses, shortages, or thefts of cash which occur more than one time in a month and which the aggregate total is \$500 or more shall be reported immediately to the State Board of Accounts. Exceptions shall be made for inadvertent clerical errors that are identified timely and promptly corrected with no loss to the town.

(D) It will be the policy of the Clerk-Treasurer to report promptly to the State Board of Accounts any erroneous or irregular variances, losses, shortages, or thefts of non-cash items in excess of \$5,000, estimated market value, except for those resulting from inadvertent clerical errors or misplacements that are identified timely and promptly corrected with no loss to the town, and except for losses from genuine accidents.

(E) The town shall investigate all erroneous or irregular variances, losses, shortages or thefts, regardless of whether they meet the materiality threshold established by this section. Upon conclusion of each such investigation, the town shall:

(1) Implement procedures designed to prevent the recurrence of such incidents; and

(2) Take appropriate disciplinary action against the employee responsible for the incident.
(Ord. 2016-16, passed 12-15-2016)

PURCHASE ORDERS

§ 31.15 PROTECTION OF OFFERS; STATUS OF DOCUMENTS AS PUBLIC RECORDS.

(A) *Protection of offers prior to opening.* The purchasing agent shall retain all offers received in a secure location prior to the date and time at which offers will be opened, in order to prevent disclosure of the contents prior to the opening of the offers.

(B) *Unobstructed evaluation of offers.* After offers have been opened, the purchasing agent shall be responsible for maintaining the offers in such a manner as to permit evaluation of the offers by the persons responsible for evaluating the offers.

(C) *Public records status of bids.* Bids submitted in response to an invitation for bids must be available for public inspection and copying after the time of the bid opening.

(D) *Register of proposals.* The purchasing agent shall prepare a register of proposals for each request for proposals issued, which shall contain information concerning the proposals available for public inspection and copying. Proposals may not be disclosed.

(Ord. 1998-10, passed 6-18-1998)

§ 31.16 DISCUSSIONS WITH OFFERORS RESPONDING TO A REQUEST FOR PROPOSALS.

The purchasing agent may conduct discussions with, and best and final offers may be obtained from responsible offerors who submit proposals determined to be reasonably susceptible of being selected for a contract award.

(Ord. 1998-10, passed 6-18-1998)

§ 31.17 DELAY OF OPENING OF OFFERS.

When the Town Council makes a written determination that it is in the town's best interests, offers may be opened after the time stated in the solicitation. The date, time and place of the rescheduled opening must be announced at the time and place of the originally scheduled opening.

(Ord. 1998-10, passed 6-18-1998)

§ 31.18 EVIDENCE OF FINANCIAL RESPONSIBILITY.

(A) *Purchases less than \$25,000.* The purchasing agent may not require evidence of financial responsibility when the estimated cost of a purchase is less than \$25,000.

(B) *Purchases between \$25,000 and \$100,000.* The solicitation may include a requirement that an offeror provide evidence of financial responsibility. If evidence of financial responsibility is required, the solicitation must indicate the kind of evidence that will be acceptable. If a bond or certified check is required, it may not exceed 10% of the estimated cost of the purchase.

(C) *Purchases over \$100,000.* The solicitation shall include a requirement that an offeror provide evidence of financial responsibility and must indicate the kind of evidence that will be acceptable. If a bond or certified check is required, it may not exceed 10% of the estimated cost of the purchase.

(D) *Small business set-asides.* The purchasing agent may determine that no evidence of financial responsibility shall be required for a small business set-aside purchase.

(Ord. 1998-10, passed 6-18-1998)

§ 31.19 MODIFICATION AND TERMINATION OF CONTRACTS.

(A) *Price adjustments.* The purchasing agent may include provisions to permit price adjustments in a purchase contract. The following provisions for price adjustments may be included:

(1) Price adjustments must be computed by agreement on a fixed price adjustment before the beginning of the pertinent performance or as soon after the beginning of performance as possible;

(2) Price adjustments must be computed by unit prices specified in the contract or subsequently agreed upon;

(3) Price adjustments must be computed by costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;

(4) Price adjustments must be computed in such other manner as the contracting parties may mutually agree upon; or

(5) In the absence of agreement by the parties, price adjustments must be computed by a unilateral determination by the governmental body of the costs attributable to the events or situations under those clauses with adjustment of profit or fee all as computed by the governmental body in accordance with applicable rules adopted by the governmental body.

(B) *Adjustments in time of performance.* The purchasing agent may include provisions in a purchase contract concerning adjustments for time of performance under the contract.

(C) *Unilateral rights of the Town Manager.* The purchasing agent may include in a purchase contract provisions dealing with the unilateral right of the Town Manager to order changes in the work within the scope of the contract or to order temporary work stoppage or delays in time of performance.

(D) *Quantity variations.* The purchasing agent may include in a purchase contract provisions dealing with variations between the estimated quantities of work in a contract and the actual quantity delivered. (Ord. 1998-10, passed 6-18-1998)

§ 31.20 PURCHASE OF SERVICES.

The purchasing agents shall have the right to establish policies regarding the purchase of services for the town.

(Ord. 1998-10, passed 6-18-1998)

§ 31.21 PURCHASE OF SUPPLIES MANUFACTURED IN THE UNITED STATES.

Supplies manufactured in the United States shall be specified for all town purchases and shall be purchased unless the town determines that:

(A) The supplies are not manufactured in the United States in reasonably available quantities;

(B) The prices of the supplies manufactured in the United States exceeds by an unreasonable amount the price of available and comparable supplies manufactured elsewhere;

(C) The quality of the supplies manufactured in the United States is substantially less than the quality of comparably priced available supplies, manufactured elsewhere; or

(D) The purchase of supplies manufactured in the United States is not in the public interest. (Ord. 1998-11, passed 6-18-1998)

§ 31.22 FUEL PURCHASING.

(A) This section is adopted in compliance with the State Board of Accounts Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7, authorizing a town to use credit cards for purchases.

(B) Town employees and officials may use town's SuperFleet MasterCard for purchases related to fuel for town vehicles and machinery in the performance of town duties when such use is in the best interest of the town.

(C) The department head, or their designee, shall be responsible for safekeeping of the SuperFleet MasterCard.

(D) The SuperFleet MasterCard shall be used only with the approval of the department head, or

their designee. The department head shall maintain a log for each card identified by card account number, with entries certified by signature of the department head, or their designee. The log shall include the following information:

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

(2) Upon issuance: the date the card is issued to the individual; and

(3) Upon return: the date the card is returned.

(E) The SuperFleet MasterCard shall be used for fuel purchases relating to the performance of town business only. No personal use of a town SuperFleet MasterCard is allowed, even if an employee offers to reimburse the town for the employee's personal use of a town credit card or purchasing card.

(F) Payment of the SuperFleet MasterCard bills shall be subject to the audit requirements of accounts payable vouchers in conformity with I.C. 5-11-10 and 36-4-8 and the regulations of the State Board of Accounts. Itemized receipts are required for all SuperFleet MasterCard purchases. Payment will not be made on the basis of a SuperFleet MasterCard statement. Signed charge slips showing a total charge only, with no itemization of items purchased, are not acceptable. It is the responsibility of the employee authorizing the charge to obtain proper itemized receipts.

(G) SuperFleet MasterCard charges that do not meet audit requirements, including charges that include the imposition of sales taxes for which the town is otherwise exempt, are the responsibility of the employee authorizing the charge. The town will take all necessary steps to obtain reimbursement for charges which do not meet audit requirements from the employee authorizing the charge, including, but not limited to, the garnishment of the charging employee's town wages.

(H) The department head shall be notified immediately if a credit card or purchasing card is lost or stolen. If a credit card or purchasing card is lost due to negligence on the part of a town employee, the employee shall be responsible for any and all expenses incurred on the lost credit card or purchasing card.

(I) The department head is authorized to revoke a SuperFleet MasterCard that have been used in violation of town policy.

(Ord. 2017-13, passed 11-16-2017)

§ 31.99 PENALTY.

(A) Any person who violates any provision of this chapter for which no penalty is provided shall be subject to the terms of § 10.99.

(B) Whoever violates the provisions of § 31.03 shall upon conviction be fined in any sum not more than \$100.

(Ord. 4-6-70, passed 4-6-1970)

CHAPTER 32: TOWN RECORDS

Section

- 32.01 Access to records
- 32.02 Public records officer
- 32.03 Fees

(B) The fee for copying public records not listed above shall be as determined by the Public Records Officer.

(Ord. 1996-1, passed 1-4-1996; Am. Res. 1996-1, passed 1-4-1996)

§ 32.01 ACCESS TO RECORDS.

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

(Ord. 1996-1, passed 1-4-1996; Am. Res. 1996-1, passed 1-4-1996)

§ 32.02 PUBLIC RECORDS OFFICER.

The Clerk-Treasurer shall be designated Public Records Officer of the town. The Public Records Officer shall be the responsible party for the development of policies and procedures regarding the maintenance and access of the public records of the town.

(Res. 1996-1, passed 1-4-1996)

§ 32.03 FEES.

(A) The fee for copying records shall be as follows:

(1) Pages less than or equal to an 11-inch by 17-inch page - \$0.10 per sheet.

(2) Pages greater than an 11-inch by 17-inch page - \$2.00 per sheet.

(3) Standard audio recording - \$1.60 per recording.

CHAPTER 33: DEPARTMENTS, BOARDS AND COMMISSIONS

Section

	<i>Police Department</i>		
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33.02	Police Reserves; Reserve Police Training Fund	33.65	Management of funds
33.03	Reserve Police Department Fund	33.66	Effective date
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33.41	Creation and establishment	33.101	Terms
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Town Park Commission

- 33.115 Policy
- 33.116 Establishment of Park Commission
- 33.117 Park properties
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- 33.119 Appointments; term of office
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Ordinance Violations Bureau

- 33.130 Creation; regulations

Utility Service Board

- 33.140 Establishment
- 33.141 Members
- 33.142 Officers; rules of procedure
- 33.143 Meetings
- 33.144 Powers and duties

Bicycle and Pedestrian Advisory Board

- 33.150 Establishment
- 33.151 Members
- 33.152 Duties

POLICE DEPARTMENT**§ 33.01 ACCIDENT REPORT FUND.**

(A) The Police Department is authorized to charge a fee of \$10 for each vehicle accident report. The money may be expended for any purpose related to the production of accident reports, necessary record keeping or the prevention of accidents, as established by normal budget policy.

(B) The Clerk-Treasurer shall deposit the \$10 fee in a separate account to be known as the Law Enforcement Continuing Education Fund. (Ord. 1992-1, passed 2-20-1992; Am. Ord. 1994-11, passed 10-20-1994; Am. Ord. 2002-06, passed 3-21-2002)

§ 33.02 POLICE RESERVES; RESERVE POLICE TRAINING FUND.

(A) There is hereby established, pursuant to I.C. 36-8-3-20, the town police reserves, which shall be known as the Town Marshal's Reserve Unit.

(1) The maximum number of members of the reserve unit shall be 10.

(2) Reserve police officers are subject to all rules and regulations of the town Police Department and the state.

(3) Reserve police officers are not paid employees.

(4) Reserve police officers shall complete a certified reserve police academy program. Reserve officers shall not work alone or unassisted until satisfactorily completing and being certified by the reserve academy.

(5) Certified reserve police officers shall have the same police powers and authority as regular members of the Police Department, subject to the following:

(a) Reserve officers shall not make any arrests or conduct any search and seizure actions when out of the Police Department uniform.

(b) Reserve officers shall wear the Police Department uniform only when scheduled to work by the Town Marshal or, with the Town Marshal's approval, when working voluntarily with another police officer.

(6) Reserve officers shall work a minimum of 24 hours per month in order to keep their reserve status.

(7) Reserve police officers shall make themselves available for any training deemed necessary by the Town Council, the Town Marshal or mandated by the state. (Ord. 1982-9, passed 10-4-1982; Am. Ord. 1989-13, passed 12-28-1989)

(B) A Reserve Police Training Fund is established.

(1) The purpose of the fund is to provide the citizens of the town and other communities with well-trained, experienced and knowledgeable civilian reserve police officers and to meet all criteria set forth by the state.

(2) The Police Department is authorized to charge a fee to participating law enforcement agencies at \$50 per officer. The money may be expended at the discretion of the Town Marshal for operating expenses and for any purpose reasonably related to police officer training.

(Ord. 1992-2, passed 3-19-1992; Am. Ord. 2009-09, passed 10-15-2009; Am. Ord. 2009-12, passed 12-17-2009)

§ 33.03 RESERVE POLICE DEPARTMENT FUND.

(A) The Reserve Police Department Fund, under the direction of the Town Marshal and consistent with budget policies, may make expenditures for any purpose reasonable related to the keeping of peace and

safety of the general public as well as for the purpose of providing equipment to maintain the Reserve Police Department.

(B) The Reserve Police Department may solicit funds from the general public under the direction of the Town Marshal.

(C) The Clerk-Treasurer shall deposit monies collected under division (B) above in a separate account known as the Reserve Police Department Fund.
(Ord. 1995-2, passed 3-16-1995)

§ 33.04 TOW SERVICE POOL.

(A) The Town Marshal shall develop written conditions governing the provision of tow services to be provided to the town.

(B) The written conditions of service shall be submitted and approved by the Town Council.

(C) The Town Marshal shall form a pool of tow service providers with the fees of this service being set by the submittal of the lowest responsive service offeror.

(D) The tow service shall be on a rotating basis, with each of the tow service providers being given equal on-call time on an annual basis.

(E) Service conditions should provide for the instance of a vehicle operation requesting a specific tow service provider. If a specific tow service provider be requested, the Town Marshal shall have a written request signed by both the vehicle operator and the attending police representative.
(Res. 1994-3, passed 2-7-1994)

PUBLIC FACILITY CORPORATION

§ 33.10 PARKING AND PUBLIC FACILITIES DEVELOPMENT CORPORATION ESTABLISHED.

The Parking and Public Facilities Development Corporation is formed. It shall have all rights, powers, authority and responsibility conferred upon it by state law.
(Res. 1987-1, passed 11-18-1987; Res. 1988-2, passed 10-20-1988)

§ 33.11 ORGANIZATION.

The Board of Trustees of the town shall invite 5 people, who shall serve at the pleasure of the Board of Trustees, to organize the Parking and Public Facilities Development Corporation. The Board of Directors shall be selected in accordance with the terms and conditions in the corporation's code of bylaws, but serve at the pleasure of the Board of Trustees.
(Res. 1987-1, passed 11-18-1987; Res. 1988-2, passed 10-20-1988; Am. Res. 1996-4, passed 2-15-1996)

§ 33.12 PURPOSE AND GOALS.

The Parking and Public Facilities Development Corporation shall acquire land for the construction of parking and public facilities; design and construct parking and public facilities; investigate financial options in order to pay for the cost of acquisition, design, construction and any and all costs related to the acquisition, design and construction of the proposed parking and public facilities, for approval by the Board of Trustees; enter into a lease-purchase agreement with the town, providing the town shall tender annual lease-purchasing payments to the Parking and Public Facilities Development Corporation, and that the town shall operate and maintain the parking and public facilities; use the annual lease-purchase payment tendered by the town to retire any bonds or payments of debt; transfer

ownership and title of any proposed parking and public facility to the town upon expiration of the lease-purchase agreement; and take other action consistent with the Parking and Public Facilities Development Corporation's purpose, articles of incorporation, bylaws and state, federal and local law. (Res. 1987-1, passed 11-18-1987; Res. 1988-2, passed 10-20-1988)

TOWN PLAN COMMISSION

§ 33.25 TOWN PLAN COMMISSION ESTABLISHED.

There is established a Town Plan Commission under the authority provided in Chapter 174 of the Acts of 1947 of the State General Assembly as amended. (Ord. passed - -1957)

§ 33.26 MEMBERSHIP.

The membership shall be as provided by the statute and the amendments thereto, and the official members are designated as:

- (A) A member of the Board of Trustees, to be selected by the Board;
- (B) The Town Attorney;
- (C) The Street Commissioner; and
- (D) Four citizen members to be appointed by the President of the Board of Trustees, for initial terms of 2 years, and 2 members for 4 years, in accordance with the provisions of the statute.
- (E) Two members to be appointed by the Judge of the County Circuit Court in accordance with the statute, for initial terms of 1 member for 1 year and 1 member for 4 years, and the members shall reside in

the unincorporated area over which the Town Plan Commission has jurisdiction, and shall be of opposite political parties. (Ord. passed - -1957)

TOWN TREE BOARD

§ 33.40 DEFINITION.

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

MASTER PLAN. The plan created to establish a tree canopy for the town limits. (Ord. 1988-13, passed - -1988)

§ 33.41 CREATION AND ESTABLISHMENT.

The Town Tree Board will be a subcommittee of the County Arbor Day Committee and will consist of 5 members to be appointed by the Arbor Day Committee and approved by the Town Board of Trustees. (Ord. 1988-13, passed - -1988)

§ 33.42 TERM OF OFFICE.

- (A) The term of the 5 persons to be appointed shall be 3 years, except that the term of 2 of the members appointed to the first board shall be for only 1 year and the term of 2 members of the first board shall be for 2 years.
- (B) In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed by the Town Board of Trustees or its designee for the unexpired portion of the term. (Ord. 1988-13, passed - -1988)

§ 33.43 COMPENSATION.

Members of the Board shall serve without compensation.
(Ord. 1988-13, passed - -1988)

§ 33.44 DUTIES AND RESPONSIBILITIES.

It shall be the responsibility of the Board to implement the Master Plan for planting during Arbor Day and any other plantings that may occur during a given year. The Board will provide the Town Board each year with a list of accomplishments. The Board when requested shall consider, investigate, make findings, report and recommend upon any special matter of interest coming within the scope of its work.
(Ord. 1988-13, passed - -1988)

§ 33.45 OPERATION.

The Board shall choose its own officers and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.
(Ord. 1988-13, passed - -1988)

§ 33.46 IMPLEMENTATION.

The Master Plan shall designate placement and species of trees and shrubs and will take into consideration distance from street corners, parking facilities, fireplugs and utilities. The Board will also consider new construction and changes that may occur upon the adoption of the Master Plan. No trees shall be planted upon private property without approval of the property owner. Nor shall trees be planted within the state right-of-way without the approval of adjacent property owners.
(Ord. 1988-13, passed - -1988)

§ 33.47 MAINTENANCE.

The Board will advise on the care of newly planted tree stock, and will chart the progress of trees planted to see that they are in proper care. The Tree Board will advise if pruning or other needs exist for the betterment of the trees. The Tree Board will offer assistance and make recommendations on the care of existing trees if requested by the Town Board or by landowners. The Tree Board will make notification of known diseases that could endanger the tree canopy.
(Ord. 1988-13, passed - -1988)

§ 33.48 REVIEW BY TOWN BOARD.

All decisions and recommendations made by the Tree Board are subject to approval of the Town Board of Trustees.
(Ord. 1988-13, passed - -1988)

DEPARTMENT OF REDEVELOPMENT

§ 33.60 ESTABLISHMENT.

There is hereby created the Department of Redevelopment of the Town of Nashville, Indiana, which shall be entitled to exercise all the rights, powers, privileges and immunities accorded to such department by I.C. 36-7-14, as amended (the "Redevelopment Act").
(Ord. 2010-8A, passed 10-21-2010)

§ 33.61 GOVERNANCE.

The Department of Redevelopment shall be under the control of a board of 5 voting members to be known as the Nashville Redevelopment Commission.
(Ord. 2010-8A, passed 10-21-2010)

§ 33.62 COMMISSION MEMBERS.

(A) There is hereby created a board to be known as the Nashville Redevelopment Commission (the "Commission"). Three of the members of the Commission shall be appointed by the President of the Town Council (the "Council President"), and 2 shall be appointed by the Town Council. Each Redevelopment Commissioner shall serve for 1 year from the January 1 after his or her appointment, and until his or her successor is appointed and has qualified, except that the original Commissioners shall serve from the date of their appointment until January 1 in the second year after their appointment. If a vacancy occurs, a successor shall be appointed in the same manner as the original Commissioner, and the successor shall serve for the remainder of the vacated term.

(B) Before the beginning of his or her duties, each Redevelopment Commissioner shall take and subscribe an oath of office, in the form prescribed by law, to be indorsed on the certificate of his or her appointment, which shall be promptly filed with the Town Clerk-Treasurer.

(C) Before taking his or her duties, each Redevelopment Commissioner shall execute a bond payable to the State of Indiana, with surety to be approved by the Council President. The bond must be in a penal sum of \$15,000, and must be conditioned on the faithful performance that may come into his or her hands or under his or her control.

(Ord. 2010-8A, passed 10-21-2010; Am. Ord. 2011-03A, passed 6-16-2011)

§ 33.63 QUALIFICATIONS.

The Redevelopment Commissioners shall have the qualifications prescribed by the laws of the state, as from time to time amended, and shall qualify as therein provided; and shall exercise and enjoy the rights and powers and assume the duties and obligations conferred and imposed by Redevelopment Act, including but not limited to, the following qualifications:

(A) A Redevelopment Commissioner must be at least 18 years of age and must be a resident of the town. If a Redevelopment Commissioner ceases to be qualified under this section, he or she forfeits his or her office.

(B) No Redevelopment Commissioner shall receive a salary; but Redevelopment Commissioners are entitled to reimbursement for expenses necessarily incurred in the performance of their duties.

(C) A Redevelopment Commissioner may not have a pecuniary interest in any contract, employment, purchase or sale made under such provisions of this subchapter and the underlying statutes. However, any property required for redevelopment purposes in which a Redevelopment Commissioner has a pecuniary interest may be acquired, but only by gift or condemnation. A transaction made in violation of this section is void.

(Ord. 2010-8A, passed 10-21-2010)

§ 33.64 NON-VOTING ADVISOR.

The Redevelopment Commission shall also have 1 non-voting advisor (the "Advisor") who is appointed by the Council President. The Advisor must also be a member of the school board of a school corporation that includes all or part of the territory served by the Redevelopment Commission. The Advisor is not considered a member of the Redevelopment Commission, but is entitled to attend and participate in the proceedings of all meetings of the Redevelopment Commission. The Advisor is not entitled to a salary, per diem, or reimbursement of expenses. The Advisor shall serve for 2 years from January 1 after his or her appointment, and until his or her successor is appointed and has qualified, except that the original Advisor shall serve from the date of his or her appointment until the January 1 in the second year after his or her appointment.

(Ord. 2010-8A, passed 10-21-2010)

§ 33.65 MANAGEMENT OF FUNDS.

The Town Clerk-Treasurer, charged by law for the performance of duties in respect to the funds and accounts of the town, shall perform the same duties with respect to the funds and accounts of the Department of Redevelopment, except as otherwise provided for in the Redevelopment Act. (Ord. 2010-8A, passed 10-21-2010)

- (6) Brown County Community Foundation (BCCF);
- (7) Nashville Arts and Entertainment Commission (NAEC); and
- (8) Nashville Main Street Committee.
- (9) These entities shall designate their representatives to the Town Council.

§ 33.66 EFFECTIVE DATE.

This subchapter shall be in full force and effect upon adoption and compliance with I.C. 36-5-2-10. (Ord. 2010-8A, passed 10-21-2010)

(B) Members representing the following organizations or interests shall be designated by the Town Council:

- (1) Nashville Banking Community;
- (2) Nashville Real Estate Community;
- (3) Nashville Town Council; and
- (4) Brown County State Park.

ECONOMIC DEVELOPMENT COMMITTEE

§ 33.75 CREATION.

There is hereby created an ad hoc committee for the purpose of actively executing, promoting and fostering economic development for the town as outlined in the plan, and otherwise. (Res. 2013-03, passed 3-21-2013)

(C) In addition the town appointee to the Brown County Economic Development Commission shall be a member.

(D) Members shall serve as volunteers without compensation. Even numbered representative members shall have 2 year terms, odd numbered members, shall have 3 year terms. In the event any of the organizations or entities named herein fail to designate a representative member, the Town Council may appoint a representative for the entity until the time as an appointment is made by the entity. (Res. 2013-03, passed 3-21-2013)

§ 33.76 MEMBERSHIP.

(A) The Committee shall consist of 13 members, representing the following entities:

- (1) Brown County Career Resource Center;
- (2) Nashville Development Review Commission (DRC);
- (3) Nashville Redevelopment Commission (NRC);
- (4) Brown County Chamber of Commerce;
- (5) Brown County Convention and Visitors Bureau (BCCVB);

ARTS AND ENTERTAINMENT COMMISSION

§ 33.80 DEFINITIONS.

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

ARTS. Works produced by human creative skill and imagination, including but not limited to painting, sculpture, music, theater, dance, film, and photography.

COMMISSION. An advisory body created and empowered pursuant to § 33.81 of this chapter.

COMMUNITY. The Town of Nashville and its environs and including residents of the town and the surrounding areas of Brown County, Indiana.

ENTERTAINMENT. Events, performances, or activities designed to provide amusement or enjoyment to humans.

(Ord. 2012-08, passed 5-17-2012)

§ 33.81 STRUCTURE OF COMMISSION.

(A) *Appointments.* The Commission is an advisory body with no less than 7 and no more than 9 members of the Commission. Members of the Commission shall be appointed by the Town Council. No appointee can be a member of the Town Council. All should be conversant with the arts and/or experienced with community issues.

(B) *Terms.* Appointees will serve staggered 3-year terms. The Commission may make monthly reports to the Town Council. Members of the Commission shall serve without salary or compensation. The Commission will elect officers, which will include a chairperson, vice chairperson, and secretary.

(C) *Meeting and records.* Commission meetings are subject to the Indiana Open Door Act. The Commission shall hold regular public meetings. The Commission shall keep minutes of those meetings, and records of all official actions shall be made available to the public upon approval of the minutes by the Commission.

(D) *Funding.* The Commission will have the authority to solicit and accept donations as well as grants from state and federal agencies. The

Clerk-Treasurer of the town shall maintain all funds. The Town Council may establish a line item for this Commission.

(E) *Procedures.* The Commission shall establish its own procedures and rules for the transaction of its business.

(Ord. 2012-08, passed 5-17-2012; Am. Ord. 2016-14, passed 11-17-2016)

Cross-reference:

Arts and Entertainment Fund, see § 34.105

§ 33.82 RESPONSIBILITIES OF THE COMMISSION.

The Commission's responsibilities include but are not limited to: develop and maintain strong relationships within the art community of the town and its region; encourage, assist, advise, and coordinate an arts, cultural, and entertainment district within the town; study and recommend guidelines and procedures to develop and encourage:

(A) Education;

(B) Events;

(C) Innovation and community participation in visual literacy and performing arts; and

(D) Public art.

(Ord. 2012-08, passed 5-17-2012)

Cross-reference:

Public Art, see Ch. 96

POLICE MERIT COMMISSION

§ 33.90 ESTABLISHMENT.

There is established for the Nashville Indiana Police Department a Police Merit System as authorized by I.C. 36-8-3.5.

(A) The Police Merit System will be implemented through appointed and elected merit commissioners as authorized by I.C. 36-8-3.5.

(B) The Merit Commission will be known as the Nashville Police Merit Commission ("Commission"). (Ord. 2015-15, passed 11-19-2015)

§ 33.91 ADOPTION PROCEDURES.

(A) Before the merit system takes effect, it must be approved by a majority of the active members of the Police Department in a referendum as set forth in I.C. 36- 8-3.5-3(a).

(B) Within 60 days after adoption of this ordinance establishing a merit system, the Metropolitan Police Commission must give at least 3 weeks notice to all active members of Police Department that a meeting will be held to approve or reject the merit system.

(C) The notice shall be posted in prominent places in all stations of the department. The notice must state the time, place, and purpose of the meeting.

(D) A copy of this section shall be given to each active member of the department at least 1 week before the date of the meeting. Only active members of the department may attend the meeting. The active members shall select a chair at the meeting. All voting must be by secret written ballot.

(E) The Commission may determine other procedures for the meeting and post such other procedures along with the notice of the meeting in prominent places in all stations of the department in accordance with I.C. 36-8-3.5-4(b) and (c).

(F) If a majority of active members of the Police Department approve the merit system, it shall take effect on January 1 following the vote. (Ord. 2015-15, passed 11-19-2015)

§ 33.92 COMMISSIONERS.

(A) Initial appointments to the Commission shall be made by March 1 following the January 1 Police Department approval.

(B) The Commission shall consist of:

(1) Three persons, who must be of different political parties, appointed by the Town Council;

(2) Two persons, who must be of different political parties, elected by the active members of the department.

(C) Each year, the commissioners shall select a president, vice president and secretary.

(D) Each commissioner must take an oath to conscientiously discharge his or her duties. A signed copy of the oath must be filed with the Commission.

(E) Each commissioner serves at the pleasure of the appointing or electing authority and may be removed at any time as set forth in I.C. 36-8-3.5-7. (Ord. 2015-15, passed 11-19-2015)

§ 33.93 BUDGET AND RECORDS.

(A) The Commission shall submit a proposed annual budget to the Town Council as other budgets of the town are submitted.

(B) The Commission shall keep a permanent record of its proceedings. (Ord. 2015-15, passed 11-19-2015)

§ 33.94 POWERS AND DUTIES.

(A) The Nashville Police Merit Commission will have all of the powers and duties as set out in I.C. 36-8-3.5, including but not limited to the power of selection, appointment, promotion, demotion, discipline and dismissal of members of the Police Department.

(B) I.C. 36-8-3.5-11, which provides that the Commission may appoint and remove members of the department except for a member in an upper level policymaking position, is specifically adopted as a power of the Commission in accordance with the provisions of that section.

(C) I.C. 36-8-3.5-14, which provides that the Commission may employ instructors, purchase materials and make other expenditures to provide information for applicants for promotion examinations, is specifically adopted as a power of the Commission in accordance with the provisions of that Section.

(D) I.C. 36-8-3.5-17, which provides that the Commission may take the following disciplinary actions against a regular member of the department:

- (1) Suspension with or without pay;
- (2) Demotion; or

(3) Dismissal is specifically adopted as a power of the Commission in accordance with the provisions of that section.

(E) I.C. 36-8-3.5-17, which provides that a member of the Police Department may be disciplined by the Commission if the member is convicted of a crime or the Commission finds the member guilty of a breach of discipline as defined in I.C. 36-8-3.5-17, is specifically adopted as a power of the Commission in accordance with the provisions of that section.
(Ord. 2015-15, passed 11-19-2015)

§ 33.95 RULES.

(A) Within 30 days after the Commission is selected, it shall adopt governing rules, subject to applicable laws, statutes, and ordinances, for its own operation, including time and place of regular monthly meetings and special meetings that are necessary to transact the business of the Commission. A majority of the commissioners constitutes a quorum, and a majority vote of all the commissioners is necessary to transact the Commission's business.

(B) Within 90 days after the Commission is selected, the Commission shall adopt rules, subject to applicable laws, statutes, and ordinances, governing the Police Department, including but not limited to:

- (1) Selection and appointment of persons to be employed as members of the Police Department;
- (2) Promotions and demotions of members of the Police Department; and
- (3) Disciplinary action or dismissal of members of the Police Department.

(C) Before the required rules are adopted by the Commission, the Commission shall hold a public hearing. At least 10 days before the hearing, the Commission shall:

- (1) Publish notice of the hearing in accordance with I.C. 5-3-1;
- (2) Place one copy of the proposed rules on file in the Town Clerk's office for inspection by the residents of the Nashville, Indiana; and
- (3) Forward 3 copies of the proposed rules to the Chief of Police to be retained on file in the Chief's office for inspection at all times by Police Department members.

(D) The Commission shall adopt rules for determining a performance rating for department members and appeal by department members aggrieved by the rating in accordance with I.C. 36-8-3.5-15.

(E) The Commission shall adopt rules governing promotions of department members in accordance with I.C. 36-8-3.5-13 and 36-8-3.5-16.
(Ord. 2015-15, passed 11-19-2015)

**BOARD OF METROPOLITAN
POLICE COMMISSIONERS**

§ 33.100 COMMISSIONERS.

(A) The Office of Nashville Town Marshal is hereby abolished.

(B) The Nashville Indiana Board of Metropolitan Police Commissioners is hereby created. Said Board of Metropolitan Police Commissioners shall consist of the following:

(1) Five Town Council members;

(2) Each Board member must be a resident of the town; and

(3) The Town Council shall appoint each Board member.
(Ord. 2015-10, passed 9-17-2015)

§ 33.101 TERMS.

(A) Except as provided in division (B) below, the term of each Board member expires January 1 of the third year after the member's appointment.

(B) The term of 1 Board member must expire each year.
(Ord. 2015-10, passed 9-17-2015)

§ 33.102 APPOINTMENTS; REMOVAL.

(A) The Town Council may remove a Board member for any cause that the Town Council considers sufficient.

(B) The Town Council may not appoint a police officer employed by the town to serve on the Board.

(C) A member of the Town Council may serve as an ex officio member of the Board. If so, the following apply:

(1) The maximum number of Board members that may also be members of the Town Council is 5.

(2) A Board member vacates the member's position on the Board when the member is no longer a member of the Town Council.

(3) A Board member who is also a member of the Town Council may not also receive compensation as a Board member.

(4) A Board member who is also a member of the Town Council is not required to post the bond.
(Ord. 2015-10, passed 9-17-2015)

§ 33.103 OATHS.

(A) This division does not apply to a Board member who is a member of the Town Council. Before performing any function of a Board member, an individual shall take and subscribe an oath or affirmation of office before the Brown County Circuit Court Clerk.

(B) This division applies to all Board members. Before performing any function of a Board member, an individual shall take and subscribe an oath or affirmation before the Circuit Court Clerk, that in each appointment or removal made by the Board to or from the Police Department under this chapter, the Board member will not appoint or remove a member of the Police Department because of the political affiliation of the person or for another cause or reason other than that of the fitness of the person.

(C) The Circuit Court Clerk shall file oaths and affirmations required by this section among the circuit Court Clerk's records.
(Ord. 2015-10, passed 9-17-2015)

§ 33.104 BONDS.

This division does not apply to a Board member who is a member of the town legislative body. A Board member shall give bond in the penal sum of

\$5,000, payable to the state and conditioned upon the faithful and honest discharge of the member's duties. The bond must be approved by the Town Council. (Ord. 2015-10, passed 9-17-2015)

§ 33.105 SALARIES.

The Town Council shall fix the salary of Board members who are not members of the town legislative body. A Board member's salary is payable monthly out of the Town Treasury. (Ord. 2015-10, passed 9-17-2015)

§ 33.106 BOARD MEMBERS.

If the Board has 3 members, the Town Council may amend this ordinance at any time to increase the number of Board members to 5. The amended ordinance and the appointment of Board members must satisfy all the requirements of this subchapter. (Ord. 2015-10, passed 9-17-2015)

§ 33.107 METROPOLITAN POLICE DEPARTMENT.

The Nashville Metropolitan Police Department is hereby created and with the current staff and structure, salaries and benefits in accordance with the town's salary ordinance. (Ord. 2015-10, passed 9-17-2015)

TOWN PARK COMMISSION

§ 33.115 POLICY.

The Nashville Town Council finds that the designated parks of the Town of Nashville are among its most important assets and require ongoing management and maintenance to preserve them. Therefore, the purpose of this subchapter is to endorse

and clarify the responsibilities of the Town of Nashville Park Commission, hereafter referred to as the Park Commission. The chief goal of the Park Commission will be to implement the Town of Nashville's Park Plan, in the context of the town's comprehensive plan and its historic preservation goals, to benefit all town residents. (Ord. 2018-14, passed 10-18-2018)

§ 33.116 ESTABLISHMENT OF PARK COMMISSION.

There is hereby established a Town of Nashville Park Commission to preserve, manage, maintain, utilize, and protect the public parks of Nashville, Indiana. (Ord. 2018-14, passed 10-18-2018)

§ 33.117 PARK PROPERTIES.

(A) Two park properties have been designated within Nashville, Indiana and are identified as Washington/Johnson Street Park and the Village Green.

(B) Each park is described below:

<i>Washington/Johnson Street Park</i>	
ID# 001-22400-003	
ID# 001-05100-00	
ID# 001-10400-00	
<i>Village Green</i>	
ID# 001-31400-06	Restroom/Play Area
ID# 001-31400-07	Tilton Corner
ID# 001-31400-08	Pavilion
ID# 001-31400-09	Church Corner

(C) The Town Council may from time designate by resolution or ordinance other properties as “park properties” to be administered by the Park Commission.

(Ord. 2018-14, passed 10-18-2018)

§ 33.118 COMMISSION MEMBERS.

The Commission shall be comprised of 5 members, including one Town Council member. Each member shall be a Brown County resident and will be appointed by the Nashville Town Council.

(Ord. 2018-14, passed 10-18-2018)

§ 33.119 APPOINTMENTS; TERM OF OFFICE.

(A) Any Brown County resident may apply in writing to the Nashville Town Council for appointment to the Commission.

(B) The Nashville Town Council shall appoint Commission members to serve 3-year terms. If a vacancy occurs, the Town Council shall appoint a successor to serve the remainder of the term. Members will serve without compensation and shall continue to hold office until their successors have been appointed. A Commission member may serve 2 consecutive terms and must wait 3 years to again become a member of the Commission.

(Ord. 2018-14, passed 10-18-2018)

§ 33.120 POWERS AND DUTIES.

(A) (1) To recommend to the Town Council that public lands be designated or described as a public parks in the Town of Nashville.

(2) In considering the designation of Public Park Properties, the Commission shall follow the following procedure:

(a) *Review.* When considering a historic property or property subject to the jurisdiction

of the Development Review Commission for park designation, the Park Commission shall submit to the appropriate Commission the proposed designation of a public park property including boundaries and a program for the preservation, restoration, maintenance, modification, and use of the property for review. The recommendations of the reviewing commission then shall become part of the official record and shall be submitted by the Park Commission to the Town Council. The Town Council may make such modifications, changes and alterations concerning the proposed designation as it deems necessary in consideration of the recommendations.

(b) *Special exceptions.* If the proposed public park is located in a district for which the use “public park” requires a special exception from the Board of Zoning Appeals, the Park Commission shall make application for, and obtain a special exception as required by the zoning code before submitting the proposed park to the Town Council.

(c) *Findings and recommendations.* The Park Commission shall determine if the proposed public park property is eligible as determined by the criteria specified in this section. The Commission shall transmit to the Town Council its recommendations and proposed program for the public park property.

(d) *Hearings.* When the Park Commission recommends designation of a park property to the Town Council, the Town Council shall hold a public hearing. Notice of the hearing shall be published in the local newspaper at least 20 days prior to the date of the hearing, and notice of the hearing shall be sent to all owners of property abutting the boundary of the area to be designated a public park property.

(e) *Acquisition.* Upon the recommendation of the Park Commission according to the procedure set out herein, certain property eligible for designation as a public park property be acquired by gift, by negotiation, or other legal means as provided for in Indiana State Statutes. Title to said

property shall be in the name of the Town of Nashville, Indiana.

(B) To assist in the preparation of application for grant funds to be made by the Town Council for the purpose of park improvement and park acquisition.

(C) To draft and maintain an overall park management plan that will address the town's vision and goals for each individual park. The park management plan will include guidelines for: hours of use, allowed activities, alcohol policies, obsolete or dangerous equipment removal, invasive species and vegetation management process, process for making reservations to use the parks, process for working with the DRC or Historic Preservation Commission in reserving historic district parks, general vision for encouraging town's use of the parks.

(D) To draft and maintain a permit application procedure that allows Nashville town residents and visitors to request modifications to public park lands; such applications will be reviewed and voted on by the Park Commission and the resulting recommendations will be forwarded to the Town Council for final approval. Applications should include a reason for the modification, detailed description of the proposed changes, required professional and non-professional resources, estimated costs, proposed methods of payment, and recommended resources to carry out the modifications.

(E) To recommend to the Town Council the acquisition by purchase, gift, or bequest, of a fee or lesser interest, in public park properties and adjacent or associated lands.

(F) To recommend to the Town Council use variances within the Town of Nashville from the terms of the Brown County and town zoning ordinances.

(G) To recommend to the Town Council the removal of blighting influences, including invasive species, signs, unsightly structures, and debris incompatible with the physical well-being of public park properties.

(H) To review and make recommendations to the Town Council regarding issuance of all public park alteration or maintenance permits, conditional use permits or variances for public park properties and to hold public hearings thereon if the Commission deems it necessary.

(I) The Town Administration or Records Clerk shall send a copy of every public park variance application for public parks to the Commission for recommendation. Among other things, the Commission, before approving such permit variance, shall first consider and make findings of fact regarding the following:

(1) In the case of a proposed modification to a public park, whether or not such alteration will materially impair the natural beauty, use, long term health, or historic value of the public park, considering the existing appearance, dimensions, effect on all neighboring properties, use by residents, and any other environmental effects;

(2) In the case of the proposed demolition or alteration of any asset on public park land, the natural and historic value of the asset, the effect on all properties, the effect of any new proposed construction on the surrounding properties, and the economic value or usefulness of the public land as it now exists, or in an altered or modified condition compatible with all the surrounding properties;

(3) In the case of a new asset on public land, whether or not such asset will materially impair the value of the adjacent properties within the Town of Nashville.

(4) In all cases, the proposed modifications must be in compliance with all applicable county, town, and historic district regulations. Any and all exceptions to these regulations must be reviewed by the Commission and approved by the Town Council and any other relevant jurisdiction. A written copy of such variance to regulations must be published and available in the commission design guidelines to be administered by the Commission and the Town Council.

(J) After review, the Commission shall report its findings of fact and its recommendations in writing to the Town Council without undue delay.
(Ord. 2018-14, passed 10-18-2018)

and accounts of the town shall perform the same duties with respect to the funds and accounts of the Park Commission.
(Ord. 2018-14, passed 10-18-2018)

§ 33.121 PROCEDURES.

The Commission shall observe the following procedures regarding special public meetings and hearings:

(A) Business shall be conducted by the Commission at regularly scheduled public meetings as prescribed in the Indiana Open Door Law. The Commission shall make every effort to preserve the public nature of its meetings.

(B) (1) When the Commission deems an issue to be of significant public concern, the Commission may call for a special public hearing. A notice of the time, place and purpose of the hearing shall be published in the local newspaper of the town/county at least 10 days before the date of the hearing, and be sent to property owners whose property abuts the property directly related to the issue of significant public concern.

(2) For the purpose of notifying property owners, the person responsible for the notification may use any appropriate records to determine the names and physical or email addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bonafide attempt to comply with this section has been made.

(Ord. 2018-14, passed 10-18-2018)

§ 33.122 MANAGEMENT OF FUNDS.

The Clerk-Treasurer of the town charged by law for the performance of duties in respect to the funds

ORDINANCE VIOLATIONS BUREAU

§ 33.130 CREATION; REGULATIONS.

(A) An Ordinance Violations Bureau is hereby established to assist with the clerical work for ordinance violation cases issued by the town for violations of Chapter 72 of the Town of Nashville Code of Ordinances and such other ordinance violations as the Town Council may hereinafter designate.

(B) Said Bureau may be established within the office of the Town Clerk-Treasurer. The Clerk-Treasurer may at his/her discretion delegate certain administrative duties to the Town Police Department, however all payments shall be made to and accounted for by the Office of the Clerk-Treasurer.

(C) The Ordinance Violations Bureau shall receive all payments of civil penalties made pursuant to a violation of these titles and appropriately account for said payments.

(D) The Ordinance Violations Bureau shall accept designated civil penalties and issue receipts for payments of citations issued under these titles between the hours of 8:00 a.m. through 4:00 p.m., Monday through Friday at the Nashville Town Hall, 200 Commercial St., Nashville, Indiana, 47448.

(E) The Ordinance Violations Bureau shall keep records of all notices issued and citations issued for violations of ordinances in the town and of all fines collected by the Ordinance Violations Bureau and of the final disposition of each case. These records shall

also be maintained as to show all types of violations and the totals of each. These records shall be public records.

(F) The Ordinance Violations Bureau shall keep an easily accessible record of all violations for which any person has been convicted during the preceding 12 months whether guilt was determined by admission through the Bureau or in the appropriate court.

(G) Any law enforcement officer, who issues an ordinance citation for violation of any provision of Chapter 72 of the Town of Nashville Indiana Code of Ordinances or the violation of any other ordinance that the Town Council shall hereinafter designate, shall serve a copy of the citation upon the person alleged to have violated the ordinance and serve another copy of the citation on the Ordinance Violations Bureau.

(H) The law enforcement officer shall also serve upon the person alleged to have violated an ordinance under these titles a notice and waiver form setting forth the amount of the civil penalty, the deadline for payment of the civil penalty, the procedure for admitting the violation and paying the civil penalty, and the procedure for denying the violation.

(I) Any person served with an ordinance citation shall have the option of paying the civil penalty within the time specified in the notice and waiver form to the Ordinance Violations Bureau upon entering an admission to the violation and upon waiving appearance in court. If the person who is issued a citation wishes to admit the allegation and pay the appropriate civil penalty, said person shall either mail or personally deliver the notice and waiver form along with a money order or other suitable tender in the amount of the appropriate fine payable to the Nashville Ordinance Violations Bureau, 200 Commercial Street, P.O. Box 446, Nashville Indiana, 47448

(J) The payment of a civil penalty to the Bureau shall be deemed an acknowledgment and admission of the commission of the alleged violation, and the Bureau shall give a receipt for the civil penalty, acknowledging payment thereof.

(K) If the person who is issued an ordinance violation citation wishes to deny the violation, or fails to pay the violation within 30 days of the date of the violation, the citation shall be dismissed from the Ordinance Violations Bureau and shall be re-filed as the corresponding violation of the Indiana Traffic Code (I.C. Title 9) with the Brown County Prosecuting Attorney's Office or the Town Attorney for filing as a separate cause of action in the Brown Circuit Court.

(L) Civil penalties shall be as set out in the ordinance alleged to have been violated.

(M) A civil penalty is deemed paid on the date payment is received by the Ordinance Violations Bureau.

(Ord. 2018-08, passed 8-16-2018)

Cross-reference:

See also Violations and Civil Penalties, Ch. 37

UTILITY SERVICE BOARD

§ 33.140 ESTABLISHMENT.

(A) The Town Council hereby establishes a Utility Service Board for the town pursuant to I.C. 8-1.5-3; and hereby establishes the organization and administrative arrangements under which the town will exercise its authority and discharge its responsibility for utility service (water and wastewater services).

(B) For the management and administration of the town's publicly owned utilities known as Nashville Municipal Utilities (NMU), there shall be:

- (1) A Utility Service Board (Board);
- (2) A Superintendent or Manager; and
- (3) Nashville Clerk-Treasurer

(4) There may be, as may be provided for in utility budgets, such other employees as are necessary to operate and maintain the NMU. (Ord. 2020-05, passed 10-15-2020)

§ 33.141 MEMBERS.

(A) *Composition and appointments.* The Board shall consist of 5 members. All members must be residents of the area currently served by NMU, 3 of which shall be a rate payers of NMU and a resident of the town of Nashville, and 2 of which shall be a rate payers of NMU, living outside of the boundaries of Nashville. Three of the members shall be appointed by the Town Council President and 2 of the members shall be appointed by the Town Council pursuant to I.C. 8-1.5-3-3. Not more than 2/3 of the members may be of the same political party.

(B) *Terms of members.* The appointments by the Town Council President shall be 1 member for a term of 2 years, 1 member for a term of 3 years and 1 member for a term of 4 years; after the initial appointment, all subsequent terms shall be for 4 years. The terms of the members appointed by the Town Council shall be an initial appointment for 1 member for a term of 2 years, and 1 member for a term of 3 years; all subsequent terms shall be for 4 years pursuant to I.C. 8-1.5-3-3.

(C) *Removal of board members.* The Nashville Town Council may remove any member of the Board by a 2/3 majority vote of the Town Council after a public hearing and a finding that the removal of the Board member is in the best interest of NMU. The public hearing shall be posted twice not less than 7 days apart, the last posting being 10 days before the date set for the public hearing.

(D) *Vacancy.* Any vacancy occurring during a term of office of a member of the Board shall be filled by the appointing authority by a replacement member who shall serve out the term of the member whose office has become vacant.

(E) *Compensation.* Each member of the Board shall be compensated for his or her services as a member of such Board at a sum to be determined and fixed by the Town Council. (Ord. 2020-05, passed 10-15-2020)

§ 33.142 OFFICERS; RULES OF PROCEDURE.

(A) The Board shall, during the month of January of each year, elect a Chairperson, Vice-Chairperson and Secretary who shall serve in such offices until December 31 of the year in which they were elected. The Board shall establish its own rules and procedure for the conduct of its meetings.

(B) The Nashville Clerk-Treasurer shall be designated with being directly responsible for the billing and collection of NMU'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. (Ord.2020-05, passed 10-15-2020)

§ 33.143 MEETINGS.

The Board shall conduct public meetings at least once each month. The annual calendar of these meetings shall be submitted to the Nashville Town Council and Clerk-Treasurer no later than January 15 of any given calendar year. (Ord. 2020-05, passed 10-15-2020)

§ 33.144 POWERS AND DUTIES.

(A) The Board has general supervisory powers over the NMU with responsibility for the detailed supervision of the NMU to be vested in its Superintendent or Manager who is responsible to the Board for the business and technical operation of the NMU. The Board may:

- (1) Fix the number and compensation of employees.

(2) Adopt rules governing the appointment of employees including making proper classifications and rules to:

(a) Determine the eligibility of applicants.

(b) Establish eligible lists arranged according to the ratings secured.

(c) Provide for the appointment of those having the highest ratings; and

(d) Provide for the promotion of employees.

(3) Subject to I.C. 36-4-9-2, appoint a Superintendent or Manager of the utility under its control who is responsible to the Board for the business and technical operation of the NMU. The Board shall make the appointment on the basis of qualifications to manage the NMU, taking into account his or her executive ability and his or her knowledge of the utility industry.

(4) Subject to I.C. 36-4-9-12, hire attorneys when required for the operation of the NMU.

(5) Hire professional or expert personnel when required for the operation of the NMU.

(6) Submit a budget of its financial needs for the next year in the detail required by the municipal legislative body.

(7) Recommend to the legislative body reasonable and just rates and charges for services to the rate payers of the NMU.

(8) Appropriate, lease, rent, purchase and hold all real and personal property of the utility.

(9) Award contracts for:

(a) The purchase of capital equipment.

(b) The construction of capital improvements; or

(c) Other property or purposes that are necessary for the full and efficient construction, management and operation of the NMU.

(10) Adopt rules for the safe, economical and efficient management and protection of the NMU.

(11) Submit reports of the condition of the utility and meeting minutes on a monthly basis to the Town Council.

(B) The Board may purchase by contract commodities or services for the purpose of furnishing the commodity or service to the patrons of the municipally owned NMU or to the municipality itself.

(C) If the Board wants to purchase the commodity or service from a public utility and the parties cannot agree on a rate or charge to be paid for it, either party may apply to the commission or other appropriate state or federal regulatory agency to establish a fair and reasonable rate or charge to be paid for the commodity or service.

(D) All Board policies including those of purchasing and personnel shall be in compliance with Title 3 Administration of the Town of Nashville Code of Ordinances as well as relevant State and Federal law. Should modification of any articles of the Nashville Code of Ordinances be in the best interest of NMU, such modifications shall be recommended to the Town Council for incorporation into the Nashville Code of Ordinances.

(E) The Town Council authorizes the NMU Board to operate, manage and take actions on behalf of NMU under rules set forth by Title 5 Public Works of the Town of Nashville Code of Ordinances as well as any other portions of the Nashville Code of Ordinances. Should modification of any articles of the Nashville Code of Ordinances be in the best interest of NMU, such modifications shall be recommended to the Town Council for incorporation into the Nashville Code of Ordinances.

(Ord. 2020-05, passed 10-15-2020)

BICYCLE AND PEDESTRIAN ADVISORY BOARD

§ 33.150 ESTABLISHMENT.

There is hereby created an ad hoc Bicycle and Pedestrian Advisory Board for the purpose of administering the development of a Bicycle and Pedestrian Master Plan.

(Res. 2019-06, passed 12-30-2019; Am. Res. 2020-02, passed 1-29-2020)

§ 33.151 MEMBERS.

(A) *Membership.* The Board shall consist of 7 members. All members shall be appointed by a majority approval of the Town Council. Members serve as volunteers without compensation. Members shall serve at the pleasure of the Town Council and may be removed by a majority vote of the Town Council with or without cause. A vacancy automatically occurs if a member fails to attend 3 consecutive Board meetings or moves his or her residence outside of Brown County.

(B) *Term.* The Board and terms of all members shall expire upon completion of the tasks of the Board and dissolution of the Board by the Town Council.

(C) *Qualifications.* All Board members shall be Brown County residents. Nashville Town Council members shall not be voting members of the Board. Applicants seeking membership should demonstrate a desire to advocate for safe and accommodating bicycle and pedestrian infrastructure and encourage an alternative transportation culture in Nashville. Residents seeking appointment to the Board are encouraged to email or deliver a Board or Commission application to the Clerk-Treasurer's office. All members are expected to be active members of the Board.

(Res. 2019-06, passed 12-30-2019; Am. Res. 2020-02, passed 1-29-2020)

§ 33.152 DUTIES.

(A) Create a comprehensive Bicycle and Pedestrian Master Plan;

(B) Advise the Town Council on matters involving bicycle and pedestrian transportation;

(C) Recommend updates to town policies regarding sidewalks;

(D) Recommend metrics for project evaluation that considers bicycle and pedestrian issues;

(E) Review pedestrian and bicycle ordinances and regulations;

(F) Create and recommend to the Town Council a citizen driven process for bicycle and pedestrian infrastructure requests, including sidewalks, crossings and bicycle racks;

(G) Identify opportunities for the Town Council to provide bicycle and walking education programs for various ages and abilities;

(H) Advise the Town Council on priorities for capital funding of bicycle and pedestrian projects as part of the town's budget process;

(I) Review, consider, discuss, debate and advocate on such issues and matters affecting local government and the Nashville community that members determine to be important and appropriate, and which are for the betterment of Nashville and its bicycle pedestrian community; and

(J) The Board shall create and follow an annual work plan, report to the Town Council on its activities at least 3 times each year and submit an annual report to the Town Council. Pedestrian issues shall be a regular part of the Board's agenda and discussion.

(Res. 2019-06, passed 12-30-2019; Am. Res. 2020-02, passed 1-29-2020)

CHAPTER 34: FINANCE; TOWN FUNDS

Section

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34.140 Establishment

Cross-references:*Accident Report Fund, see § 33.01**Law Enforcement Continuing Education Fund, see § 33.01**Reserve Police Department Fund, see § 33.03**Reserve Police Training Fund, see § 33.02****GENERAL PROVISIONS*****§ 34.001 DONATION FUND.**

(A) The Clerk-Treasurer is hereby authorized to accept restricted donations. The Clerk-Treasurer shall keep these donations in a separate fund with proper sub-accounts for each particular approved donation.

(B) The life of the fund shall continue until the Town Council decides otherwise.

(1) The fund balance shall be perpetual until terminated by the terms of the current ordinance or by enactment of a subsequent ordinance or amendment.

(2) The disposition of the fund balance on termination of the fund will be determined by the Town Council.

(Ord. 1991-5, passed 9-26-1991)

§ 34.002 APPROPRIATION OF FUNDS FOR PROMOTION OF TOWN.

The Town Council is authorized to budget and appropriate funds from the General Fund of the town, to pay for expenses of or to reimburse town officials for expenses incurred in promoting the best interest of the town. These expenses may include, but not necessarily be limited to rental of meeting places, meals, decorations, memorabilia, awards, expenses incurred in promoting industrial, commercial and residential development, expenses incurred in developing relations with other units of government, and any other expenses of a civic or governmental nature deemed by the Town Council to be in the best interest of the town.

(Ord. 1992-9, passed 12-17-1992)

§ 34.003 DISBURSEMENT OF TOWN FUNDS.

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

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

(2) License or permit fees;

(3) Insurance premiums;

(4) Utility payments or utility connection charges;

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

(6) Grants of state funds authorized by statute;

(7) Maintenance or service agreements;

(8) Leases or rental agreements;

(9) Bond and coupon payments;

(10) Payroll;

(11) State, federal or county taxes;

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

(13) Expenses described in town ordinances;

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

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

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

(C) The Town Council shall review and allow the claim at its next regular or special meeting following the preapproved payment of the expense. (Ord. 1995-13, passed 12-21-1995)

§ 34.004 INVESTMENT OF TOWN FUNDS.

The Clerk-Treasurer is authorized to invest any and all town funds subject to the provisions of I.C. 5-13-9.

(Res. 1997-2, passed 3-20-1997)

§ 34.005 FIXED ASSET CAPITALIZATION POLICY.

(A) (1) *Definitions and provisions.* For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CAPITAL OUTLAYS. Expenditures which benefit both the current and future fiscal periods. This includes costs of acquiring land or structures; construction or improvement of buildings, structures or other fixed assets; and equipment purchases having an appreciable and calculable period of usefulness. These are expenditures resulting in the acquisition of or addition to the government's general fixed assets.

FIXED ASSETS. Tangible assets of a durable nature employed in the operating activities of the unit and that are relatively permanent and are needed for the production or sale of goods or services are termed property, plant and equipment of fixed assets. These assets are not held for sale in the ordinary course of business. This broad group is usually separated into classes according to the physical characteristics of the items (e.g. land, buildings, improvements other than buildings, machinery and equipment, furniture and fixtures).

TANGIBLE ASSETS. Assets that can be observed by one or more of the physical senses. They may be seen and touched and, in some environments, heard and smelled.

(2) *Provisions.*

(a) *Land.*

1. The town will capitalize all land purchases, regardless of cost. Exceptions to land capitalization are land purchased outright, as easements, or rights-of-way for infrastructure. Examples of infrastructures are roads and streets, street lighting systems, bridges, overpasses, sidewalks, curbs, parking meters, street signs, viaducts, wharfs, and storm water collection.

2. A department will record donated land at fair market value on the date of transfer plus any associated costs.

3. Purchases made using federal or state funding will follow the source funding policies and above procedures.

(b) *Machinery and equipment.*

1. The definition of **MACHINERY AND EQUIPMENT** is: an apparatus, tool, or conglomeration of pieces to form a tool. The tool will stand alone and not become a part of a basic structure of building.

2. The town will capitalize and tag items with an individual value equal to or greater than \$5,000. Machinery combined with other machinery to form one unit with a total value greater than the above mentioned limit will be one unit.

3. Improvements or renovations to existing machinery and equipment will be capitalized only if the result of the change meets all of the following conditions:

a. Total cost exceeds \$5,000.

b. The useful life is extended two or more years; and

c. The total costs will be greater than the current book value and less than the fair market value.

4. Examples include:

a. A work truck being equipped with screens, lights or radios for use as a single unit throughout its life expectancy is considered one unit.

b. If police cars are constantly changing light bars or radios to other

vehicles, the town will capitalize each piece of equipment separately, if it meets the required dollar amount.

c. A department's computer (CPU, monitor, keyboard, and printer) is considered one unit.

5. A department will record donated machinery and equipment at fair market value on the date of transfer with any associated costs.

6. Purchases made using federal or state funding will follow the source funding policies and above procedures.

(c) *Buildings.*

1. A department will capitalize buildings at full cost with no subcategories for tracking the cost of attachments. Examples of attachments are roofs, heating, cooling, plumbing, lighting, or sprinkler systems, or any part of the basic building. The department will include the cost of items designed or purchased exclusively for the building.

2. A department's new building will be capitalized only if it meets the following conditions:

a. The total cost exceeds \$5,000; and

b. The useful life is greater than two years.

3. A department improving or renovating an existing building will capitalize the cost only if the result meets all of the following conditions:

a. The total cost exceeds \$5,000;

b. The useful life is extended two or more years; and

c. The total cost will be greater than the current book value and less than the fair market value.

4. Capital building costs, may include preparation of land for the building, architectural and engineering fees, bond issuance fees, interest cost (while under construction), accounting costs if material, and any costs directly attributable to the construction of a building.

5. A department will record donated buildings at fair market value on the date of transfer with any associated costs.

6. Purchases made using federal or state funding will follow the source funding policies and above procedures.

(d) *Improvements other than buildings.*

1. The definition of this group is improvements to land for better enjoyment, attached or not easily removed, and will have a life expectancy of greater than two years.

2. Examples are walks, parking areas and drives, golf cart paths, fencing, retaining walls, pools, outside fountains, planters, underground sprinkler systems, and other similar items.

3. Improvements do not include roads, streets, or assets that are of value only to the public. For example, Main Street is a public street with greatest value to the public. Roads or drives upon town-owned land that provide support to our facilities are assets. A sidewalk down the road for public enjoyment is an infrastructure improvement and is not capitalized. However, sidewalks installed upon town-owned land for use by the public and for the support of our facility are capital assets.

4. This town will capitalize new improvements other than buildings only if it meets the following conditions:

a. The total cost exceeds \$5,000; and

b. The useful life is greater than two years.

5. A department will capitalize improvements or renovations to existing improvements other than buildings only if the result meets the following conditions:

a. The total cost exceeds \$5,000;

b. The asset's useful life is extended two or more years; and

c. The total cost will be greater than the current book value and less than the fair market value.

6. A department's donated improvements other than buildings will be recorded at fair market value on the date of transfer with any associated costs.

7. Purchases made using federal or state funding will follow the source funding policies and above procedures.

(B) *Recording and accounting.*

(1) The town and its various departments shall classify capital expenditures as capital outlays within the fund from which the expenditure was made in accordance with the Chart of Accounts of the Cities and Towns Accounting Manual. For purposes of recording fixed assets of the town and its departments, the valuation of assets shall be based on historical cost or where the historical cost is indeterminable, by estimation for those assets in existence.

(2) The town's municipally owned utilities shall record acquisition of fixed assets in accordance with generally accepted accounting principles. When

an asset is purchased for cash, the acquisition is simply recorded at the amount of cash paid. Assets may be acquired under a number of other arrangements including:

- (a) Assets acquired for lump-sum purchase price;
- (b) Purchase on deferred payment contract;
- (c) Acquisition under capital lease;
- (d) Acquisition by exchange of nonmonetary assets;
- (e) Acquisition by issuance of securities;
- (f) Acquisition by self-construction; and
- (g) Acquisition by donation or discovery.

(3) Some of these arrangements present special problems relating to the cost to be recorded, for example, in utility accounting, interest during a period of construction has long been recognized as a part of the asset cost. Reference to an intermediate accounting manual will illustrate the recording of acquisition of assets under the aforementioned acquisition arrangements. For purposes of recording fixed assets of the utilities the valuation of assets shall be based on historical cost.

(4) In addition, assets shall be recorded and maintained to provide a detailed record of the capital assets of the governmental unit.

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

HISTORICAL COST. The cash equivalent price exchanged for goods or services at

the date of acquisition. Land, buildings, equipment, and most inventories are common examples of items recognized under the ***HISTORICAL COST*** attribute.

(C) *Safeguarding of assets.* Accounting controls shall be designed and implemented to provide reasonable assurances that the recorded accountability for assets be compared with the existing assets at least every two years and appropriate action be taken with respect to any differences.
(Ord. 1996-7, passed 12-19-1996; Am. Ord. 2016-15, passed 12-15-2016)

CAPITAL IMPROVEMENT PLAN

§ 34.015 ADOPTION.

The Capital Improvement Plan is adopted by the Town Council.
(Ord. 1991-1, passed 3-21-1991; Am. Ord. 2011-07, passed 8-15-2007)

§ 34.016 TERM.

The term of the Plan is 5 years from the date of its adoption. The Town Council will review the objectives of this plan at the end of this term and modify those objectives as needs dictate.
(Ord. 1991-1, passed 3-21-1991; Am. Ord. 2011-07, passed 8-15-2011)

§ 34.017 PLAN OBJECTIVES.

The plan must be adopted by the Town Council before the town may receive its certified distribution of revenues from the Economic Development Income Tax (EDIT). The plan must specify the uses for which the town proposes to use EDIT revenues.
(Ord. 1991-1, passed 3-21-1991; Am. Ord. 2011-07, passed 8-15-2011)

§ 34.018 USE OF EDIT REVENUES.

EDIT revenues may be used for the following:

(A) Construction of capital projects for which the town is empowered to issue general obligation notes or establish a fund under any statute listed in I.C. 6-1.1-18.5-9.8;

(B) Economic development projects;

(C) Payment of lease rentals under any statute for a capital project;

(D) Retirement of notes issued under any provisions of state law for a capital project;

(E) Contract payments to a not-for-profit corporation whose primary corporate purpose is to assist government on planning and implementing economic development projects;

(F) Operating expenses of a governmental entity that plans or implements economic development projects;

(G) Retirement of notes for economic development projects;

(H) Leases; or

(I) Leases or notes entered into or issued prior to the date the EDIT was imposed, if the purpose of the lease or the notes would have qualified as a purpose when the lease was entered into or notes were issued.

(Ord. 1991-1, passed 3-21-1991; Am. Ord. 2011-07, passed 8-15-2011)

2011-07, passed August 15, 2011, is adopted by reference and made a part of this section as if set forth in full herein.

(B) The complete description of the capital improvement projects can be examined in the office of the Clerk-Treasurer.

(Ord. 1991-1, passed 3-21-1991; Am. Ord. 2011-07, passed 8-15-2011)

[Text continues on pg. 25]

§ 34.019 DESCRIPTION OF CAPITAL IMPROVEMENTS PROJECTS.

(A) The description of specific capital improvement projects as set forth in Ordinance

**CUMULATIVE CAPITAL IMPROVEMENT
FUND**

§ 34.030 DEFINITION.

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

CAPITAL IMPROVEMENT. The construction or improvement of any town-owned property including, but not limited to streets, thoroughfares and sewers, and shall not include salaries of any public officials or employees except that directly chargeable to the improvements.

(Ord. 8265, passed 8-2-1965)

§ 34.031 ESTABLISHMENT.

There is hereby established a Cumulative Capital Improvement Fund as provided by Chapter 225, Acts of 1965, to be used solely for capital improvements of the town.

(Ord. 8265, passed 8-2-1965)

§ 34.032 DISTRIBUTIONS.

The semi-annual distributions from the Cigarette Tax Fund shall be deposited to the Cumulative Capital Improvement Fund.

(Ord. 8265, passed 8-2-1965)

§ 34.033 AD VALOREM PROPERTY TAX REVENUES.

An ad valorem property tax shall be imposed and the revenues from the levy will be retained in the Cumulative Capital Development Fund. The rate of the levy shall be as established by Council from time to time.

(Ord. 1994-7, passed 7-25-1994)

§ 34.034 USE OF FUNDS.

The Cumulative Capital Development Fund shall be used for the following purposes:

(A) Cumulative Firefighting Building and Equipment (I.C. 36-8-14) (50%);

(B) Cumulative Drainage Fund (I.C. 36-9-27-100) (25%); and

(C) Cumulative Street Fund (I.C. 36-9-16.5) (25%).

(Ord. 1994-7, passed 7-25-1994)

FOOD AND BEVERAGE TAX

§ 34.040 TAX ESTABLISHED.

(A) Pursuant to the authority granted to the Town Board of Trustees by the General Assembly of the State, I.C. 6-9-24-3, there is hereby adopted a Town Food and Beverage Tax to be imposed upon any transaction in which food or beverage is furnished, prepared or served:

(1) For consumption at a location or on equipment provided by a retail merchant;

(2) Within the town; or

(3) By a retail merchant for consideration.

(B) The transactions described in division (A) above include, but are not limited to transactions in which food and beverage are:

(1) Served by a retail merchant off the merchant's premises;

(2) Sold by a retail merchant who ordinarily bags, wraps, or packages the food or beverage for immediate consumption on or near the retail merchant's premises, including food or beverage on a "take out" or "to go" basis; or

(3) Sold by a street vendor.

© The Town Food and Beverage Tax imposed on a food or beverage transaction described in division (A) of this section equals 1% of the gross retail income received by the merchant from this transaction. For purposes of this section, the gross retail income received by the retail merchant from such a transaction does not include the amount of tax imposed on the transaction under I.C. 6-2.5 *et seq.* (Ord. 1987-4, passed 5-7-1987)

§ 34.041 EXEMPTIONS.

The Town Food and Beverage Tax does not apply to the finishing, preparing or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, for the state gross retail tax imposed by I.C. 6-2.5 *et seq.* (Ord. 1987-4, passed 5-7-1987)

§ 34.042 PROCEDURE OF TAXATION.

(A) The tax imposed under this chapter shall be imposed, paid and collected in the same manner that the state gross retail tax is imposed, paid and collected under I.C. 6-2.5 *et seq.* However, the return to be filed for the payment of the taxes may be made on separate returns or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the State Department of State Revenue.

(B) The amounts received from the taxes imposed under the ordinance shall be paid monthly by the Treasurer of the State to the Clerk-Treasurer upon warrants by the State Auditor. (Ord. 1987-4, passed 5-7-1987)

§ 34.043 FOOD AND BEVERAGE FUND.

(A) The Clerk-Treasurer shall establish a Food and Beverage Receipt Fund.

(B) The Clerk-Treasurer shall deposit in this fund all amounts received under this tax.

© Any money earned from the investment of money in the fund shall become a part of the fund.

(D) (1) The Clerk-Treasurer shall apply the money as directed by the Board of Trustees in the fund as follows: Solely to finance, construct, improve, equip, operate and maintain public parking and public restroom facilities, or to renovate, equip, operate and maintain any structure that may be used as a public parking or public restroom facility.

(2) The municipality may enter into lease or contractual arrangements, or both, with governmental, not-for-profit or other private entities to operate and maintain these facilities. (Ord. 1987-4, passed 5-7-1987)

§ 34.044 EXPIRATION OF TAX.

This subchapter expires July 1, 2007. (Ord. 1987-4, passed 5-7-1987)

PARKING VIOLATION FUND

§ 34.060 ESTABLISHMENT

(A) Monies collected from a parking violation fine shall be deposited by the Clerk-Treasurer in a separate fund to be known as the Parking Violation Fund.

(B) The monies collected in the Parking Violation Fund may be expended at the discretion of the Town Marshal for any purpose related to the operation of the Police Department. (Ord. 155, passed - -1948; Am. Ord. 1975-1, passed 8-4-1975; Am. Ord. 1992-11, passed 12-30-1992; Am. Ord. 1994-10, passed 10-20-1994)

Cross-reference:

Parking regulations, see Chapter 71

POLICE DEPARTMENT DRUG FUND**§ 34.070 ESTABLISHMENT.**

(A) There is hereby created a Police Department Drug Fund. The fund shall consist of deposits in the form of proceeds recovered by the Police Department, in part or as a whole, in forfeiture actions filed pursuant to I.C. 34-24-30.1, forfeiture actions which are adopted by federal agencies, liquidations of personal or real property obtained from criminal defendants in those actions, and voluntary surrenders of funds and assets from criminal defendants.

(B) The Police Department Drug Fund shall be appropriated for funding law enforcement activities conducted by the Police Department and reimbursement of expenses incurred in pursuing forfeiture and RICO actions.

(C) All monies collected under this subchapter shall be transferred to the Clerk-Treasurer, who shall deposit the funds and disburse as the Town Marshal directs, subject to the appropriation requirements of this subchapter. Monies remaining in the fund at the end of the year shall not revert to any other fund but shall continue in the Police Department Drug Fund.

(D) Monies from this fund shall be subject to appropriation by the Town Council in accordance with I.C. 36-5-4-2.

(Ord. 2001-01, passed 3-15-2001)

§ 34.071 FUND EXPENSE POLICY.

(A) The Town Council has previously enacted a Police Department Drug Fund as outlined in § 34.70.

(B) These funds, after appropriation by the Town Council, may be used to fund law enforcement activities in enforcement of drug-related crimes conducted by the Police Department, in whole or part.

(C) The funds, after appropriation, may need to be used by the Police Department in order to purchase

drugs, controlled substances, stolen property, the lease and purchase of equipment, training and to pay confidential informants.

(D) In order to facilitate the expenditure of the appropriated funds by the Police Department, the Clerk-Treasurer should establish a checking account, which may bear interest, to hold funds for usage by the Police Department after the funds have been appropriated by the Town Council.

(E) In establishing the checking account, all interest earned on this account shall be kept and retained in this checking account and used for the purposes set forth for the principal sums.

(F) The Town Marshal is hereby authorized to maintain cash in the amount of \$1,000. This cash shall be referred to as "evidence acquisition cash." The Town Marshal shall account to the Clerk-Treasurer for any expenditure of this cash prior to the Clerk-Treasurer issuing additional evidence acquisition cash.

(G) Additionally the Town Marshal shall reconcile expenses and cash on hand on a quarterly basis and shall submit this to the Clerk-Treasurer in the report form within 15 days of the last day of each quarter.

(H) The Town Marshal shall be bonded in an amount not to be less than \$2,500.

(Ord. 2001-01, passed 3-15-2001)

***RIVERBOAT WAGERING
TAX REVENUE SHARING FUND*****§ 34.080 ESTABLISHMENT.**

(A) A fund is established for the receipt of monies collected from the town's share of the Riverboat Wagering Tax Revenue Sharing Fund and for the expenditure of monies in accordance with I.C. 4-33-13-5(f).

(B) Riverboat Wagering Tax Revenue Sharing funds shall be used for the following purposes:

(1) To reduce the property tax levy of the town;

(2) To fund additional property tax replacement credits in property tax increment allocation areas;

(3) To fund sewer and water projects, including stormwater management projects;

(4) For police and fire pensions; and

(5) To carry out any governmental purpose for which the fiscal body of the town appropriates the Riverboat Wagering Tax Revenue Sharing Fund. (Ord. 2003-07, passed 11-20-2003)

POLICE GAS DONATION FUND

§ 34.090 ESTABLISHMENT.

A Police Gas Donation Fund is established for restricted donations for the specific use of the purchase of gasoline for the Police Department. This fund shall be operated in accordance with § 34.001. (Res. 2008-03, passed 5-15-2008)

RAINY DAY FUND

§ 34.100 ESTABLISHMENT.

(A) There is hereby created a Rainy Day Fund. The fund shall consist of deposits in the form of unused and unencumbered funds under I.C. 36-5, or any other funding sources not otherwise prohibited by law.

(B) The Rainy Day Fund is subject to the same appropriation process as other funds that receive tax money.

(C) In any fiscal year, a political subdivision may transfer under I.C. 36-5, not more than 10% of the political subdivision's total annual budget for that fiscal year, adopted under I.C. 6-1.1-17, to the Rainy Day Fund.

(D) The department of local government finance may not reduce the actual or maximum permissible levy of a political subdivision as a result of a balance in the Rainy Day Fund of a political subdivision.

(E) The fund may be used for all purposes permitted by law.

(Ord. 2009-04, passed 4-16-2009)

ARTS AND ENTERTAINMENT FUND

§ 34.105 ESTABLISHMENT.

(A) Nashville Arts and Entertainment Commission Fund is established.

(B) The Nashville Arts and Entertainment Commission was given the authority to solicit and accept donations as well as grants from state and federal agencies as described in § 33.81.

(C) All monies received must be deposited by the Clerk-Treasurer. These funds, after appropriation by the Town Council, may be used to fund the responsibilities of the Arts and Entertainment Commission as designated by § 33.82.

(D) Monies remaining in the fund at the end of the year shall not revert to any other fund but shall continue in the Nashville Arts and Entertainment Commission (NAEC) Fund.

(E) The Nashville Arts and Entertainment Fund is established for restricted donations for the specific purpose of supporting and maintaining the Nashville Arts and Entertainment Commission for the town.

(Ord. 2013-02, passed 2-28-2013; Am. Ord. 2016-03, passed 5-19-2016)

Cross-reference:

Arts and Entertainment Commission, see § 33.80 et seq.

§ 34.106 COMMUNITY ENGAGEMENT GRANT FUND.

A new non-reverting fund to be known as the Community Engagement Grant Fund and given the number 264 is now established. The Fund shall receive monies from the Indiana Arts Commission. Said Fund shall be kept separate from funds heretofore designated as the Arts and Entertainment Fund.

(Ord. 2018-04, passed 3-15-2018)

§ 34.107 BROWN COUNTY COMMUNITY FOUNDATION GRANT FUND.

A new non-reverting fund to be known as the Brown County Community Foundation Grant Fund and given the number 268 is now established. The Fund shall be in the amount of \$2,669.84 and shall be used solely for the purchase and improvement of a sound system for the Pavilion Music Series. The Fund shall receive monies from the Brown County Community Foundation. Said Fund shall be kept separate from funds heretofore designated as the Arts and Entertainment Fund.

(Ord. 2018-06, passed 6-21-2018)

CUMULATIVE CAPITAL DEVELOPMENT FUND

§ 34.110 ESTABLISHMENT.

The town hereby re-establishes the Cumulative Capital Development Fund.

(Ord. 2013-06, passed 7-18-2013)

§ 34.111 AD VALOREM PROPERTY TAX REVENUES.

(A) The ad valorem property tax levy will continue with the revenues from the levy being retained in the Cumulative Capital Development Fund.

(B) The maximum rate of levy under division (A) will not exceed \$.05 per \$100 of assessed valuation each year.

(Ord. 2013-06, passed 7-18-2013)

§ 34.112 USE OF FUNDS.

(A) The funds accumulated in the Cumulative Capital Development Fund will be used for:

(1) Cumulative fire fighting building and equipment, see I.C. 36-8-14 (50%);

(2) Cumulative Drainage Fund, see I.C. 36-9-27-100;

(3) Cumulative Street Fund, see I.C. 36-9-16.5; and

(4) Cumulative Building Fund, see I.C. 36-9-16-2.

(B) Funds accumulated in the Cumulative Capital Development Fund may be spent for purposes other than the purposes stated in division (A), 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.
(Ord. 2013-06, passed 7-18-2013)

***NON-REVERTING LOCAL PRETRIAL
DIVERSION AND DEFERRAL FUND***

§ 34.120 USE OF FUNDS.

(A) The town hereby creates a non-reverting fund for the purposes of appropriating and disbursing funds consisting of the following fees collected by a Clerk under said article:

- (1) The pretrial diversion program fee;
- (2) The alcohol and drug services fee;
- (3) The law enforcement continuing education program fee;
- (4) The deferral program fee; and
- (5) The problem solving court fee.

(B) Any funds so collected may be used for: personnel expenses related to the operation of the program; special training for a law enforcement officer; victim assistance; electronic legal research; office equipment, including computers, computer software, communication devices, office machinery, furnishings, and office supplies; expenses of a criminal investigation and prosecution.

(C) Expenditures from this fund would be used by the Nashville Clerk-Treasurer for such purposes.

(D) The town wishes to have a new, non-reverting fund established for receipt, capture,

and eventual distribution and appropriation of these funds for the purposes permitted by I.C. 33-37-8-3 and 4; and

(E) The Town Clerk-Treasurer requests that a new non reverting account, be dedicated and created for the receipt of proceeds from the Infraction Deferral Program monitored by the Nashville Town Attorney or his duly designated agent, to exist until its dissolution, wherein any remaining balances will be transferred to the Nashville General Fund.

(F) The creation of this fund is not an additional appropriation, and a public hearing is not required.
(Ord. 2016-09, passed 7-21-2016)

***LOCAL ROAD AND BRIDGE
MATCHING GRANT FUND***

§ 34.125 ESTABLISHMENT.

A new non-reverting fund to be known as the Local Road and Bridge Matching Grant Fund ("Fund"), and which is to be given number 258, is now established. The fund shall receive monies from the Local Road and Bridge Matching Grant Fund through INDOT as well as local match funds transferred from the State of Indiana's LOIT Special Distribution Fund earmarked for local road improvements.

(Ord. 2016-19, passed 12-29-2016)

NASHVILLE PARK IMPROVEMENT FUND

§ 34.130 ESTABLISHMENT.

The Council of the Town of Nashville that a Nashville Park Improvement Fund be established for the specific purpose of supporting and maintaining Town Parks.

(A) The Town Council of the Town of Nashville, Indiana, establishes the Nashville Park Improvement Fund to be governed by the applicable statutory provisions;

(B) Funds were left over from the original Place Based Investment Fund grant dollars and the town is permitted to use these dollars on future park improvement endeavors;

(C) The life of the fund shall continue until the Town Council of the Town of Nashville decides otherwise;

(D) The fund balance shall be perpetual until terminated by the terms of the current resolution or by enactment of a subsequent resolution or amendment; and

(E) The disposition of the fund balance on termination of the fund will be determined by the Town Council of the Town of Nashville.
(Res. 2018-04, passed 11-15-2018)

**WATER CAPITAL IMPROVEMENT
PROJECT FUND**

§ 34.135 USE OF FUNDS.

(A) The town applied for a Wastewater/Drinking Water (WDW) CDBG grant to improve the quality of water and wastewater by receiving assistance in financing appropriate water and sewer infrastructure for communities and counties that have planned and set priorities for long-term development.

(B) The town has been awarded a Wastewater/Drinking Water (WDW) CDBG grant in the amount of \$592,000 from the Indiana Office of Community and Rural Affairs for drinking water system improvements. The local match source of the project will be secured by loan funds from the USDA Rural Development loan funds; and

(C) All monies received for the Nashville Water CIP must be deposited by the Clerk-Treasurer of the town into the Nashville Water CIP fund. The disbursement of these funds will follow the accepted payment process established by the Indiana State Legislature.

(D) The Water Capital Improvements Project Fund (Nashville Water CIP fund) is established.
(Ord. 2017-01, passed 2-16-2017)

**COMMUNITY DEVELOPMENT BLOCK GRANT
FUND**

§ 34.140 ESTABLISHMENT.

(A) The Council of the Town of Nashville hereby establishes the CDBG Economic Development Fund (CDBG Economic Dev Fund).

(B) The Town of Nashville, Indiana received \$250,000 in Community Development Block Grant (CDBG) COVID-19 Phase 2 funds for the provision of grants to businesses for retaining low-to-moderate income employees' jobs. The grant up to \$10,000 will be for small businesses who have a revenue equal to or less than \$1,000,000, employ 100 employees or less and who have been affected by the COVID-19 pandemic. The local match source of \$6,250 will be paid from local EDIT funds.

(C) All monies received for the CDBG Economic Dev Fund must be deposited by the Clerk-Treasurer of the town into the CDBG Economic Dev Fund. The disbursement of these funds will follow the accepted payment process established by the Indiana State Legislature.
(Ord. 2020-09, passed 9-17-2020)

CHAPTER 35: CIVIL EMERGENCIES

Section

- 35.01 Definitions
- 35.02 Proclamation by Town Board
- 35.03 Imposition of curfew
- 35.04 Additional regulations
- 35.05 Emergency powers

- 35.99 Penalty

of the town during the hours in which a curfew has been imposed, excepting persons officially designated to duty with reference to the civil emergency.
(Ord. 5-4-70, passed 5-4-1970)

§ 35.01 DEFINITIONS.

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

CIVIL EMERGENCY.

(1) A riot or unlawful assembly characterized by the use of actual force if accompanied by immediate power to execute such force by 3 or more persons acting together without authority of law; or

(2) Any natural disaster or man-made calamity, including flood, conflagration, cyclone, tornado, earthquake or explosion within the corporate limits of the town, resulting in the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

CURFEW. Prohibition against any person or persons walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits

§ 35.02 PROCLAMATION BY TOWN BOARD.

When in the judgment of the Town Board a civil emergency as defined herein is deemed to exist, they shall proclaim in writing the existence of same. In case of the absence of any member of the Town Board, the remaining members shall act.
(Ord. 5-4-70, passed 5-4-1970)

§ 35.03 IMPOSITION OF CURFEW.

After proclamation of a civil emergency by the Town Board, they may order a general curfew applicable to those geographical areas of the town, or to the town as a whole, as they deem advisable and applicable during those hours of the day or night as they deem necessary in the interest of the public safety and welfare.
(Ord. 5-4-70, passed 5-4-1970)

§ 35.04 ADDITIONAL REGULATIONS.

After proclamation of a civil emergency, the Town Board may also in the interest of public safety and welfare make any or all of the following orders:

- (A) Order the closing of all retail liquor stores;

(B) Order the closing of all taverns;

(C) Order the closing of all private clubs or portions thereof wherein the consumption of intoxicating liquor and/or beer is permitted;

(D) Order the discontinuance of the sale of beer;

(E) Order the discontinuance of selling, distributing or giving away gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle;

(F) Order the closing of gasoline stations and other establishments, the chief activity of which is the sale, distribution or dispensing of liquid flammable or combustible products;

(G) Order the discontinuance of selling, distributing, dispensing or giving away of firearms and/or ammunition; or

(H) Issue such other orders as are imminently necessary for the protection of life and property. (Ord. 5-4-70, passed 5-4-1970)

§ 35.05 EMERGENCY POWERS.

(A) During the period of a declared state of emergency, the Town Board shall have the power to invoke any or all of the following provisions:

(1) *Alcoholic beverages.* No person shall consume any alcoholic beverages in a public street or place which is publicly owned, or in any motor vehicle driven or parked thereon which is within a duly designated restricted area.

(2) *Weapons.* No person shall carry or possess any rock, bottle, club, brick or weapon, who uses or intends to use the same unlawfully against the persons or property of another.

(3) *Incendiary missiles.* No person shall make, carry, possess or use any type of "Molotov Cocktail," gasoline- or petroleum-base firebomb or other incendiary missile.

(4) *Restricted areas.* No person shall enter any area designated by the Town Board as a restricted area unless in the performance of official duties or with the written permission from the Town Board or its duly designated representative, or the person shall prove residence therein.

(B) As the Executive Officer of the Town of Nashville ("town") the President of the Town Council ("President") in emergency situations ("emergencies") shall be vested with the authority to take certain actions on their own to protect the public safety, health and welfare of the town, and its people the public, its properties and all other assets.

(1) For purposes of the authority granted by this division, emergencies shall be defined to include severe weather, fire, power failure, earthquakes, tornados, floods, epidemics, pandemics and other national, regional or local emergencies and other emergencies of similar nature.

(2) When the President declares an emergency in accordance with this section the President may take the following actions:

(a) Prohibit the use and/or occupancy of any or all facilities and/or public properties owned or operated by the town or a portion thereof;

(b) Restrict the use or occupancy of any or all public facilities and/or properties owned or operated by the town or a portion thereof; and

(c) Order any other reasonable rules regarding the town's employees, its assets and the public needed for the protection of such persons and assets.

(3) The actions taken by the President in accordance with this emergency authority shall remain in place until the earlier of the following:

(a) The action(s) are modified or cancelled by the President; or

(b) The next meeting of the Nashville Town Council, including both a special meeting or regular scheduled meeting.

(c) Allow the actions of the President to stand.

(Ord. 5-4-70, passed 5-4-1970; Am. Ord. 2020-04, passed 3-19-2020) Penalty, see § 35.99

§ 35.99 PENALTY.

Any person violating any provision of this chapter or any order made by the Town Board in accordance with the terms of this chapter shall be punished by a fine of not more than \$100.

(Ord. 5-4-70, passed 5-4-1970)

CHAPTER 36: PERSONNEL POLICIES

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GENERAL PROVISIONS**§ 36.001 DEFINITIONS.**

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

FULL-TIME EMPLOYEE. An employee who is employed on a year-round basis and works the full regularly scheduled 40-hour workweek of the department in which the employee works.

PART-TIME EMPLOYEE. An employee who is employed on a year-round basis, but for less than the average 40-hour workweek of the department in which the employee works. These employees shall not receive vacation or sick leave days or holiday pay.

TEMPORARY EMPLOYEE or **SEASONAL EMPLOYEE.** An employee who is employed on less than a year-round basis or for a limited period of time. These employees shall not receive vacation or sick leave days or holiday pay.

(Ord. passed - -)

§ 36.002 FLEXIBLE BENEFITS PLAN ADOPTED.

(A) The Authority hereby adopts the Flexible Benefits Plan, consisting of the Flexible Benefits Plan Document, the Adoption Agreement, and component benefit plans and policies for the town, effective as of the date specified in the Adoption Agreement.

(B) The Clerk-Treasurer may, without further resolution, execute the Adoption Agreement and any related documents or amendments which may be necessary or appropriate to adopt the Plan or maintain its compliance with applicable federal, state and local law.

(Res. 2000-1, passed 2-21-2000)

§ 36.003 PARTICIPATION IN A 457 PLAN.

Employees of the town are authorized to voluntarily participate in the Lord Abbett 457 Plan through payroll deductions if so desired.

(Res. 2008-04, passed 5-15-2008)

§ 36.004 BENEFITS.

(A) All employees shall receive the general benefits as prescribed by the Nashville Employee Handbook.

(B) All full time employees shall belong to the Public Employees Retirement Fund (PERT). The town's cost of participation shall be the current composite PERF rate times the employee's gross annual wage.

(Res. 2016-01, passed 1-7-2016)

CONDITIONS OF EMPLOYMENT**§ 36.010 RESERVED.****§ 36.011 RECRUITMENT OF PERSONNEL.**

(A) All departments shall utilize a job application form approved by the town for the filling of vacancies in existing and new positions. Applications will be taken on a continual basis.

(B) Job applications will be retained by the town records officer for a period of not less than 1 year. The applications will remain active for 6 months and then be placed into an inactive file for the remainder of the year.

(C) The town may utilize a variety of methods in the recruitment of new employees, including but not limited to:

- (1) Newspaper advertisement;
- (2) Job applicant file; and

(3) Employment Security Division.

(D) All applications will be reviewed and considered on the following applicable factors, which are not listed in any order of priority:

(1) Ability and fitness to perform the job applied for;

(2) Training, experience and education directly related to the job applied for; and

(3) Any state or federal requirements that may apply to the job applied for.
(Ord. passed - -)

§ 36.012 SELECTION OF PERSONNEL.

(A) Each department head may establish a hiring/testing process that is designed for the selection of personnel for that department. The hiring/testing process may include any combination of, but is not limited to the following procedures:

- (1) Written testing;
- (2) Drug screen testing;
- (3) Physical fitness testing;
- (4) Psychological testing;
- (5) Background investigations;
- (6) Physical examinations; and
- (7) Oral interviews.

(B) These procedures may also be utilized in testing employees for promotions within their department.

(C) Department heads shall be responsible for selecting the most qualified applicants for the openings in their respective departments.
(Ord. passed - -)

§ 36.013 PREEMPLOYMENT SUBSTANCE SCREENING.

(A) All applicants for full-time or part-time employment with the town are required to submit to a medical examination. Prospective employees will be screened for a range of chemical substances, which shall include but not necessarily be limited to the following:

- (1) Amphetamine/methamphetamine (such as speed);
- (2) Benzodiazepines (such as Valium, Librium, Dalmane, Ativan);
- (3) Barbiturates (such as Amobarbital, Butabarbital, Pentobarbital, Phenobarbital);
- (4) Cocaine;
- (5) Methadone;
- (6) Methaqualone (such as Quaalude);
- (7) Opiates (such as codeine, heroin, morphine);
- (8) Phencyclidine (PCP);
- (9) THC (marijuana and other cannabinoids); and
- (10) Lysergic acid diethylamide (LSD).

(B) The substance groups listed in division (A) of this section were selected based upon known abuse in the general area of the town and the ability of each substance to adversely affect physical and mental performance. All controlled substances listed above are illegal under state and federal law.

(C) All applicants for full-time or part-time employment will be required to sign a consent form to permit the screening and allow the release of the report to the town, and shall provide appropriate bodily fluids for the screening. Applicants who refuse to consent to substance screening, who refuse to provide appropriate bodily fluids for the screening or who attempt to tamper with screening samples will not be eligible for employment with the town.

(D) Any applicant whose initial substance screen shows a positive result will have that result confirmed by additional studies. If the second screen of the same sample shows a negative result, the individual will not

automatically be disqualified from town employment on account of the substance screen. If the second screen confirms the positive test result, the applicant may be disqualified from consideration for town employment. The applicant will be notified of the positive results from the second screen in writing by certified mail and be given the opportunity, at the applicant's expense, to have a third screen conducted on the same sample within 72 hours after the applicant is notified of the results of the second screen. If this final screen again confirms the positive test result, the prospective employee will be disqualified from employment with the town.

(E) All screens will be made on the same sample by a firm selected by the town. An applicant whose screen shows positive results will have 24 hours after receiving the notification of positive screen results to provide verification of a current valid prescription in the applicant's name.

(F) The required substance examination and screening of bodily fluids for chemical substances, except for the third screen as herein provided, shall be at the sole expense of the town.

(G) To the extent possible, confidentiality will be maintained by the town for all records and reports of the testing of an applicant's bodily fluids.
(Ord. passed - -)

Cross-reference:

Drug-free workplace policy, see §§ 36.075 through 36.085

§ 36.014 PROBATIONARY PERIOD.

(A) Probationary periods for the town departments are as follows:

(1) Office of the Clerk-Treasurer: 6 months;

(2) Office of the Town Administration: 6 months; and

(3) Office of the Chief of Police: 1 year and graduation from the Indiana Law Enforcement Academy.

(B) The Department Heads are hereby authorized to grant a 1-time increase in the amount of up to \$20.00 per week, at the Department Head's discretion, for newly hired and/or transferred employees who successfully complete the probationary period, provided such increase remains within the prescribed ranges.

(Res. 2016-01, passed 1-7-2016)

§ 36.015 TRANSFERS.

(A) Procedures used in the recruitment and selection of personnel process shall be utilized when an employee requests a transfer to a new position.

(B) Employees transferring into a new position will serve a transfer probationary period of 6 months. All vacation and sick leave days will transfer with the employee, not to exceed set limits listed within the town's personnel policies.

(Ord. passed - -)

§ 36.016 EMPLOYEE EVALUATIONS.

Each department head, with the exception of the Clerk-Treasurer, shall provide the Town Council with a semi-annual and annual employee evaluation of each worker within his or her department. These reports are to be submitted April 1 and November 1 for evaluation by the Town Council.

(Ord. passed - -)

§ 36.017 WORK SCHEDULE; BREAKS.

(A) The Town Hall will be open from 8:00 a.m. to 4:00 p.m. on weekdays. Each department head shall set the work schedules for his or her department as appropriate.

(B) Employees shall be allowed a 60-minute lunch break and two 15-minute rest breaks. The department head or supervisor shall determine when the breaks are to be taken.
(Ord. passed - -)

§ 36.018 TARDINESS.

Employees unable to report to work at their scheduled starting time shall notify their supervisor or department head, explaining the reason for the tardiness and anticipated arrival time. Department heads are to keep records of all employee tardiness.
(Ord. passed - -)

§ 36.019 ATTENDANCE RECORDS.

Employee attendance records will be maintained for all employees. Department heads or supervisors will complete an employee attendance record for each employee at the end of each pay period and submit it to the Clerk-Treasurer prior to payroll distribution.
(Ord. passed - -)

§ 36.020 PAY PERIODS.

Pay periods shall be set by the Clerk-Treasurer.
(Ord. passed - -)

EMPLOYMENT BENEFITS

§ 36.030 HOLIDAYS.

(A) The following days shall be recognized holidays for the town:

- (1) New Year’s Day;
- (2) Martin Luther King, Jr.’s birthday;
- (3) President’s Day;
- (4) Good Friday;

- (5) Memorial Day;
- (6) Independence Day;
- (7) Labor Day;
- (8) Columbus Day;
- (9) Veterans’ Day;
- (8) Thanksgiving Day;
- (9) Friday after Thanksgiving;
- (10) Christmas Eve (Dec. 24);
- (11) Christmas Day (Dec. 25); and

(12) Primary/general/town election days when appropriate (1/2 day). The Town Hall will be closed on all election days. Other departmental employees will work until 12:00 noon.

(B) When any holiday occurs on a Sunday, the succeeding day not considered a recognized holiday shall be designated as the legal holiday. When any holiday occurs on a Saturday, then the preceding day not considered a recognized holiday shall be designated as the legal holiday.

(C) Any employee who is scheduled to work or called in to work a full standard shift on a holiday shall be paid at a rate of 1-1/2 times his or her hourly pay rate.
(Ord. passed - -; Am. Res. 1998-5, passed 12-17-1998)

§ 36.031 FUNERAL LEAVE.

(A) Upon the death of a member of the immediate family, which includes spouse, parents, son, daughter, brother, sister, grandparents, grandchildren, step-children, step-parents, and in-laws, an employee will receive a maximum of 3 working days’ leave with pay to attend to family matters and funeral services.

(B) Employees shall receive 1 day off with pay upon the death of a niece, nephew, aunt or uncle to attend funeral services.

(C) Additional time off without pay may be granted at the discretion of the department head.
(Ord. passed - -; Am. Res. 1998-1, passed 6-18-1998; Am. Res. 1998-3, passed 11-19-1998)

§ 36.032 JURY LEAVE.

(A) Employees shall receive leave to serve on a jury in any federal, state or local court without loss of pay.
(Ord. passed - -; Am. Res. 1998-1, passed 6-18-1998)

(B) However, employees may not receive compensation from both the court and the town; therefore the employee must select 1 of the following 3 procedures regarding compensation:

(1) The employee shall receive the full amount of the employee’s regular salary and not claim compensation for serving as a juror or a witness;

(2) The employee shall receive the compensation for serving as a juror or witness and the amount received, excluding mileage reimbursement, will be deducted from the employee’s regular salary; or

(3) The employee shall receive the full amount of the employee’s regular salary and turn over the warrant received for serving as a juror or witness to the Clerk-Treasurer. The Clerk-Treasurer shall receipt the warrant into the fund from which the regular salary was paid. This procedure is not possible if any mileage reimbursement is included in the warrant.

(C) The employee is to notify the Clerk-Treasurer in writing of his or her decision prior to receiving compensation from the town for the period served as a juror.
(Res. 1998-3, passed 11-19-1998)

§ 36.033 MILITARY LEAVE.

(A) Any employee who is a member of a military reserve or guard unit in the State of Indiana shall be entitled to a leave of absence not to exceed 15 calendar days in order to attend reserve or guard training or functions.

(B) An employee who is drafted or called to active military service shall be considered on a leave of absence and all federal laws regarding active service shall apply.
(Ord. passed - -; Am. Res. 1998-1, passed 6-18-1998; Am. Res. 1998-3, passed 11-19-1998)

§ 36.034 VACATION LEAVE.

(A) All full-time employees shall be entitled to vacation leave each year based on the following formula:

<i>Length of Employment</i>	<i>Leave (Working Days)</i>
1 day but less than 1 year	0
1 year but less than 3 years’ service to the town	5
3 years but less than 5 years	10
5 years but less than 10 years	12
10 years but less than 20	15
20 years or more	20

(B) Employees must inform their department head at least 2 weeks in advance of intent to take vacation leave. Employees may not take vacation time that has not been earned nor receive advance vacation time. Vacation leave shall be taken at the discretion of the department head. Vacation days unused may not be traded for pay.

(C) The Department Heads are hereby authorized to grant 3 hours of compensation for holidays and 8 personal days 3 hours each at the Department Head's discretion, for part time custodian employees, provided such an approval remains within the prescribed ranges.

(D) The Department Heads are hereby authorized to approve time cards for the payment of office personnel and the custodian should a snow/weather emergency arise and the Town Hall is shut down due to the emergency.

(E) The Department Heads are hereby authorized to grant a paid administrative leave for an employee should the need arise for a period not to exceed 14 days.

(Ord. passed --; Am. Res. 1998-1, passed 6-18-1998; Am. Res. 1998-3, passed 11-19-1998; Am. Res. 2016-01, passed 1-7-2016)

Cross-reference:

Department heads; personal days, see § 36.039

§ 36.035 SICK LEAVE.

(A) All full-time employees, upon hiring, will start accumulating sick leave at the rate of 1 day per month and may accumulate to a maximum of 45 days.

(B) If an employee is absent from work more than 3 days consecutively due to illness, a doctor's certification must be provided to the department head. A department head may request this certification at any time if sick leave abuse is suspected.

(C) Sick leave is to be used only for absence due to illness of employee, an illness in the immediate family or to avoid jeopardizing the health and welfare of other employees.

(D) An employee who is injured while on- or off-duty shall obtain a statement from a physician certifying the employee is capable to return to duty.

(Ord. passed --; Am. Res. 1998-1, passed 6-18-1998; Am. Res. 1998-3, passed 11-19-1998; Am. Res. 2015-12, passed 12-17-2015)

§ 36.036 LEAVE OF ABSENCE.

(A) An employee may, upon written application to the department head and with the approval of the Town Council, receive authorized leave of absence without pay prescribed in the Family and Medical Leave Act of 1993.

(B) This leave may be granted after all accumulated vacation and sick leave is exhausted. During the leave of absence the employee will not be eligible for any pay or fringe benefits, but leave will be considered as time worked for purposes of seniority and longevity. Health and life insurance benefits shall be continued during leave of absence as under terms of current employment.

(C) An employee on a leave of absence may request an additional 3-month extension to the leave of absence. The Town Council has discretion in granting a request for extension. In no case will the total leave of absence exceed 6 months.

(D) Failure of an employee to return to work at the end of the granted leave of absence will result in termination of employment.

(Ord. passed --; Am. Res. 1998-1, passed 6-18-1998; Am. Res. 1998-3, passed 11-19-1998)

§ 36.037 HEALTH INSURANCE.

(A) The town does not guarantee the providing of health insurance coverage for each employee of the town. The town will undertake reasonable efforts to provide health insurance coverage for all of its employees. The town will pay the cost of any employee's health insurance coverage, less \$1.

(B) If a town employee is rejected coverage under the town's group policy, then the town will pay the total cost, less \$1, provided the cost of coverage from a town-approved carrier for any particular employee does not exceed 2 times the cost of the average group coverage cost for town employees.

(C) Any health insurance coverage provided and/or paid for by the town shall be for the employee only. The employee shall be responsible solely for the cost of health insurance coverage for his or her spouse and/or dependents.

(Ord. passed - -; Am. Res. 1996-2, passed 1-18-1996; Am. Res. 1998-4, passed 12-17-1998; Am. Res. 2000-5, passed 10-19-2000)

§ 36.038 OVERTIME PAY.

(A) Overtime shall be paid at 1 1/2 times the hourly rate for time worked over 40 hours per 7-day pay period. Alternatively, hourly personnel may accrue up to 80 hours of compensatory time. Such time shall accrue at a rate of 1 1/2 hours for each overtime hour worked. Additionally, overtime shall be paid for holiday assignments as may be designated by the Town Administration. Furthermore, any employee working an authorized shift or overtime shall be compensated for a minimum of 1 hour each day.

(B) Overtime shall be paid at 1 1/2 times the equivalent hourly rate for hours worked over 171 hours per 28-day period. Alternatively, police personnel may accrue up to 120 hours of compensatory time. Such time shall accrue at a rate of 1 1/2 hours for each overtime hour worked.

(1) Additionally, overtime rate shall be paid for special assignments on details as may be designated by the Chief of Police.

(2) Additionally, full-time employees of the office of the Chief of Police shall receive an additional compensation of \$19.23 per week for becoming a graduate from the Indiana Law Enforcement Academy and maintaining the subsequent continuing education necessary to have arrest powers.

(3) However, no employee shall receive the probationary increase described in § 36.014 in the same year as the increase described in this division.

(C) Salaried personnel are required to work various hours and shifts. They are expected to complete their duties without regard for a 40-hour work week and therefore do not qualify for overtime pay.

(Ord. passed - -; Am. Res. 2016-01, passed 1-7-2016)

§ 36.039 PERSONAL DAYS FOR DEPARTMENT HEADS.

(A) As department heads do not qualify for overtime pay/time off, they shall be allowed 3 personal days off per year at the discretion of the Town Council.

(B) This shall not affect any vacation days or sick days allowed within this chapter.

(Ord. passed - -)

§ 36.040 RETIREMENT.

(A) All full-time employees are provided and shall follow PERF requirements regarding retirement. Employees must file paperwork with the Clerk-Treasurer's office upon employment.

(B) All full-time employees shall give 30 days' notice of intent of retirement.

(Ord. passed - -)

§ 36.041 TRANSFER OF SICK LEAVE.

An employee may, upon written notice to the Clerk-Treasurer, transfer any portion of his or her sick leave to another employee.

(Res. 1998-1, passed 6-18-1998; Am. Res. 1998-3, passed 11-19-1998)

§ 36.042 DEATH DURING EMPLOYMENT.

If any employee dies during his or her term of employment, the town shall pay to the designated beneficiary of the employee or, if the employee is not survived by the designated beneficiary, to the

employee's legal estate, compensation then due and for any accrued sick leave, vacation, holidays, compensatory time and other accrued benefits.

(Res. 1996-2, passed 1-18-1996; Am. Res. 1998-4, passed 12-17-1998; Am. Res. 2000-5, passed 10-19-2000)

§ 36.043 PERSONNEL ADVANCEMENT INCENTIVE.

(A) Incentive pay of \$1,000 per year shall be given in the following circumstances:

(1) *Police Department.* Graduate from the Indiana Law Enforcement Academy.

(2) *Water Department.* Operator certification necessary for operation of the water system (DS and/or CT certification).

(3) *Sewer Department.* Operator certification necessary for operation of sewer system (Class II certification).

(4) *Clerk-Treasurer.* Certified Municipal Clerk.

(B) Should an employee be eligible for incentive pay during any portion of the year, the incentive increase shall be prorated to reflect the portion of eligibility for the year.

(C) Employees with 1 or more years of service on or before December 1 of any given year shall receive a lump sum payment of \$50.00 for each year of service. This lump sum payment shall be made during the first pay period in the month of December. A service year for purpose of this section shall be defined as December 1 to December 1 of any 2 consecutive calendar years.

(Res. 1998-4, passed 12-17-1998; Am. Res. 2000-5, passed 10-19-2000; Am. Res. 2016-01, passed 1-7-2016)

GENERAL EMPLOYMENT POLICIES

§ 36.050 BUSINESS PRACTICES.

The town is to be considered a place of business. Employees should be mindful of their dress and language. No loitering is permitted by salespersons or town employees.

(Ord. passed - -; Am. Res. 1996-3, passed 1-18-1996)

§ 36.051 USE OF TELEPHONE, EQUIPMENT.

The telephones and other town equipment shall be used by town personnel as authorized by department heads.

(Ord. passed - -; Am. Res. 1996-3, passed 1-18-1996)

§ 36.052 CLAIM AND INVOICE PROCEDURE.

A purchase order and claim form shall be completed and submitted to the Clerk-Treasurer and Town Manager for approval before outside purchases are authorized. All claims are required to be turned in, in proper form, by the second Monday of each month.

(Ord. passed - -; Am. Res. 1996-3, passed 1-18-1996)

§ 36.053 VEHICLE USE.

(A) All town vehicles shall be used by town personnel as authorized by the department heads for business reasons only. Personal use of vehicles is expressly prohibited and will be subject to Group I disciplinary action.

(B) Additionally, persons not employed by the town, holding official office or a contracted agent of the town, are expressly prohibited from being transported in any town vehicle except in emergency conditions or as authorized in writing by the Town Council.

(C) All town employees who operate vehicles owned or leased by the town shall be subject to a review of their Indiana Bureau of Motor Vehicles driver's records by their department head and the Town Manager. Said reviews shall be conducted at the discretion of the department heads and/or Town Manager at intervals no less frequent than the annual. (Ord. passed - -; Am. Res. 1996-3, passed 1-18-1996; Am. Ord. 2014-04, passed 5-15-2014)

§ 36.054 POLITICAL CAMPAIGNING.

Employees shall not use their position with the town nor during work hours to assist in any political campaigning for a candidate running for office. (Ord. passed - -)

§ 36.055 GIFTS AND GRATUITIES; CONFLICT OF INTEREST POLICY.

(A) This policy applies to all public officials of the Town of Nashville, elected or appointed; and to all employees of the town.

(B) No member of the Town Council, elected or appointed officer or official, or employee of the town shall accept or solicit gratuities, favors, or anything of monetary value from consultants, lobbyists or potential consultants or lobbyists, or parties to sub-agreements, unless the gratuity or favor is in accordance with this policy. This prohibition does not include gratuities, favors, social gatherings, or anything of a monetary value of less than \$300. Any financial interest under \$300 shall be considered not substantial in accordance with applicable federal regulations.

(C) This policy conforms to the standards set forth in the Code of Federal Regulations (CFR) and by the Indiana Department of Transportation. A **CONSULTANT** is defined as an individual of firm providing engineering and design related services as

a party to a contract with a recipient or sub-recipient of federal assistance.

(Ord. passed - -; Am. Ord. 2018-03, passed 2-15-2018)

§ 36.056 INJURY REPORTS.

All work-related injuries are to be recorded with the Clerk-Treasurer within 8 working hours. All injuries are to be reported to the department head and to the Town Council. If physically able, the employee is to come to Town Hall and fill out the report in person.

(Ord. passed - -)

§ 36.057 PRESCRIPTIONS.

All prescriptions are to be paid by the employee. Workmen's compensation-related prescriptions should be turned into Bright & Williamson Insurance for reimbursement. Others should be turned into Farm Bureau Insurance (Healthsource) for possible reimbursement.

(Ord. passed - -)

§ 36.058 PERSONNEL FILES.

(A) Each employee shall have a personnel file located in the office of the Clerk-Treasurer. The file should reflect each employee's employment history with the town, including applications for employment, resume, record of all personnel actions, job title, starting salary, changes in position, performance evaluations and any other data relevant to the employee.

(B) Personnel files are confidential and shall be released only to department heads or the Town Council, or reviewed by employees in the presence of a department head or the Clerk-Treasurer or a town Council member.

(Ord. passed - -)

§ 36.059 OUTSIDE EMPLOYMENT.

All outside employment must be reported to the employee's department head. If outside employment is interfering with or adversely affecting the quality of the employee's work for the town, the employee may be required to give up the outside employment.
(Ord. passed - -)

§ 36.060 DISCIPLINARY PROCEDURES.

(A) Each department shall follow any state statute that may apply to the respective department.

(B) Employee violation of the rules listed in divisions (D) through (F) of this section will result in disciplinary action. The rules and accompanying disciplinary action have been divided into 3 groups based upon the seriousness of the offense. Violation of any combination of the rules will warrant discipline. Disciplinary action shall be accurately documented at the time of occurrence with copies provided to the employee, department head and Town Council.

(C) If the employee has not committed any violation which warrants discipline within 3 years of the first disciplinary action, the record of the violation and subsequent disciplinary action shall be erased from the employee's file.

(D) Group I.**(1) Disciplinary measures.**

(a) First violation: written reprimand.

(b) Second violation: 1 working day's suspension (without pay).

(c) Third violation: dismissal (the department head may request and the Town Council may approve a demotion for a third offense).

(2) Offenses.

(a) Neglect of duty.

(b) Failure to report any accident of employee or equipment.

(c) Violation of safety rules or O.S.H.A. standards.

(d) Gambling on town property or during work hours.

(e) Abuse of lunch or break times.

(f) Unauthorized use of town property, equipment or supplies.

(g) Absence or tardiness without authorization.

(h) Sleeping on duty.

(i) Charged with a preventable accident or O.S.H.A. standard.

(E) Group II.**(1) Disciplinary measures.**

(a) First violation: 3 working days' suspension (without pay).

(b) Second violation: dismissal (the department head may request and the Town Council may approve a demotion for a second offense).

(2) Offenses.

(a) Conviction of any Class A misdemeanor.

(b) Consuming or being under the influence of alcohol during work hours.

(c) Intentional damage or destruction of town property or equipment less than \$50.

(d) Unbecoming conduct.

(e) Engaging in any sexual conduct during work hours or on town property.

(f) Absence for 3 consecutive working days without a doctor's statement and department head approval.

(F) *Group III.*

(1) *Disciplinary measures.* First violation: dismissal.

(2) *Offenses.*

(a) Conviction of any felony.

(b) Official misconduct.

© Possession or use of any controlled substance as described in I.C. 35-48-1-9.

(d) Theft.

(e) Falsifying official records.

(f) Unauthorized possession of explosives, firearms or other weapons on town property.

(g) Giving false information on an application for employment.

(h) Intentional damage or destruction of town property or equipment equal to or greater than \$50.

(Ord. passed - -)

§ 36.061 GRIEVANCE PROCEDURE.

(A) Employees have the right to appeal any disciplinary action taken by a department head against them by following the steps in division (B) of this section.

(B) (1) Give written notification to the Town Council:

(a) Stating facts involving the incident, any witnesses, or other pertinent information; and

(b) Requesting a hearing before the Town Council.

(2) The written notification to the Town Council must be sent within 10 days of the disciplinary action taken by the department head against the employee.

© The grievance procedure described above does not apply to the law enforcement employees of the town.

(Ord. passed - -)

§ 36.062 DEMOTIONS.

An employee may be demoted in position and pay for, but not limited to the following reasons:

(A) Disciplinary action;

(B) Job performance (based on work and evaluations);

© Elimination of job position.

(Ord. passed - -)

§ 36.063 LAYOFFS.

(A) Circumstances may arise which could cause a reduction in the work force. In these circumstances the town shall follow any applicable federal and/or state regulations regarding layoffs. Where layoffs are necessary, factors including, but not limited to the following will be considered:

(1) Length of service with the department;

(2) Length of service with the town in all jobs;

(3) Performance history; and

(4) Importance of job position to proper operation of the town.

(B) Reassignment or transfer to another position will be done where possible. Reemployment may be to original position or to another position that becomes available. Where practical, the department heads will give at least 2 weeks' advance notice of the layoff. Employees shall be entitled to all accrued vacation pay plus 1 week's pay.

© Employees dismissed due to disciplinary action are not considered as layoffs.
(Ord. passed - -)

§ 36.064 CONFLICT OF INTEREST AND NEPOTISM.

(A) The town finds that it is necessary and desirous to adopt a policy of conduct with regard to nepotism in the employment with the town and in contracting with the town in order to continue to be able to provide local government services to its residents and to comply with the new laws effective July 1, 2012 known as I.C. 36-1-20.2 and I.C. 36-1-21, respectively.

(B) On July 1, 2012 the town shall have a nepotism and a contracting with a unit policy that complies with the minimum requirements of I.C. 36-1-20.2 (hereinafter nepotism policy) and I.C. 36-1-21 (hereinafter contracting with a unit by a relative policy) and implementation will begin.

© The town's nepotism policy is hereby established effective July 1, 2012 by adopting the minimum requirements provisions of I.C. 36-1-20.2, and including all future supplements and amendments thereto which become law from time to time, and making them a part hereof as if fully set out herein.

(D) The town contracting with a unit by a relative policy is hereby established effective July 1, 2012 by adopting the minimum requirements provisions of I.C. 36-1-21, and including all future supplements and amendments thereto which become law from time to time, and making them a part hereof as if fully set out herein.

(E) The town finds that both I.C. 36-1-20.2 and I.C. 36-1-21 specifically allow a unit to adopt requirements that are more stringent or detailed and that more detailed is necessary.

(F) The town further finds that a single member of the legislative body cannot act for the body to make work assignments, compensation, grievances, advancement or a performance evaluation without prior authority of a majority of the body and therefore without such authority by the majority he or she will not be in the direct line of supervision. See I.C. 36-4-6-11 and I.C. 36-5-2-9.4.

(G) The town finds that a single member of governing bodies (Safety Board, Redevelopment Commission, Parking and Public Facilities Commission, and the like) with authority over employees in the town cannot act for the governing body to make work assignments, compensation, grievances, advancement or a performance evaluation without prior authority of a majority of the body, when a statute provides that a majority is needed to act, and therefore, without such authority by the majority the single member will not be in the direct line of supervision.

(H) All elected and appointed officials and employees of the town are hereby directed to cooperate fully in the implementation of the policies created by this section and demonstrate compliance with these same policies.

(I) Failure to abide by or cooperate with the implementation, compliance and certifications connected with the contracting with unit by a relative policy is a violation and may result in the discipline, including termination, of an employee or a curative action. An elected or appointed official of the town who fails to abide by or cooperate with the implementation, with the compliance and with mandated certifications of either the nepotism policy or the contracting with unit by a relative policy may be subject to action allowed by law.

(J) The policies created by this section are hereby directed to be implemented by any of the following actions: (a) posting a copy of this section in its entirety in at least 1 of the locations in the town where it posts employer posters or other notices to its employees; (b) providing a copy of this section to its employees and elected and appointed officials; (c) providing or posting a notice of the adoption of this section; or (d) any such other action or actions that would communicate the policies established by this section to its employees and elected and appointed officials. Upon taking any of these actions these policies are deemed implemented by the town.

(K) A copy of the provisions of I.C. 36-1-20.2 and I.C. 36-1-21 effective July 1, 2012 are annexed to Ordinance 2012-10, passed June 21, 2012.

(L) Two copies of I.C. 36-1-20.2 and I.C. 36-1-21, and as supplemented or amended, are on file in the office of the Clerk or Clerk-Treasurer for the town for public inspection as maybe required by I.C. 36-1-5-4.
(Ord. 2012-10, passed 6-21-2012)

§ 36.065 TRAVEL POLICIES.

(A) *Travel and conferences.* This section provides policies that shall be used in providing or reimbursing Town Council Members, Clerk-Treasurer, members of commissions and boards, appointed officials and employees for travel accommodations when such travel has been authorized and budgeted.

(B) *Registration fees.* The cost of registration or similar fees for conferences, seminars and other similar meetings or functions related to town affairs will be provided for or reimbursed when supported by original receipts. Whenever possible, arrangements for these affairs should be made by a designated person and directly billed to the individual.

(C) *Transportation.*

(1) Taxi fare and/or the cost of other local (public) conveyance will be provided for or reimbursed when supported by original receipts.

(2) Parking fees and tolls will be reimbursed when supported by original receipts.

(3) When a personal automobile is used in lieu of common carrier transportation, the first 700 miles (of a round trip) will be reimbursed at the rate allowed by the IRS, miles in excess of 700 will be reimbursed at one-half the maximum IRS rate.

(4) Travel by commercial airlines, rail service, bus, or similar common carrier mode will be provided for at the prevailing "coach" or "tourist" rate when authorized and supported by original receipts.

(D) *Lodging.*

(1) Lodging shall be provided for or reimbursed when supported by original receipts in the following manner:

(a) Single occupancy will be provided at the actual cost;

(b) Double occupancy will be provided at actual cost when both parties are eligible for reimbursement;

(c) Double occupancy will be provided at the single occupancy rate when only 1 party is eligible for reimbursement unless room is a 1-rate charge.

(2) Reimbursement for lodging costs shall include room costs, associated local taxes and up to an average of 4 telephone charges per day per eligible party. Any other charges made to the room are the responsibility of the employee.

(3) Room service will not be reimbursable.

(E) *Meals.*

(1) Meals will be reimbursed when supported by original receipts up to \$60 per day, including gratuities. Such gratuities should be reasonable and should not exceed 20%. Alcohol is specifically excluded from reimbursement.

(2) When separate checks are not available, an employee may claim reimbursement for other employees up to the maximum amount provided for in the preceding section multiplied by the number of employees provided that each employee is identified by name and that an original receipt is provided. Payment for meals for any individual will not be made to more than 1 individual.

(3) No reimbursement will be made for meals when already provided for in the registration (Ord. 2017-14, passed 12-21-2017)

DRUG-FREE WORKPLACE POLICY**§ 36.075 POLICY STATEMENT; GENERAL PROHIBITIONS.**

(A) The Town Council is committed to providing a drug-free workplace and expects the cooperation of all employees and a similar commitment from them. Pursuant to the Drug-Free Workplace Act of 1988, the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance in the workplace is prohibited. Any employee who violates this subchapter may be subject to discipline, up to and including termination. As a condition of employment, all employees must abide by this policy. In addition, any employee who is convicted of a drug statute violation arising out of conduct occurring in the workplace must notify the Town Council of the conviction at least 5 days after the conviction.

(B) The town also expects its employees to refrain from being impaired from the use of alcohol, using alcohol, or the improper use of prescription or other medications which might affect their abilities or judgment while at work.
(Ord. passed 5-3-1995)

§ 36.076 EMPLOYEES EXPECTED TO SEEK TREATMENT.

(A) Employees who have a substance abuse problem, which includes alcohol, are expected to obtain treatment and counseling through the numerous treatment agencies available throughout the area of Brown County and the area within 60 miles of the town.

(B) Given the importance of maintaining a work environment without the presence of alcohol and drugs, and the opportunities that employees have to address substance dependencies through treatment and counseling programs offered through various treatment facilities throughout the area of Brown County and the area within 60 miles of the town, substance abuse which adversely effects job performance will not be tolerated. This applies to on-duty employees as well as employees who are on call. Employees whose on- or off-duty use of substances impacts job performance will be appropriately disciplined, including but not limited to the sanction of termination from employment with the town.
(Ord. passed 5-3-1995)

§ 36.077 PROHIBITED ACTS; RESPONSIBILITIES OF EMPLOYEES.

(A) An employee must not report to work or be subject to duty while his or her ability to perform job duties is impaired due to alcohol or illegal drug or substance use, on- or off-duty;

(B) An employee shall not possess or use illegal drugs or improperly use prescription or other medications during working hours, on breaks, during meal periods, while on town property in an official or unofficial capacity or while operating any town vehicle or machinery;

(C) An employee shall not possess or use an alcoholic beverage or have the odor of an alcoholic beverage on his or her breath during working hours, on breaks, during meal periods, while on town property in an official or unofficial capacity or while operating any town vehicle or machinery;

(D) An employee shall not directly or through a third party sell or provide illegal drugs or improperly used prescription or other medications or alcoholic beverages to any person or to any other employee

while either or both employees are on duty during working hours, on breaks, during meal periods, while on town property in an official or unofficial capacity, while operating any town vehicle or machinery, or on call;

(E) An employee shall submit immediately to reasonable request for alcohol or drug analysis when requested by a department head;

(F) An employee shall provide the name of any prescription or nonprescription medication or drugs to his or her supervisor before beginning work, when taking any medication or drugs (prescription or nonprescription) which may interfere with the safe and effective performance of duties or operations of the town equipment;

(G) An employee shall provide, within 24 hours of request, a current valid prescription for any drug or medication identified when that employee's drug screen/analysis is positive. The prescription must be in the employee's name; and

(H) An employee shall notify his or her supervisor or department head of any conviction of a federal or state criminal drug statute for a violation occurring in the employee's workplace, not later than 5 days after the conviction.
(Ord. passed 5-3-1995)

§ 36.078 BASIS FOR EMPLOYEE SUBSTANCE ABUSE SCREENING.

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

IMPAIRED. Being, in the judgment of the employee's supervisor or department head, unable to perform duties safely and completely due to the use of alcohol, controlled substances or the improper use of prescription or nonprescription medications.

REASONABLE SUSPICION. A belief based on objective fact sufficient to lead a reasonably

prudent person to suspect that an employee is under the influence of drugs and/or alcohol so that the employee's ability to perform the functions of the job is impaired or so the employee's ability to perform his or her job safely is reduced. Observations which constitute a factual basis for determining reasonable suspicion may include but are not limited to the following:

- (a) Odor of alcoholic beverage upon the employee's breath;
- (b) Erratic behavior;
- © Violent mood swings;
- (d) Excessive absenteeism;
- (e) Repeated tardiness;
- (f) Inability to walk a straight line;
- (g) Open and obvious possession of alcohol and/or illegal controlled substances;
- (h) Slurred speech;
- (i) An accident which is caused by the apparent action or inaction of the employee under circumstances giving rise to a reasonable inference that the accident was caused or was a result of the use of alcohol and/or illegal controlled substances;
- (j) Possession of drug paraphernalia or alcoholic beverage containers; and
- (k) A report of a reliable witness indicating use or possession of drugs or alcohol.

(B) Town employees are subject to substance screening if there is a reasonable suspicion that, while on duty, they are impaired.
(Ord. passed 5-3-1995)

Cross-reference:

Preemployment screening, see § 36.013

§ 36.079 PROCEDURE FOR EMPLOYEE SCREENING.

(A) *Impetus.* A supervisor who has reasonable suspicion that an employee is impaired by alcohol or other illegal controlled substances on the job will, with the approval of the department head, immediately arrange for a substance screening through a medical facility that has been designed to perform the screening for the town.

(B) *Transportation; testing methods.* Employees who are scheduled for a substance screening must be transported to the designated medical facility by the employee's department head. The employee to be tested shall sign a consent form to permit the screening and shall provide appropriate bodily fluids for the screening. The screening for substances will be made on a sample provided at the clinic. The procedures for the sample collection and testing will be made based upon the medically accepted procedure developed by the chosen medical facility and in order to ensure results of tests no less than a highly sensitive methodology shall be utilized. The testing shall be based on medically acceptable testing procedures and shall include but not necessarily be limited primarily to tests utilizing enzyme amino acid techniques, followed up by more specific confirmation testing such as gas chromatography (GC) or gas chromatography/mass spectrophotometry (GCMS) or other highly sophisticated methods which are accepted by the medical facility and/or by the courts. After the sample is given as outlined above, the supervisor will see to it that the employee is safely transported home.

© *Alcoholic beverage testing methods.* For alcoholic beverage testing, the facilities such as the Brown County Police Department or the Indiana State Police and the use of the Department's breath test instrument shall be a sufficient determination for blood alcohol content, provided statutorily approved procedures are followed.
(Ord. passed 5-3-1995)

§ 36.080 RESULTS.

(A) At the testing as outlined in § 36.079, if the sample provides a negative result, the conclusion will be that the sample contains no alcohol and/or controlled substance.

(B) If the first screen shows a positive result, and a second screen using a more sophisticated testing technique shows a positive result, then the employee will be assumed to be under the influence of alcohol and/or illegal controlled substances.

© An employee whose test shows a positive result will have 24 hours after receiving notification of the positive result to provide a bona fide and verified current valid prescription which may have caused the positive result. The prescription must be in the employee's name.
(Ord. passed 5-3-1995)

§ 36.081 FAILURE TO TEST OR TESTING POSITIVE; DISCIPLINARY MEASURES.

(A) The discipline for failing to sign a consent form to permit screening, for failure to provide appropriate bodily fluids for screening, or for being under the influence of alcohol and/or nonprescribed controlled substances will be the basis for appropriate employee sanctions, including the sanction of termination. This determination will be made on the basis of the employee's prior work-related history, previous disciplinary actions and any prior identification of substance abuse problems.

(B) An employee who receives a positive result in substance abuse screening will receive at a minimum a 5-day suspension without pay. An employee who refuses to sign a consent form to permit screening or who fails to provide appropriate bodily fluids for screening will receive at a minimum a 5-day suspension without pay.

© In addition to the disciplinary procedure as outlined above, if an employee substance abuse problem has been identified, the supervisor and/or

department head will immediately refer the employee to a reputable substance abuse entity for an evaluation. Based on the determination of that substance abuse entity, the employee may be required to undergo a drug or alcohol evaluation and treatment program as a condition of continued employment. Any and all expenses incurred as a result of the evaluation and/or treatment program undertaken by the employee as a condition of continued employment shall be paid by the employee.

(Ord. passed 5-3-1995)

§ 36.082 SUBSTANCE ABUSE OFFENSES; DISCIPLINARY MEASURES.

(A) If the town receives notification of any employee conviction of a drug offense which occurred in the employee's workplace, or if the town receives notification of an employee violation of the terms of this subchapter, the town shall, within 30 days after receipt of the notice, either;

(1) Impose a sanction on the employee, which may include employee termination; or

(2) Require the employee to satisfactorily participate in a drug or alcohol abuse assistance or rehabilitative program approved by the Town Council.

(B) The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance or illegal substance by any employee during working hours while on duty, during meal periods, during breaks or at any time while the employee is on the town's work site or on town working time, constitutes cause for dismissal. Appropriate law enforcement agencies will be notified of any unlawful manufacture, distribution, dispensing, possession or use of a controlled substance or illegal substance by employees.

(Ord. passed 5-3-1995)

§ 36.083 USE OF MEDICATION AND PRESCRIPTION DRUGS.

All employees who are using a prescription or nonprescription drug which may in any way impact their job performance must notify their first line supervisor. The department head may require a doctor's statement if the employee indicates that there is need to use the prescription drug for an extended period of time.

(Ord. passed 5-3-1995)

§ 36.084 CONFIDENTIALITY.

(A) The confidentiality of laboratory reports or test results shall appear in the employee's confidential file. Reports or test results may be disclosed to town department heads on a strictly need-to-know basis, and to the tested employee upon request.

(B) Disclosures without employee consent may also occur in the following circumstances:

(1) When the information is compelled by law or by judicial or administrative process;

(2) The information has been placed at issue and there is a formal dispute between the employer and employee;

(3) The information is to be used in administering any employee benefit plan; or

(4) The information is needed by medical personnel for the diagnosis or treatment of the employee, who is unable to authorize the disclosure.
(Ord. passed 5-3-1995)

§ 36.085 CERTIFICATION OF COMPLIANCE WITH FEDERAL DRUG-FREE WORKPLACE REQUIREMENTS.

(A) In order to continue receiving federal grants, the town certifies that it will provide a drug-free workplace by taking the measures set forth in this section.

(B) The town shall publish a policy statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the town's workplace and specifying the actions that will be taken against employees for violation of the prohibition.

© The town shall establish an ongoing drug-free awareness program to inform employees about the following:

(1) The dangers of drug abuse in the workplace;

(2) The town's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

(D) The town shall require that each employee engaged in the performance of a federal grant be given a copy of the statement published under division (B) of this section.

(E) The town shall notify the employee in the statement published under division (B) above that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 calendar days after the conviction.

(F) The town shall notify the federal granting agency in writing within 10 calendar days after receiving notice from an employee or otherwise

receiving actual notice of a criminal drug statute conviction for a violation occurring in the workplace.

(G) The town shall take 1 of the following actions within 30 calendar days of receiving notice under division (E)(2) above, with respect to any employee who is so convicted:

(1) Take appropriate personnel action against such an employee, up to and including termination; or

(2) Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for those purposes by a federal, state or local health, law enforcement or other appropriate agency.

(Ord. passed - -)

Statutory reference:

Similar federal law, see 41 U.S.C. §§ 701 et seq.

CHAPTER 37: VIOLATIONS AND CIVIL PENALTIES

Section

37.01 Schedule of violations

<i>Code Section</i>	<i>Subject</i>
131.06	Discharge of firearms or springguns
131.20	Curfew

§ 37.01 SCHEDULE OF VIOLATIONS.

(A) The office of the Clerk-Treasurer is hereby designated the Violations Clerk and shall accept payment of civil penalties as set out herein from violators who elect to admit violations of the ordinances listed herein. Said Violations Clerk shall receipt and account for said payments according to procedures provided by the State Board of Accounts.

(B) The following ordinance violations may be admitted and paid to the Violations Clerk.

<i>Code Section</i>	<i>Subject</i>
90.01	Dog license
90.05	Confinement of animal
90.06	Animal causing disturbance
90.07	Animal nuisances
90.10	Baiting of animals
93.001	Obstructing or driving on sidewalk
93.002	Skateboards/rollerblades on streets and sidewalks
93.091	Litter in public places
93.094	Litter thrown from vehicles
93.095	Truckloads causing litter
93.096	Litter in private places

(C) The civil penalty for violation of the listed ordinance violations shall be \$143.

(D) (1) The following moving violations shall be filed in the Brown Circuit Court by the Town Attorney:

(1) Chapter 72, Schedule II, Exceeding designated speed limits;

(2) Chapter 72, Schedule III, Failure to stop at marked intersections.

(2) The civil penalty for said moving violations shall be \$175 plus costs as assessed by the Clerk of the Brown Circuit Court.

(E) *Right to trial.* If the person charged with the violation chooses to exercise the right to trial, said person shall appear before the Violations Clerk and deny the violation or enter a written denial by mailing same to the Violations Clerk. The Town Attorney may then proceed to file an ordinance violation action in the Brown County Circuit Court.

(F) Civil penalties collected pursuant to this section shall be paid to the town.

(G) *Pretrial diversion.* Any offender who is without a prior town violation within a 12-month period may apply for pretrial diversion. Offenders eligible for diversion shall pay a diversion fee of \$80 to the Violation Clerk within 30 days of the date of the

ticketed offense and enter into a pretrial agreement not to commit another violation of a town ordinance for a period of 6 months. If the offender complies with the agreement the ticket will be dismissed. If the offender fails to comply with the agreement, the ticket will be prosecuted pursuant to the terms of divisions (C), (D) and (E) above.

(Ord. 2017-08, passed 8-24-2017)

TITLE V: PUBLIC WORKS

Chapter

- 50. GARBAGE**
- 51. SEWERS**
- 52. WATERWORKS**
- 53. PUBLIC WORKS CONSTRUCTION STANDARDS**

CHAPTER 50: GARBAGE

Section

General Provisions

- 50.01 Application
- 50.02 Declaration of purpose
- 50.03 Definitions
- 50.04 Burning trash and yard waste
- 50.05 Enforcement

associations, corporations, companies or organizations of any kind in the town limits hereafter referred to as “citizens.”
(Ord. 1988-19, passed 1-12-1989)

§ 50.02 DECLARATION OF PURPOSE.

Upon examining the town’s tourist attributes and the general welfare of the town’s citizens, the Board of Trustees shall determine regulations governing garbage, refuse and rubbish within the town limits.
(Ord. 1988-19, passed 1-12-1989)

Disposal

- 50.15 Uncovered garbage
- 50.16 Prevention of odors
- 50.17 Windblown refuse
- 50.18 Deposits on streets
- 50.19 Disposal
- 50.20 Consent of owner
- 50.21 Receptacle specifications
- 50.22 Removal of contents

§ 50.03 DEFINITIONS.

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

Establishment of Landfill

- 50.30 Creation
- 50.31 Contract
- 50.32 Inspection
- 50.33 Enforcement

- 50.99 Penalty

GARBAGE. Wastes resulting from the handling, preparation, cooking, storage and consumption of animals and vegetables.

REFUSE. Combustible trash including, but not limited to paper, cartons, boxes, barrels, wood, excelsior, tree branches, yard trimmings, wood furniture and bedding; noncombustible trash including, but not limited to metals, tin cans, metal furniture, dirt, small quantities of rock, and pieces of concrete, glass, crockery and other mineral waste; and street rubbish including, but not limited to street sweepings, dirt, leaves, catch-basin dirt and contents of litter receptacles. ***REFUSE*** shall not include earth and wastes from building operations, nor shall it include solid wastes resulting from industrial

GENERAL PROVISIONS

§ 50.01 APPLICATION.

Sections 50.01 through 50.05 and 50.15 through 50.22 shall apply to all persons, firms, partnerships,

processes and manufacturing operations such as food processing wastes, boiler-house cinders, lumber, scraps and shavings.

RUBBISH. Nonputrescible solid wastes consisting of both combustible and noncombustible wastes such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery and similar materials.

(Ord. 1988-19, passed 1-12-1989)

§ 50.04 BURNING TRASH AND YARD WASTE.

(A) It shall be unlawful to burn garbage, refuse or rubbish anywhere in the corporate limits of the town.

(B) No person shall burn leaves, brush or weeds upon the public rights-of-way, streets, highways or alleys in the town.

(Ord. 1988-19, passed 1-12-1989) Penalty, see § 50.99

§ 50.05 ENFORCEMENT.

Enforcement of this chapter shall be the duty of the designees appointed by the Town Marshal.

(Ord. 1988-19, passed 1-12-1989)

DISPOSAL

§ 50.15 UNCOVERED GARBAGE.

It shall be unlawful to place or permit to remain anywhere in the town any garbage, or other material subject to decay other than leaves or grass, excepting in a tightly covered container.

(Ord. 1988-19, passed 1-12-1989) Penalty, see § 50.99

§ 50.16 PREVENTION OF ODORS.

All garbage, rubbish and refuse containers shall be kept tightly covered and shall be emptied frequently to prevent fermentation and bad odors from becoming noticeable to the community.

(Ord. 1988-19, passed 1-12-1989) Penalty, see § 50.99

§ 50.17 WINDBLOWN REFUSE.

It shall be unlawful to cause or permit to accumulate any dust, ashes, or trash of a material that can be blown away by the wind anywhere in the town, excepting in a covered container.

(Ord. 1988-19, passed 1-12-1989) Penalty, see § 50.99

§ 50.18 DEPOSITS ON STREETS.

It shall be unlawful to deposit or permit to fall from any vehicle any garbage, refuse or rubbish on any public street or alley in the town.

(Ord. 1988-19, passed 1-12-1989) Penalty, see § 50.99

§ 50.19 DISPOSAL.

It shall be unlawful to dispose of any garbage, refuse or rubbish anywhere in the city excepting in an incinerator, or disposal device, properly constructed and operated or in a lawfully established garbage, refuse or rubbish dump.

(Ord. 1988-19, passed 1-12-1989) Penalty, see § 50.99

§ 50.20 CONSENT OF OWNER.

It shall be unlawful to dump or place any garbage, refuse or rubbish on any premises in the town without the consent of the owner of the premises.

(Ord. 1988-19, passed 1-12-1989) Penalty, see § 50.99

§ 50.21 RECEPTACLE SPECIFICATIONS.

(A) Receptacles used for storage of garbage and refuse materials shall be watertight and meet the following specifications:

(1) Trash cans shall be of durable grade galvanized metal or other suitable material approved by the Board of Trustees.

(2) Refuse bags shall be made of heavy, multiple-ply paper or polyethylene or ethylene copolymer resin and designed for outdoor storage of refuse. Bags must be securely tied or sealed to prevent emission of odors, be of a material so liquids and greases will not be able to penetrate through the material, and be of sufficient thickness and strength to contain the garbage and refuse enclosed without tearing or ripping under normal hauling.

(B) Receptacles which have deteriorated or have been damaged to the extent that the covers will not fit securely may be declared a nuisance and shall be condemned by the Board of Trustees or the County Health Department or their authorized representatives. If the receptacles are not removed within 5 days after notice of the defective conditions to the owner or user, then the receptacles shall be confiscated to avoid a public nuisance.

(Ord. 1988-19, passed 1-12-1989) Penalty, see § 50.99

§ 50.22 REMOVAL OF CONTENTS.

It shall be the duty of every owner of a garbage, refuse or rubbish receptacle to remove or to have removed the contents of the same in accordance with this chapter at least once a week, excluding weeks that contain national public holidays.

(Ord. 1988-19, passed 1-12-1989) Penalty, see § 50.99

ESTABLISHMENT OF LANDFILL**§ 50.30 CREATION.**

The Town Board of Trustees shall be empowered to apply lands owned by the town at the time of enactment of this code or lands subsequently acquired, whether acquired for landfill uses or other uses, to the use of the people for disposal of trash, garbage and rubbish by the landfill method in conformity with the State Board of Health Rules and Regulations.

(Ord. 4-23-70, passed 4-15-1970)

§ 50.31 CONTRACT.

The Town Board of Trustees shall contract with an individual or other business entity on terms not in violation of this subchapter for the operation of the landfill for a stated period of time not to exceed 1 year. The operator shall be permitted to charge an entrance fee for use of the landfill area as his or her compensation for its operation and maintenance, the fee being according to a schedule approved by the Town Board of Trustees, and the operator shall uniformly collect the fee from every user of the landfill at least monthly.

(Ord. 4-23-70, passed 4-15-1970)

§ 50.32 INSPECTION.

The operator of the landfill area shall maintain the same in a safe and healthy condition and will hold it open to inspection by the Town Marshal and/or State Health Officers at all reasonable times.

(Ord. 4-23-70, passed 4-15-1970)

§ 50.33 ENFORCEMENT.

(A) It shall be unlawful for the landfill operator to violate the terms of his or her contract with the town or the provisions of this subchapter. Specific violations enumerated include failure to operate the landfill on a regular schedule; failure to daily cover

trash, rubbish and garbage that is deposited in the landfill area; and failure to maintain health standards; this enumeration is not exclusive.

(B) It shall be unlawful for users of the landfill area to fail and refuse to pay the fees scheduled in the operator's contract or to fail to comply with the operator's reasonable directions on where, when and how to dump trash, rubbish and garbage in the landfill area.

(Ord. 4-23-70, passed 4-15-1970) Penalty, see § 50.99

§ 50.99 PENALTY.

(A) Any citizen violating any provision of §§ 50.01 through 50.05 and 50.15 through 50.22 shall be fined no more than \$2,500 for each offense. A separate offense shall be deemed committed on each day during or on each day which a violation occurs or continues. Each day a violation occurs, a new citation may be issued for each violation.

(Ord. 1988-19, passed 1-12-1989)

(B) Any person violating any provision of §§ 50.30 through 50.33 shall, upon conviction, thereof be fined in any sum not exceeding \$100.

(Ord. 4-23-70, passed 4-23-1970)

CHAPTER 51: SEWERS

Section

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GENERAL PROVISIONS

§ 51.01 DEFINITIONS.

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

BOD* or *BIOCHEMICAL OXYGEN DEMAND.

The quantity of oxygen utilized in the biochemical oxidation of decomposable organic matter under standard laboratory procedure in 5 days at 20°C, expressed in parts per million by weight.

BUILDING DRAIN. That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning 5 feet outside the inner face of the building wall.

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

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

COUNCIL. The Town Council or any duly authorized officials acting in its behalf.

DEBT SERVICE COSTS. The average annual principal and interest payments on all outstanding revenue bonds or other long-term capital debt.

EXCESSIVE STRENGTH SURCHARGE. An additional charge which is billed to users for treating sewage wastes with an average strength in excess of **NORMAL DOMESTIC SEWAGE**.

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

INDUSTRIAL WASTES. The wastewater discharges from industrial, trade or business processes as distinct from employee wastes or wastes from sanitary conveniences.

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

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

NORMAL DOMESTIC SEWAGE. Wastewater or sewage having an average daily concentration as follows: BOD not more than 250 mg/l; S.S. not more than 240 mg/l. As defined by origin, wastewaters from segregated domestic and/or sanitary conveniences as distinct from wastes from industrial processes.

OPERATION AND MAINTENANCE COSTS. All costs, direct and indirect, necessary to provide adequate wastewater collection, transport and treatment on a continuing basis and produce discharges to receiving waters that conform with all related federal, state and local requirements. These costs include replacement.

OTHER SERVICE CHARGES. Tap charges, connection charges, area charges, and other identifiable charges other than user charges, debt service charges and excessive strength surcharges.

pH. The logarithm of the reciprocal of the hydrogen-ion concentration of a solution.

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking, and dispensing of food that have been shredded to the degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than ½ inch in any dimension.

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

REPLACEMENT COSTS. The expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the sewage works equipment to maintain the capacity and performance for which the works were designed and constructed.

SANITARY SEWER. A sewer which carries sewage and to which stormwater, surface water and groundwaters are not intentionally admitted.

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

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

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

SEWER. A pipe or conduit for carrying sewage.

SEWER USE ORDINANCE. The ordinance which regulates the connection to and use of public and private sewers.

STORM SEWER or STORM DRAIN. A sewer which carries stormwaters and surfacewaters and drainage, but excludes sewage and polluted industrial wastes.

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

S.S. or 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 CHARGE. A charge levied on users of the wastewater treatment works for the cost of operation and maintenance of the works pursuant to Section 204(b) of Pub. L. No. 92-500.

USER CLASS. The division of wastewater treatment customers by source, function, waste characteristics and process or discharge similarities:

(1) **COMMERCIAL USER.** Any establishment involved in a commercial enterprise, business or service which, based on a determination by the town, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

(2) **GOVERNMENTAL USER.** Any federal, state or local governmental user of the wastewater treatment works.

(3) **INDUSTRIAL USER.** Any manufacturing or processing facility that discharges industrial waste to a publicly owned treatment works.

(4) **INSTITUTIONAL USER.** Any establishment involved in a social, charitable, religious and/or educational function which, based on a determination by the town, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

(5) **RESIDENTIAL USER.** A user of the treatment works whose premises or building is used primarily as a residence for 1 or more persons, including all dwelling units and the like.

WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently. (Ord. 3-3-1961, passed 3-28-1961; Am. Ord. 1993-1, passed 5-20-1993)

§ 51.02 PROPER DISCHARGE OF SEWAGE.

(A) It shall be unlawful for any person to place, deposit or permit to be deposited in an unsanitary manner upon 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 sanitary sewage, industrial waste or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

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

(D) (1) The owner of any houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the town, and abutting any street, alley or right-of-way in which there is now located or may in the future be located a public sewer or combined sewer of the town, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect these facilities directly with the proper public sewer in accordance with the provisions of this chapter, within 90 days after date of official notice to do so, provided that the public sewer is within 150 feet of the property line. Measurement of the 150 feet shall be from the property line of the tract of land under common ownership to the nearest public sewer line. If any portion of the tract is within 150 feet, then the sewer line must be extended to the development of the entire tract.

(2) Tracts under common ownership shall include previously subdivided tracts if the tracts are contiguous and under common ownership. The Board shall examine ownership of the subject lands for a period not to exceed 10 years and may, if there have been transfers made within the 10 years to avoid this

requirement, treat the entire tract as if it were currently under common ownership.

(Ord. 3-3-1961, passed 3-28-1961; Am. Ord. 1980-1, passed 1-7-1980) Penalty, see § 51.99

§ 51.03 PRIVATE SEWAGE DISPOSAL SYSTEM.

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

(B) At the time a public sewer becomes available to a property served by a private sewage disposal system as provided in § 51.02(D), a direct connection shall be made to the public sewer in compliance with this section, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned.

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

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

(Ord. 3-3-1961, passed 3-28-1961) Penalty, see § 51.99

§ 51.04 SEWER PERMITS; BUILDING SEWER SPECIFICATIONS.

(A) (1) 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 Superintendent.

(2) Improvement permits affecting properties within the town sewage service area must receive prior approval from the Sewer Department before the permit is issued.

(Res. 1997-4, passed 7-17-1997)

(B) There shall be 2 classes of building sewer permits:

(1) For residential and commercial service; and

(2) For service to establishments producing industrial waste.

(C) In either case, the owner or his or her agent shall make application on a special form furnished by the town. The permit applications shall be supplemented by any plans, specifications, or other information considered pertinent in the judgement of the Inspector. A permit and inspection fee of \$10 for a residential or commercial building sewer permit and \$25 for an industrial building sewer permit shall be paid to the Clerk-Treasurer at the time the application is filed.

(D) All cost and expenses incident to the installation and connection, maintenance and repair of the building sewer and building drain shall be borne by the owner. The owner or the person installing the building sewer for the owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation, connection, maintenance and repair.

(E) The town shall bear the costs and expenses of installing, maintaining and repairing public sewers only.

(F) A separate and independent building sewer shall be provided for every building; except where 1 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 1 building sewer.

(G) 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 chapter.

(H) The building sewer shall be cast iron soil pipe, ASA specification or equal; vitrified clay sewer pipe, ASTM specification or equal; or other suitable material approved by the Inspector. Joints shall be tight and waterproof. Any part of the building sewer that is located within 10 feet of a water service pipe shall be constructed of cast iron soil pipe with leaded joints. Cast iron pipes with leaded joints may be required by the Inspector where the building sewer is exposed to damage by tree roots. If installed in filled or unstable ground, the building sewer shall be of cast iron soil pipe, except that nonmetallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the Inspector.

(I) The size and slope of the building sewers shall be subject to the approval of the Inspector, but in no event shall the diameter be less than 6 inches. The slope of the 6-inch pipe shall not be less than 1/8 inch per foot.

(J) Whenever possible the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within 3 feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at a uniform grade and in straight alignment in so far as possible. Changes in direction shall be made only with properly curved pipes and fittings.

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

(L) All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the Inspector. Pipe laying and

backfill shall be performed in accordance with latest ASTM specifications, except that no backfill shall be placed until the work has been inspected by the Inspector or his or her representative.

(M) All joints and connections shall be made gas-tight and watertight. Cast iron pipe joints shall be firmly packed with oakum and hemp and secured only with pure molten lead, not less than 1 inch deep. Lead shall be run in 1 pouring and calked tight. No paint, varnish or other coatings shall be permitted on the jointing material until after the joint has been tested and approved.

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

(2) Other jointing materials and methods may be used only by approval of the Inspector.

(N) The connection of the building sewer into the public sewer shall be made at the "Y" branch, if a branch is available at a suitable location. Where the public sewer has no properly located "Y" branch available, a host hole shall be cut in the public sewer to receive the building sewer, with entry in the downstream direction at an angle of about 45 degrees. A standard flanged saddle shall be used to make the connection, with the spigot end cut so as not to extend past the inner surface of the public sewer. The invert of the building sewer at the point of connection shall be at a higher elevation than the invert of the public sewer. Mastic compound shall be used between the public sewer and flanged saddle and the connection made secure and watertight by encasement in concrete.

(O) The applicant for the building sewer permit shall notify the Inspector when the building 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.

(P) All excavations for building 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.

(Q) As a condition precedent to the use of sewer services by any customer and to the permission to tap any sewer or the connection of service pipes with any branch main, any person shall hold the municipal utility and the town harmless for any damages related to any interruption in sewer service, for any damages caused by accident to any part of the sewage works, or for repairs of machinery or for damages caused by defective piping and appliances on the customer's premises.

(R) The municipal utility reserves the right to restrict the use of sewer services for any and all purposes, except domestic household use, in the event of conflagration, flood or other emergencies.

(S) Each customer shall grant or convey, or shall cause to be granted or conveyed to the municipality a permanent easement and right-of-way across any property owned or controlled by the customer wherever the easement or right-of-way is necessary for the municipal sewage facilities and lines, so as to be able to furnish service to the customer. Should additional easements across any property other than customer's property be required to provide service to customer's property, customer shall be responsible to obtain said easement(s).

(Ord. 3-3-1961, passed 3-28-1961; Am. Ord. 1987-6, passed 10-15-1987; Am. Ord. 1998-6, passed 7-16-1998; Am. Ord. 2015-08, passed 8-20-2015) Penalty, see § 51.99

§ 51.05 ILLEGAL DISCHARGE.

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

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

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

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

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

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

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

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

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

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

(8) Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process,

constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant;

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

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

(D) (1) Grease, oil and sand interceptors shall be provided when, in the opinion of the Inspector, they are necessary for the proper handling of liquid wastes containing grease in excessive amount, or any flammable wastes, sand and other harmful ingredients; except that these interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent and shall be located as to be readily and easily accessible for cleaning and inspection.

(2) Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.

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

(F) (1) The admission into the public sewers of any waters or wastes as follows shall be subject to the review and approval of the Superintendent:

(a) Having a 5-day biochemical oxygen demand greater than 250 parts per million by weight;

(b) Containing more than 250 parts per million by weight of suspended solids;

(c) Containing any quantity of substances having the characteristics described in division (C) of this section; or

(d) Having an average daily flow greater than 2% of the average daily sewage flow of the town.

(2) Where necessary in the opinion of the Superintendent, the owner shall provide at his or her expense such preliminary treatment as may be necessary to:

(a) Reduce the biochemical oxygen demand to 250 parts per million and the suspended solids to 250 parts per million by weight;

(b) Reduce objectionable characteristics or constituents to within the maximum limits provided for in division (C) above; or

(c) Control the quantities and rates of discharge of the waters or wastes.

(3) Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and of the State Board of Health, and no construction of these facilities shall be commenced until the approval is obtained in writing.

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

(H) When required by the Superintendent, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. 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 divisions (C) and (F) of this section shall be determined in accordance with "Standard Methods for the Examination of Water and Sewage" and shall be determined at the control manhole provided for in division (H) above or upon suitable samples taken at 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.

(J) No statement contained in this subchapter shall be construed as preventing any special agreement or arrangement between the town and any industrial or commercial concern whereby an industrial waste of unusual strength, quantity or character may be accepted by the town for treatment, subject to payment therefor by the industrial or commercial concern. (Ord. 3-3-1961, passed 3-28-1961) Penalty, see § 51.99

§ 51.06 DAMAGING SEWAGE WORKS PROPERTY.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the municipal sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct. (Ord. 3-3-1961, passed 3-28-1961) Penalty, see § 51.99

§ 51.07 INSPECTION.

The Superintendent, Inspector and other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this chapter. (Ord. 3-3-1961, passed 3-28-1961) Penalty, see § 51.99

§ 51.08 ABANDONED SEWAGE ACCOUNTS.

Any unpaid fee or penalty less than \$40 may be written off, after the unpaid fees or penalties have been due and unpaid for a period not less than 90 days and determined to be uncollectable by the Town Manager. (Res. 1999-8, passed 11-18-1999)

RATES AND CHARGES

§ 51.15 DEFINITIONS.

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

BOD (or ***BIOCHEMICAL OXYGEN DEMAND***). The same meaning as defined in the Use Ordinance.

COUNCIL. The Town Council of Nashville, Indiana, or any duly authorized officials acting in its behalf.

DEBT SERVICE COSTS. The average annual principal and interest payments on all outstanding revenue bonds or other long-term capital debt.

EXCESSIVE STRENGTH SURCHARGE. An additional charge which is billed to users for treating sewage wastes with an average strength in excess of ***NORMAL DOMESTIC SEWAGE***.

INDUSTRIAL WASTES. The wastewater discharges from industrial, trade, or business processes as distinct from employee wastes or wastes from sanitary conveniences.

MAY. Permissive.

NPDES (NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM) PERMIT. The same meaning as defined in the Sewer Use Ordinance.

NORMAL DOMESTIC SEWAGE. For the purpose of determining surcharges shall mean wastewater or sewage having an average daily concentration as follows:

(1) BOD not more than 250mg/l.

(2) SS not more than 240mg/l.

(3) As defined by origin, wastewaters from segregated domestic and/or sanitary conveniences as distinct from wastes from industrial processes.

OPERATION AND MAINTENANCE COSTS.

All costs, direct and indirect, necessary to provide adequate wastewater collection, transport, and treatment on a continuing basis and produce discharges to receiving waters that conform to all related federal, state, and local requirements. (These costs include replacement.)

OTHER SERVICE CHARGES. Tap charges, connection charges, area charges, and other identifiable charges other than user charges, debt service charges, and excessive strength surcharges.

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.

REPLACEMENT COSTS. The expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the sewage works which were designed and constructed.

SS (or SUSPENDED SOLIDS). The same meaning as provided in the Sewer Use Ordinance.

SEWAGE. The same meaning as defined in the Sewer Use Ordinance.

SEWER USE ORDINANCE. A separate and companion enactment to this subchapter, which regulates the connection to and the use of public and private sewers.

SHALL. Mandatory.

TOWN. The Town of Nashville, Indiana, acting by and through the Town Council.

USER CHARGE. A charge levied on users of the wastewater treatment works for the cost of

operation and maintenance of such works pursuant to Section 204(b) of Public Law 92-500.

USERS CLASS. A charge levied on users of the wastewater treatment customers by source, function, waste characteristics, and process or discharge similarities (i.e. residential, commercial, industrial, institutional, and governmental in the user charge system).

(1) **COMMERCIAL USER.** Any establishment involved in a commercial enterprise, business, or service which based on a determination by the town discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

(2) **GOVERNMENTAL USER.** Any federal, state, or local governmental user of the wastewater treatment works.

(3) **INDUSTRIAL USER.** Any manufacturing or processing facility that discharges industrial waste into a publicly owned treatment works.

(4) **INSTITUTIONAL USER.** Any establishment involved in a social, charitable, religious, and/or educational function which, based on a determination by the town, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

(5) **RESIDENTIAL USER.** A user of the treatment works whose premises or building is used primarily as a residence for one or more persons, including all dwelling units, and the like. (Ord. 2002-04, passed 4-18-2002; Am. Ord. 2004-4, passed 10-7-2004; Am. Ord. 2006-13, passed 12-21-2006; Am. Ord. 2009-14, passed 12-22-2009)

§ 51.16 USER CLASS.

Every person whose premises are served by said sewage works shall be charged for the services

provided. These charges are established for each user class, as defined, in order that the sewage works shall recover, from each user and user class, revenue which is proportional to its use of the treatment works in terms of volume and load. User charges are levied to defray the cost of operation and maintenance (including replacement) of the treatment works. User charges shall be uniform in magnitude within a user class. The various classes of users of the treatment works for the purposes of this subchapter shall be as follows:

<i>Class I - Inside Town</i>	<i>Class II - Outside Town</i>
Residential	Residential
Commercial	Commercial
Governmental	Governmental
Institutional	Institutional
Industrial	Industrial

(Ord. 2002-04, passed 4-18-2002; Am. Ord. 2004-4, passed 10-7-2004; Am. Ord. 2006-13, passed 12-21-2006; Am. Ord. 2009-14, passed 12-22-2009)

§ 51.17 RATES AND CHARGES.

(A) For the use of and the services rendered by sewage works, rates and charges shall be collected from the owners of each and every lot, parcel of real estate, or building that is connected with the town sanitary system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly, into the sanitary sewage system of the town.

(B) Such rates and charges include user charges, debt service charges, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows:

(1) The sewage rates and charges shall be based on the quantity of water used on or in the

property or premises subject to such rates and charges, as the same is measured by the water meter there in use, plus a base charge based on the size of the water meter installed, except as herein otherwise provided. For the purpose of billing and collecting the charges for sewer service, the water meters shall be read monthly and the users shall be billed monthly (or period equaling a month). The water usage schedule on which the amount of said rates and charges are determined shall be as follows:

(a) *All users; treatment rate.*

Treatment rate for usage per month shall be:

<i>Consumption per month</i>		
<i>Rate per 1,000 gallons</i>	<i>Class I</i>	<i>Class II</i>
0 to 2,000 gallons	\$8.17	\$11.03
2,001 to 6,000 gallons	\$8.47	\$11.43
6,001 to 15,000 gallons	\$8.87	\$11.97
15,001 to 30,000 gallons	\$9.37	\$12.65
30,001 gallons and up	\$9.97	\$13.46

(b) *All users; base rate.* Base rate for all users shall be as follows:

<i>Meter Size</i>	<i>Monthly Base Rate</i>
5/8"-3/4" water meter	\$26.70
1" water meter	\$64.30
1 1/4" water meter	Discontinued
1 1/2" water meter	\$132.09
2" water meter	\$222.86
3" water meter	\$450.68
4" water meter	\$793.57
6" water meter	\$1,610.59

(c) *Pump Station Fee.* All users with simplex pump stations maintained by the town and serviced by a 5/8" water meter service shall have a monthly fee of \$8.44 added to the monthly base rate.

(2) For users of the sewage works that are unmetered water users or accurate meter readings are not available, the monthly charge shall be determined by equivalent single-family dwelling units, except as herein provided. Sewage service bills shall be rendered once each month (or period equaling a month). The schedule on which said rates and charges shall be determined as follows:

<i>Residential</i>	<i>Monthly Rate in Town</i>	<i>Monthly Rate Outside Town</i>
Single-Family Residence/unit	\$73.32	\$102.65 (inside town plus 40%)

(3) Connection fees.

(a) *Gravity Connection.* Connection fees based upon a gravity sewer connection within 20 feet of an existing gravity sewer:

1. Four inch sewer tap, primarily single-family residences and small businesses serviced by a 5/8 inch water meter \$2,000.

2. Gravity sewer connections requiring work and/or materials beyond that described above shall be charged for any additional costs of labor, material, power, machinery, transportation, and overhead for installing the connection. However, such connection shall not be less than the charge of a 5/8 inch water meter.

(b) *Pressure connection.*

1. Connection fees based upon a pressure sewer connection within 20 feet of an existing sewer main.

2. Simplex pumping station, single-family residences and small businesses serviced by a 5/8" water meter \$6,200.

(4) For the service rendered to the town, said town shall be subject to the same rates and charges hereinabove provided, or to charges and rates established in harmony therewith.

(5) In order to recover the cost of monitoring industrial wastes the town shall charge the user the actual costs of monitoring. This charge will be reviewed on the same basis as all other rates and charges on this subchapter.

(6) Whenever an extension of a sewer service main requires work over and above that of a four inch sewer tap, an additional review fee of \$190 shall be charged and is to be paid prior to beginning review. Whenever the review of sewer requires work and/or materials in excess of six hours and/or \$190, then the review fee shall be based on time and materials used in performing the review. (Ord. 2002-04, passed 4-18-2002; Am. Ord. 2004-4, passed 10-7-2004; Am. Ord. 2006-13, passed 12-21-2006; Am. Ord. 2009-14, passed 12-22-2009; Am. Ord. 2010-6, passed 9-2-2010; Am. Ord. 2012-07, passed 6-21-2012)

§ 51.18 DETERMINATION OF CHARGES.

(A) The quantity of water discharged into the sanitary sewer system and obtained from sources other than the utility that services the town shall be determined by the town in such a manner that the town shall reasonably elect and the sewage services shall be billed at the above allowances in determining the sewage consumed, but which are also shown to the satisfaction of the town that such quantities do not enter the sewage system.

(B) In the event of a lot, parcel of real estate, or building discharging sanitary sewage, industrial wastes, water, or other liquids into the town's sewer system, either directly or indirectly, is not a user of water supplied by the Nashville Water Utility, and the water used thereon or therein is not measured by a water meter, or is measured by a water meter not acceptable to the town, then the amount of water used shall be otherwise measured or determined by the town. In order to ascertain the rate or charge provided

in this subchapter, the owner or other interested party shall, at his expense, install and maintain meters, weirs, volumetric measuring devices, or any adequate and approved method of measurement acceptable to the town for the determination of sewage discharge.

(C) In the event a lot, parcel of real estate or building discharging sanitary sewage, industrial wastes, water or other liquids into the town's sanitary sewer, either directly or indirectly, is a user of water supplied by the water utility serving the town and in addition is a user of water from another source which is not measured by a water meter or is measured by a water meter not acceptable to the town, then the amount of water used shall be otherwise measured or determined by the town. In order to ascertain the rates or charges, the owner or otherwise interested parties shall, at his or her expense, install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the: town for the determination of sewage discharge.

(D) In the event a lot, parcel or real estate, or building discharges sanitary sewage, industrial waste, water or other liquids into the town sewer system, either directly or indirectly, and uses water in excess of 39,000 gallons per month and it can be shown to the satisfaction of the town that a portion of the water as measured by the water meter or meters does not and cannot enter the sanitary sewage system, then the owner or other interested party shall, at his expense, install and maintain meters, weirs, volumetric measuring devices, or any adequate and approved method of measurement acceptable to the town for determination of sewage discharge.

(E) Where a metered water supply is used for fire protection as well as for other uses, the town may, in its discretion, make adjustments in the user charge as may be equitable.

(Ord. 2002-04, passed 4-18-2002; Am. Ord. 2004-4, passed 10-7-2004; Am. Ord. 2006-13, passed 12-21-2006; Am. Ord. 2009-14, passed 12-22-2009)

§ 51.19 RATE SURCHARGE.

(A) In order that the rates and charges may be justly and equitable adjusted to the services rendered to the users, the town shall base its charges not only on the volume, but also the strength and character of the stronger-than-normal domestic sewage and shall require the user to determine the strength and content of all sewage and wastes discharged, either directly or indirectly into the sewer system, in such a manner and by such method as the town may deem practicable in light of the conditions and attending circumstances of the case, in order to determine the proper charge.

(B) The user shall furnish a central sampling point available to the town at all times.

(1) Normal sewage domestic waste strength should not exceed a biochemical oxygen demand of 250 milligrams per liter of fluid or suspended solids in excess of 240 milligrams per liter of fluid. Additional charges for treating stronger-than-normal domestic waste shall be based on the following:

(a) *Rate surcharges based on suspended solids.* There shall be an additional charge of 20 cents per pound of suspended solids for suspended solids received in excess of 240 milligrams per liter of fluid.

(b) *Rate surcharge based upon BOD.* There shall be an additional charge of 20 cents per pound of biochemical oxygen demand for BOD received in excess of 250 milligrams per liter of fluid.

(2) The determination of suspended solids and 5-day biochemical oxygen demand contained in the waste shall be in accordance with the latest copy of Standard Methods for the Examination of Water, Sewer, and Industrial Health Association, the American Water Works Association, and the Water Pollution Control Federation, and in conformance with Guidelines Establishing Test Procedures for

Analysis of Pollutants, Regulations CFR Part 136, published in the Federal Register on October 16, 1973.

(3) In the event that septage is discharged into the wastewater facility, a charge of \$51.77 per 1,000 gallons shall be in force. A minimum charge of 1,000 gallons shall be charged for each visit. (Ord. 2002-04, passed 4-18-2002; Am. Ord. 2004-4, passed 10-7-2004; Am. Ord. 2006-13, passed 12-21-2006; Am. Ord. 2009-14, passed 12-22-2009)

§ 51.20 BILLING POLICY.

Rates and charges shall be prepared, billed, and collected by the town in the manner provided by law and ordinance.

(A) The rates and charges for all users shall be prepared and used monthly.

(B) The rates and charges may be billed to the tenant or tenants occupying the properties served, if requested by the owner in writing, but such billing shall in no way relieve the owner from liability in the event that payment is not made as herein required. The owners of properties served, which are occupied by a tenant or tenants, shall have the right to examine the collection records of the town for the purpose of determining whether bills have been paid by such tenant or tenants, provided that such examination shall be made at the office at which said records are kept and during the hours that the office is open for business.

(C) All rates and charges not paid when due are hereby declared to be delinquent and a penalty of 10% of the amount of rates or charges shall thereupon be added thereto per month. The time at which such rates

or charges shall be paid is now fixed at 17 days after the date of mailing of the bill.

(Ord. 2002-04, passed 4-18-2002; Am. Ord. 2004-4, passed 10-7-2004; Am. Ord. 2008-03, passed 4-17-2008; Am. Ord. 2009-14, passed 12-22-2009)

Statutory reference:

Penalty authorized by state law, see I.C. 8-1-2-121(c)

§ 51.21 ENFORCEMENT.

(A) The town shall make and enforce such by-laws and regulations as may be deemed necessary for the safe, economical, and efficient management of the town's sewage system, pumping stations and for the regulation, collection, rebating, and refunding of such rates and charges. No free service shall be provided to any user of the wastewater treatment facility.

(B) The town is hereby authorized to prohibit dumping; of wastes into the town's sewage system which, in its discretion, are deemed harmful to the operation of the sewage treatment works of the Town, or to require methods affecting pretreatment of said wastes to comply with the pretreatment standards included in the National Pollution Discharge Elimination System (NPDES) permit issued to the sewer works.

(Ord. 2002-04, passed 4-18-2002; Am. Ord. 2004-4, passed 10-7-2004; Am. Ord. 2006-13, passed 12-21-2006; Am. Ord. 2009-14, passed 12-22-2009) Penalty, see § 51.99

§ 51.22 SPECIAL RATE CONTRACTS.

The Council is hereby further authorized to enter into special rate contracts with customers of the sewage works where clearly definable costs to the sewage works can be determined, as such special rates shall be based on such costs.

(Ord. 2002-04, passed 4-18-2002; Am. Ord. 2004-4, passed 10-7-2004; Am. Ord. 2006-13, passed 12-21-2006; Am. Ord. 2009-14, passed 12-22-2009)

§ 51.23 APPEALS.

The rules and regulations promulgated by the town, after approval by the Town Council, shall among other things provide for an appeals procedure whereby the user shall have the right to appeal a decision of the administrator of the user charge to the Town Council and that any decision concerning user charges of the Town Council may be appealed to the Circuit Court of the county under the appeal procedures provided for in the Indiana Administrative Adjudication Act.

(Ord. 2002-04, passed 4-18-2002; Am. Ord. 2004-4, passed 10-7-2004; Am. Ord. 2006-13, passed 12-21-2006; Am. Ord. 2009-14, passed 12-22-2009)

§ 51.24 EFFECTIVE DATE.

The rates and charges as herein set forth shall become effective on the first full billing period occurring after the adoption of this subchapter.

(Ord. 2002-04, passed 4-18-2002; Am. Ord. 2004-4, passed 10-7-2004; Am. Ord. 2006-13, passed 12-21-2006; Am. Ord. 2009-14, passed 12-22-2009)

***INDEPENDENCE FROM STATE
REGULATIONS***

§ 51.40 APPLICATION.

This subchapter shall apply to the municipal water and sewer utilities.

(Ord. 1989-3, passed 3-16-1989)

§ 51.41 DECLARATION OF AUTHORITY.

I.C. 8-1.5-3-9.1 grants certain municipalities and towns the power to remove themselves from the jurisdiction of the Commission for approval of rates, charges, and evidences of indebtedness by the adoption of the Board of Trustees by ordinance.

(Ord. 1989-3, passed 3-16-1989)

§ 51.42 NOTICE BEFORE ADOPTION.

Written notice shall be mailed by the Town Board to all rate payers of the utilities at least 30 days prior to final passage of this section by the Board of Trustees.

(Ord. 1989-3, passed 3-16-1989)

§ 51.99 PENALTY.

(A) Any person who violates any provision of this chapter for which no penalty is provided shall be subject to the terms of § 10.99.

(B) Any person found to be violating any provision of §§ 51.02 through 51.05 and 51.07 shall be served by the town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, permanently cease all violations.

(C) Any person who shall continue any violation beyond the time limit provided for above shall be guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding \$10 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

(D) Any person violating any of the provisions of §§ 51.02 through 51.05 and 51.07 shall become liable to the town for any expense, loss or damage occasioned the town by reason of the violation.

(Ord. 3-3-1961, passed 3-28-1961)

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CHAPTER 52: WATERWORKS

Section

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GENERAL PROVISIONS**§ 52.001 MAINTENANCE AND SERVICE.**

(A) All taps and connections to the mains of the municipality shall be made by and/or under the direction and supervision of the waterworks personnel.

(B) The municipality shall install and maintain at its expense that portion of the service from the main to the lot or easement line, including the necessary tap, fittings and shut-off valve; and the customer shall install and maintain at his or her expense that portion of the service from the lot or easement line to his or her premises, including a stop and waste cock at the end of the house side of his or her service. The minimum earth cover of the customer's service shall be 5 feet. The company shall determine the size and kind of service to be installed.

(C) Piping on the premises of a customer must be so installed that connections are conveniently located with respect to the municipal lines and mains. The customer shall provide a place of metering which is unobstructed and accessible at all times. The customer shall furnish and maintain a cut-off valve on his or her side of the meter and the municipality will provide a like valve on its side of the meter.

(D) The customer's service line shall be installed and maintained by the customer at his or her own expense in a safe and efficient manner and in accordance with the municipal rules and regulations and with the regulations of the State Board of Health.

(E) As a condition precedent to the use of water by any customer and to the permission to tap any water main, sewer, or the connection of service pipes with any branch main, any person shall hold the municipal utility and the town harmless for any damages related to any interruption of the supply of water service, for any damages caused by accident to any part of the water works, or for repairs to machinery, fire hydrants or main, or for damages caused by defecting piping and appliances on the customer's premises.

(F) The municipal utility reserves the right to restrict the use of water for any and all purposes, except domestic household use and fire purposes, in the event of conflagration, flood or other emergencies. (Ord. 1979-3, passed 10-1-1979; Am. Ord. 1998-7, passed 7-16-1998) Penalty, see § 52.999

§ 52.002 DISCONTINUANCE OF SERVICE.

Any customer desiring to discontinue the water service to his or her premises for any reason must give notice of discontinuance in writing at the business office of the waterworks system; otherwise, the customer shall remain liable for all water used and service rendered by the municipality until the notice is received by the municipality. (Ord. 1979-3, passed 10-1-1979)

§ 52.003 WATER FOR BUILDING OR CONSTRUCTION PURPOSES.

(A) Water for building or construction purposes will be furnished by meter measurement, only after suitable deposit has been made, the minimum deposit being \$100; and the amount to be determined by the municipality, depending upon the size of the construction work contemplated; and all water for building or construction purposes, as set forth in the permit, must pass through one and the same meter.

(B) Water so supplied shall be discharged through a hose or pipe directly upon material to be wet, or into a barrel or other container, and in no case upon the ground or into or through a ditch or trench; and all use of water by other than applicant or use of water for any purpose or upon any premises not so stated or described in the application must be prevented by the applicant, or water service may be discontinued without notice. (Ord. 1979-3, passed 10-1-1979) Penalty, see § 52.999

§ 52.004 DOMESTIC CONSUMPTION REQUIRED.

Water furnished by the municipality may be used for domestic consumption by the customer, members of his or her household, and employees only. The customer shall not sell or give the water to any other person.

(Ord. 1979-3, passed 10-1-1979) Penalty, see § 52.999

§ 52.005 EASEMENT AND RIGHT-OF-WAY.

Each customer shall grant or convey, or shall cause to be granted or conveyed to the municipality a permanent easement and right-of-way across any property owned or controlled by the customer wherever the easement or right-of-way is necessary for the municipal water facilities and lines, so as to be able to furnish service to the customer. Should additional easements across any property other than customer's property be required to provide service to customer's property, customer shall be responsible to obtain said easement(s).

(Ord. 1979-3, passed 10-1-1979; Am. Ord. 2015-08, passed 8-20-2015) Penalty, see § 52.999

§ 52.006 INTERRUPTIONS OF SERVICE.

The municipality shall make all reasonable efforts to eliminate interruption of service, and when interruptions occur will endeavor to reestablish service with the shortest possible delay. Whenever the service is interrupted for the purpose of working on the distribution system or the station equipment, all consumers affected by the interruption will be notified in advance whenever it is possible to do so.

(Ord. 1979-3, passed 10-1-1979)

§ 52.007 LIABILITIES.

(A) The municipality shall in no event be held responsible for claims made against it by reason of the breaking of any mains or service pipe, or by reason of any other interruption of the supply of water caused

by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption of service which in the opinion of the municipality may be deemed necessary.

(B) If any loss or damage to the property of the municipality or any accident or injury to persons or property is caused by or results from the negligent or wrongful act of the customer, member of his or her household, his or her agent or employee, the cost of the necessary repairs or replacements shall be paid by the customer to the municipality and any liability otherwise resulting shall be that of the customer.

(Ord. 1979-3, passed 10-1-1979)

§ 52.008 BOILERS AND PRESSURE VESSELS.

Customers having boilers and/or pressure vessels receiving a supply of water from the municipality must have a check valve on the water supply line and a vacuum valve on the steamline to prevent collapse in case the water supply from the municipality is discontinued or interrupted for any reason, with or without notice.

(Ord. 1979-3, passed 10-1-1979) Penalty, see § 52.999

§ 52.009 INSPECTIONS.

The premises receiving a supply of water and all service lines, meter and fixtures, including any and all fixtures within the premises, shall at all reasonable hours be subject to inspection by duly authorized employees of the municipality.

(Ord. 1979-3, passed 10-1-1979)

§ 52.010 SPECIAL TERMS FOR PUBLIC USE.

Special terms and conditions may be made where water is used by the municipality or community for public purposes such as fire extinguishment, public parks and the like.

(Ord. 1979-3, passed 10-1-1979)

§ 52.011 LINE EXTENSIONS.

(A) The municipality will construct extensions to its water lines to points within its service area but the municipality shall not be required to make the installations unless the customer pays to the municipality the entire cost of the installation.

(B) (1) All line extensions shall be evidenced by a contract signed by the municipality and the person advancing funds for the extension.

(2) However, the contracts shall be null and void unless approved by the Farmers Home Administration and other governing bodies.

(C) If refund of the advance is to be made, the following method shall apply: 20% of the total gross revenue of water sales per year for each service connected to the new extension described in the agreement, for a period not to exceed 5 years, provided that the aggregate payments do not exceed the total amount deposited.

(D) No refund shall be made from any revenue received from any lines leading up to or beyond the particular line extension covered by contract.

(E) All decisions in connection with the manner of installation of any extension and maintenance thereof shall remain in the exclusive control of the municipality. The extension shall be the property of the municipality and no other person shall have any right, title or interest therein.

(Ord. 1979-3, passed 10-1-1979)

§ 52.012 AMENDMENTS.

These rules may be changed or amended, but so long as the municipality is indebted to the Farmers Home Administration, only with the prior approval of the administration.

(Ord. 1979-3, passed 10-1-1979)

§ 52.013 COMPLAINTS.

Complaints may be made to the operator of the system and may be appealed to the Board of Trustees within 10 days.

(Ord. 1979-3, passed 10-1-1979)

§ 52.014 NEW WATER COMMITMENTS LIMITED.

(A) The town shall honor any previously documented service commitment which is within its ability to provide service.

(B) The town shall limit new water commitments to 3% (9,600 gpd) of its current yearly average usage of 320,000 gpd.

(1) A **RESIDENT EQUIVALENT** shall be defined as 250 gallons per day.

(2) Nine thousand, six hundred gpd represents 38 residential equivalents per year.

(3) The quarterly commitment rate shall not exceed 10 residential equivalents.

(C) (1) Any group request shall require a public hearing to determine the potential effect and impact upon current water users.

(2) A **GROUP REQUEST** shall be defined as any request for water service exceeding 1 residential equivalent.

(D) Service requests must be made by the owner of the property on which water service is to be provided.

(E) The Town Council reserves the right to waive these administrative rules after a public hearing has been held to determine the effects and impact, if any, of such a waiver.

(Res. 1993-2, passed 5-20-1993)

§ 52.015 EMERGENCY LIMITATIONS.

(A) In case of emergency caused by excessive dry weather or drought over a period of time sufficient to cause the supply of water in the waterworks system to be reduced to such an extent as to be dangerous to the public health and general welfare of the citizens of the town, and after notice of the condition shall have been given by the town, and after notice of the condition shall have been given by the Town Board by publication 1 time in a newspaper printed and published in the town, it shall be unlawful for any person to use water from the waterworks system for washing automobiles, filling swimming pools or sprinkling streets, alleys, sidewalks, yards, gardens or other uses through hose or sprinklers, except in cases of fire.

(B) The emergency shall be determined by the Town Board and notice thereof given the public by publication as provided in this section.
(Ord. 9-6-66, passed 9-6-1966) Penalty, see § 52.999

§ 52.016 WATER SERVICE AREA.

(A) While the town currently serves customers more than 4 miles beyond its municipal boundaries, the **WATER SERVICE AREA** for purposes of this section is defined and established as those areas within the corporate boundaries of the town, as well as certain areas within 4 miles outside the town's boundaries as shown on the map marked as Exhibit A, attached to Ordinance 2017-04 and incorporated by reference as if fully set forth herein.

(B) Upon adoption of this section and its approval by the Indiana Utility Regulatory Commission (IURC) the town shall hold an exclusive license to furnish potable water service within the water service area, and the town water utility shall be the exclusive provider of potable water to the public within the water service area.

(C) Upon adoption of this section and its approval by the IURC, no other utilities are permitted

to provide potable water service within the town, or within the water service area. This section does not mandate the town to extend service to areas where technically or financially not feasible. Rather, this section expressly prohibits other utilities from furnishing water service to customers within the town's municipal limits or within the water service area.

(D) No end service user shall permit a connection to potable water service within the water service area by any other water service provider.

(E) Any person, firm, or corporation that violates this section shall be subject to a civil penalty of \$2,000 per violation, and each day of violation shall be deemed a separate violation.

(F) The town's existing rules and regulations for water service as amended from time to time shall apply to and within the water service area.

(G) If any one or more of the terms, provisions, or sentences of this section, or portions of the water service area, shall be deemed by a court or a tribunal of competent jurisdiction to be contrary to law, then such term or provision shall be deemed severable from the remaining terms and shall in no way affect the validity of the other provisions of this section.

(H) The Town hereby authorizes its Town Manager and/or Council President to pursue any and all necessary approvals for implementation, effectiveness, and enforcement of this section, including, but not limited to, seeking approval of this section by the IURC.

(I) This section is not in any way intended to:

(1) Curtail the service of other utilities that have pipes in the ground with sufficient capacity to serve those properties; or

(2) Include any areas within the water service area that are already served by other water utilities. Accordingly, the boundaries for the water

service area have been drawn to exclude areas in which other utilities have water pipes in the ground that are being used to serve customers in that area. (Ord. 2017-04, passed 5-15-2017; Am. Ord. 2017-06, passed 6-15-2017; Am. Ord. 2017-07, passed 6-27-2017)

APPLICATION

§ 52.025 APPLICATION.

The property owner or his or her agent, hereinafter called customer, must make written application for water service at the office of the municipality, and the application including service received thereunder is unassignable by the customer. (Ord. 1979-3, passed 10-1-1979)

§ 52.026 CONDITIONS OF SERVICE.

Application may be cancelled and/or water service discontinued by the municipality for any violation of any rule, regulation or condition of service, and especially for any of the following reasons:

(A) Misrepresentation in the application as to the property or fixtures to be supplied or use to be made of water;

(B) Failure to report to the municipality addition to the property or fixtures to the supplies or additional use to be made of water;

(C) Resale or giving away of water;

(D) Waste or misuse of water due to improper or imperfect service pipes, and/or fixtures, or failure to keep same in suitable state of repair;

(E) Tampering with meter, meter seal, service or valves, or permitting such tampering by others;

(F) Connection, cross-connection or permitting same, of any separate water supply to premises which receive water from the municipality; or

(G) Nonpayment of bills. (Ord. 1979-3, passed 10-1-1979)

§ 52.027 REFUSAL OF SERVICE.

The municipality may refuse service to a person, not presently a customer, when in the opinion of the municipality the capacity of the facilities will not permit such service.

(Ord. 1979-3, passed 10-1-1979)

§ 52.028 DEPOSIT.

(A) Each user shall pay an account deposit of \$75.00 prior to providing service.

(B) Whenever service is disconnected for nonpayment, each user shall be required to provide a deposit equal to the highest monthly service charge or \$75.00, whichever is greater, prior to reinstating service.

(Ord. 1995-10, passed 11-9-1995; Am. Ord. 2000-7, passed 12-7-2000; Am. Ord. 2002-03, passed 4-18-2002; Am. Ord. 2006-12, passed 12-21-2006; Am. Ord. 2008-1, passed 2-7-2008; Am. Ord. 2009-13, passed 12-22-2009)

RATES AND CHARGES

§ 52.040 METERED RATES.

There shall be are hereby established for use of water supplied by the waterworks system of the town, the following rates and charges:

<i>INSIDE TOWN</i>	
<i>Monthly Water Usage</i>	<i>Rate per 1,000 gallons</i>
First 10,000 gallons	\$11.74
Over 10,000 gallons	\$10.17

<i>OUTSIDE TOWN</i>	
<i>Monthly Water Usage</i>	<i>Rate per 1,000 gallons</i>
First 10,000 gallons	\$15.13
Over 10,000 gallons	\$11.83

(A) Inside versus outside of town rate differential is 28.88% per 1,000 for the first 10,000 gallons.

(B) Inside versus outside of town rate differential is 16.32% per 1,000 for any usage over 10,000 gallons.

(Ord. 1990-2, passed 6-28-1990; Am. Ord. 2000-7, passed 12-7-2000; Am. Ord. 2002-03, passed 4-18-2002; Am. Ord. 2006-12, passed 12-21-2006; Am. Ord. 2008-1, passed 2-7-2008; Am. Ord. 2009-13, passed 12-22-2009; Am. Ord. 2012-02, passed 5-17-2012; Am. Ord. 2014-01, passed 3-20-2014)

Cross-reference:

Minimum monthly charge, see § 52.049

§ 52.041 SERVICE CHARGES.

(A) Each user shall pay a service charge in accordance with the following applicable size of meter installed.

(B) The service charge shall be in addition to the above metered rates.

<i>Meter Size</i>	<i>Inside and Outside Town Monthly Charge</i>
5/8-inch meter	\$7.45
3/4-inch meter	\$8.13
1-inch meter	\$11.31
1-1/2-inch meter	\$14.39
2-inch meter	\$39.56
3-inch meter	\$51.77
4-inch meter	\$148.47
6-inch meter	\$200.63
8-inch meter	\$262.43

(Ord. 1990-2, passed 6-28-1990; Am. Ord. 2000-7, passed 12-7-2000; Am. Ord. 2002-03, passed 4-18-2002; Am. Ord. 2006-12, passed 12-21-2006; Am. Ord. 2008-1, passed 2-7-2008; Am. Ord. 2009-13, passed 12-22-2009; Am. Ord. 2014-01, passed 3-20-2014)

§ 52.042 FIRE SERVICE CHARGE.

<i>Hydrant Type</i>	<i>Annual Charge</i>
Private hydrants, per hydrant	\$698.41

(Ord. 1990-2, passed 6-28-1990; Am. Ord. 2000-7, passed 12-7-2000; Am. Ord. 2002-03, passed 4-18-2002; Am. Ord. 2006-12, passed 12-21-2006; Am. Ord. 2008-1, passed 2-7-2008; Am. Ord. 2009-13, passed 12-22-2009; Am. Ord. 2014-01, passed 3-20-2014)

§ 52.043 ACCOUNT DEPOSITS.

(A) Each user shall pay an account deposit of \$75 prior to providing service.

(B) Whenever service is disconnected for non-payment, each user shall be required to provide a deposit equal to the highest monthly service charge or \$75, whichever is greater, prior to reinstating service. (Ord. 2014-01, passed 3-20-2014)

§ 52.044 TAP CHARGE.

(A) At the time of connection with the waterworks system each user shall pay a charge to cover the basic costs of excavating and tapping the main, furnishing and installing 20 feet of service pipe from the main to the water meter; furnishing and installing corporation and stop valves; and furnishing and installing meter crock (if outside), yoke, and meter.

(1) The basic charge for a 5/8-inch meter tap shall be \$1,200.

(2) Any 5/8-inch meter tap requiring work or materials beyond that described above shall be charged for any additional cost of labor, material, power, machinery, transportation and overhead incurred for installing the tap, but shall not be less than the basic charge for a 5/8-inch meter tap. The charge for a tap larger than the 5/8-inch meter tap shall be the cost of labor, materials, power, machinery, transportation, and overhead incurred for installing the tap, but shall not be less than the basic charge for a 5/8-inch meter tap.

(B) Whenever the extension of water service requires work over and above that of a 5/8-inch water meter tap, an additional review fee of \$175 shall be charged and is to be paid prior to beginning the review. Whenever this review requires work and or materials in excess of six hours and/or \$175, then the review fee shall be based on time and materials used in performing the review.

(Ord. 1990-2, passed 6-28-1990; Am. Ord. 1995-10, passed 11-9-1995; Am. Ord. 2000-7, passed 12-7-2000; Am. Ord. 2002-03, passed 4-18-2002; Am. Ord. 2006-12, passed 12-21-2006; Am. Ord. 2008-1, passed 2-7-2008; Am. Ord. 2009-13, passed 12-22-2009; Am. Ord. 2014-01, passed 3-20-2014)

§ 52.045 TEMPORARY USERS.

Water furnished to temporary users such as contractors and the like shall be charged on the basis of the metered rates hereinbefore set forth as estimated and established by the Town Administration.

(Ord. 1990-2, passed 6-28-1990; Am. Ord. 2002-03, passed 4-18-2002; Am. Ord. 2006-12, passed 12-21-2006; Am. Ord. 2008-1, passed 2-7-2008; Am. Ord. 2009-13, passed 12-22-2009; Am. Ord. 2014-01, passed 3-20-2014)

§ 52.046 RECONNECTION CHARGE.

When the service is turned off for nonpayment of bill, or whenever for any reason beyond the control of the waterworks a reestablishment of service is required by any 1 customer, a charge of \$40 during business hours and \$60 after business hours will be made by the waterworks to cover the cost of discontinuance and reestablishment of service. The reconnection charge, together with all other outstanding rates and charges due the waterworks, shall be paid by the customer before service will be reestablished. Should any service account remain inactive for a period of 3 months or longer, the charge shall increase to \$95 for reactivation of the account. Any service connection inactive for a period of 18 months shall be subject to the same administrative rules as new service connections.

(Ord. 1979-3, passed 10-1-1979; Am. Ord. 1990-2, passed 6-28-1990; Am. Ord. 1991-7, passed 10-17-1991; Am. Ord. 1995-10, passed 11-9-1995; Am. Ord. 2000-7, passed 12-7-2000; Am. Ord. 2002-03, passed 4-18-2002; Am. Ord. 2006-12, passed 12-21-2006; Am. Ord. 2008-1, passed 2-7-2008; Am. Ord. 2009-13, passed 12-22-2009; Am. Ord. 2014-01, passed 3-20-2014)

§ 52.047 DISHONORED CHECK CHARGE.

In the event a check, draft, or other instrument tendered to the utility for water service is dishonored by the bank or other institution upon which it is drawn, for any reason, the customer shall be charged \$30 per such dishonored check, and this charge will appear on the billing statement and will be due upon receipt.

(Ord. 1980-5, passed 1-4-1980; Am. Ord. 1990-2, passed 6-28-1990; Am. Ord. 1995-10, passed 11-9-1995; Am. Ord. 2000-7, passed 12-7-2000; Am. Ord. 2002-03, passed 4-18-2002; Am. Ord. 2006-12, passed 12-21-2006; Am. Ord. 2008-1, passed 2-7-2008; Am. Ord. 2009-13, passed 12-22-2009; Am. Ord. 2014-01, passed 3-20-2014)

§ 52.048 WHOLESALE WATER COST TRACKING.

(A) The wholesale water cost tracking factor solely due to changes in the cost of purchased water, and based upon the quantity of water consumed each month, shall be \$1.70 per 1,000 gallons.

(B) This is in addition to the above rates and charges.

(Ord. 1990-2, passed 6-28-1990; Am. Ord. 1994-2, passed 5-19-1994; Am. Ord. 1994-12, passed 12-28-1994; Am. Ord. 1995-10, passed 11-9-1995; Am. Ord. 2000-7, passed 12-7-2000)

§ 52.049 MINIMUM MONTHLY CHARGE.

Each user shall pay a minimum monthly charge equal to 2,000 gallons of water usage each month applied to the appropriate metered rate, plus any additional charges dictated by this chapter.

(Ord. 1991-2, passed - -1991; Am. Ord. 1995-10, passed 11-9-1995; Am. Ord. 2000-7, passed 12-7-2000; Am. Ord. 2002-03, passed 4-18-2002; Am. Ord. 2006-12, passed 12-21-2006; Am. Ord. 2008-1, passed 2-7-2008; Am. Ord. 2009-13, passed 12-22-2009; Am. Ord. 2014-01, passed 3-20-2014)

§ 52.050 SPECIAL RATE CONTRACTS.

The Council is hereby further authorized to enter into special rate contracts with customers of the waterworks where clearly definable cost to the waterworks can be determined. Special rates shall be based upon those costs.

(Ord. 2002-03, passed 4-18-2002; Am. Ord. 2006-12, passed 12-21-2006; Am. Ord. 2008-1, passed 2-7-2008; Am. Ord. 2009-13, passed 12-22-2009; Am. Ord. 2014-01, passed 3-20-2014)

§ 52.051 EFFECTIVE DATE.

The rates and charges for this subchapter shall become effective on the February 1, 2010 billing period.

(Ord. 2002-03, passed 4-18-2002; Am. Ord. 2009-13, passed 12-22-2009)

BILLING PROCEDURES**§ 52.060 BILLS AND NOTICES.**

Rates and charges shall be prepared, billed and collected by the town in the manner provided by law and ordinance.

(A) The rates and charges for all users shall be prepared and billed monthly. Bills will be dated and mailed on the third day of each month. Bills for water service are due and payable at the business office of the municipality or to any designated agent on their date of issue. The past due date shall be the seventeenth day after the date of issue.

(B) The rates and charges may be billed to the tenant or tenants occupying the properties served, if requested by the owner in writing, but such billing shall in no way relieve the owner from the liability in the event payment is not made as herein required. The owners of properties served, which are occupied by a

tenant or tenants, shall have the right to examine the collection records for the town for the purpose of determining whether bills have been paid by such tenant or tenants, provided that such examination shall be made at the office at which said records are kept and during the hours that such office is open for business.

(C) All rates and charges not paid when due are hereby declared to be delinquent and a penalty of 10% of the amount of the rates and/or charges shall thereupon be added thereto per month. The time at which such rates and/or charges shall be paid is now fixed at 17 days after the date of mailing of the bill.

(D) If any bill has a delinquent amount due, as of the date of issue, the delinquent amount must be paid within 10 days of the date of issue of that bill. If the delinquent amount is not paid within this 10 day period, the water supply to the customer may be discontinued without further notice.

(E) (1) Any person who is delinquent on their combined water/sewer bill and is subject to disconnection for nonpayment thereof must be notified of their right to a hearing before the Nashville Municipal Utilities Management Committee consisting of a representative from Town Administration, Office of the Clerk-Treasurer and the Utility Billing Department to determine the appropriateness of the disconnection.

(2) If a Nashville Municipal Utilities customer desires to request a hearing contesting the fairness of disconnection for nonpayment of their combined water/sewer bill, the customer must request such hearing in writing to the Nashville Municipal

Utilities, PO Box 446, Nashville, IN 47448, within 7 business days after the date of the mailing of the disconnection notice.

(Ord. 1979-3, passed 10-1-1979; Am. Ord. 1980-5, passed 1-4-1980; Am. Ord. 2002-03, passed 4-18-2002; Am. Ord. 2006-12, passed 12-21-2006; Am. Ord. 2008-1, passed 2-7-2008; Am. Ord. 2009-13, passed 12-22-2009; Am. Res. 2013-09, passed 12-19-2013; Am. Ord. 2014-01, passed 3-20-2014)

Cross-reference:

Reconnection charge when water discontinued for nonpayment, see § 52.046

§ 52.061 DUTY OF CLERK-TREASURER.

(A) It is the duty of the Clerk-Treasurer or any other person designated for the purpose to render bills for water service and all other charges in connection therewith and to collect all monies due therefrom.

(B) The Clerk-Treasurer shall establish a proper system of accounts and shall keep proper records, books and accounts, in which complete and correct entries shall be made of all transactions relative to the water system and at regular annual intervals, the Town Board of Trustees shall cause to be made an audit by an independent auditing concern of the books to show the receipts and disbursements of the water system.

(Ord. 6-3-68, passed 6-3-1968)

§ 52.062 REVENUES AND MONIES.

All revenues and monies derived from the operation of the water system shall be paid to and held by the Clerk-Treasurer separate and apart from all other funds of the town and all of the sums and all other funds and monies incident to the operation of the system, as may be delivered to the Clerk-Treasurer,

shall be deposited in a separate fund designated as the "Waterworks Fund Account." The Clerk-Treasurer shall administer the fund in every respect in a manner provided by state law and all other pertinent laws. (Ord. 6-3-68, passed 6-3-1968)

water consumed for billing purpose will be based upon an average of the prior 6 months' consumption, and the conditions of water service prevailing during the period in which the meter failed to register. (Ord. 1979-3, passed 10-1-1979)

METERS

§ 52.075 INSTALLATION AND MAINTENANCE.

All meters shall be installed, maintained and renewed by and at the expense of the municipality, and the municipality reserves the right to determine the size and type of meter used. (Ord. 1979-3, passed 10-1-1979)

§ 52.076 TEST OF METER.

Upon the written request of any customer, the meter serving the customer shall be tested by the municipality. The test will be made without charge to the customer if the meter has not been tested within 12 months preceding the requested test. A second test of the customer's meter may be requested after 12 months. The customer may be required to bear the full cost of any subsequent test of his or her meter if requested at less than 36 months after the preceding test. A written report giving the results of the tests shall be made to the customer within 10 days after the test is complete, and a complete record of the same shall be kept on file in the office of the municipality. The test will be made without charge to the customer if the meter has not been tested within 12 months preceding the requested test; otherwise a charge of \$5 will be made and then only if the test indicates meter accuracy within the limits of 2%. (Ord. 1979-3, passed 10-1-1979)

§ 52.077 METER FAILURE.

Where a meter has ceased to register, or meter reading could not be obtained, the quantity of

CROSS-CONNECTIONS

§ 52.090 DEFINITION.

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

CROSS-CONNECTION. Any physical connection or arrangement between 2 otherwise separate systems, 1 of which contains potable water from the town water system, and the other, water from a private source, water of unknown or questionable safety, or steam, gases or chemicals, whereby there may be a flow from 1 system to the other, the direction of the flow depending on the pressure differential between the 2 systems. (Ord. 1990-1, passed 3-15-1990)

§ 52.091 CROSS-CONNECTIONS PROHIBITED.

No person, firm, or corporation shall establish or permit to be established or maintain or permit to be maintained any cross-connection. No interconnection shall be established whereby potable water from a private, auxiliary or emergency water supply other than the regular public water supply of the town may enter the supply or distribution system of the municipality, unless the private, auxiliary or emergency water supply and the method of connection and use of that supply shall have been approved by the town water utility and by the State Department of Environmental Management in accordance with 327 I.A.C. 8-10.

(Ord. 1990-1, passed 3-15-1990) Penalty, see § 52.999

§ 52.092 INSPECTIONS; RIGHT OF ENTRY.

(A) It shall be the duty of the Town Superintendent to cause inspections to be made of all properties served by the public water system where cross-connections with the public water system are deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the Town Superintendent.

(B) That upon presentation of credentials, the representative of the Town Superintendent shall have the right to request entry at any reasonable time to examine any property served by a connection to the public water system of the town for cross-connections. On request, the owner, lessee or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on the property. The refusal of access or refusal of requested pertinent information shall be deemed evidence of the presence of cross-connections.

(Ord. 1990-1, passed 3-15-1990)

§ 52.093 DISCONTINUANCE OF SERVICE; EMERGENCY DISCONTINUANCE.

(A) The Town Water Utility is hereby authorized and directed to discontinue water service to any property wherein any connection in violation of this subchapter exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service shall be discontinued only after reasonable notice is served on the owner, lessee or occupants of the property or premises where a violation is found or suspected to exist. Water service to that property shall not be restored until the cross-connection(s) has been eliminated in compliance with the provisions of this subchapter.

(B) If it is deemed by the Town Water Utility that a cross-connection or an emergency endangers public health, safety or welfare and requires immediate action, and a written finding to the effect is filed with the Town Clerk and delivered to the

consumer's premises, service may be immediately discontinued. The consumer shall have an opportunity for hearing within 10 days of an emergency discontinuance.

(Ord. 1990-1, passed 3-15-1990)

§ 52.094 BACKFLOW PREVENTER REQUIRED.

All consumers using toxic or hazardous liquids, all hospitals, mortuaries, wastewater treatment plants, laboratories, and all other hazardous users install and maintain a reduced-pressure-principle backflow preventer in the main water line serving each building on the premises. The backflow preventer must be installed in an easily accessible location not subject to flooding or freezing.

(Ord. 1990-1, passed 3-15-1990) Penalty, see § 52.999

§ 52.095 COMPLIANCE WITH STATE PLUMBING CODE.

This subchapter does not supersede the State Uniform Plumbing Code, but is supplementary to it. (Ord. 1990-1, passed 3-15-1990)

INDEPENDENCE FROM STATE REGULATIONS

§ 52.110 APPLICATION.

This subchapter shall apply to the municipal water and sewer utilities.

(Ord. 1989-3, passed 3-16-1989)

§ 52.111 DECLARATION OF AUTHORITY.

I.C. 8-1.5-3-9.1 grants the state certain municipalities and towns the power to remove themselves from the jurisdiction of the Commission

for approval of rates, charges and evidences of indebtedness by the adoption of the Board of Trustees by ordinance.

(Ord. 1989-3, passed 3-16-1989)

§ 52.112 NOTICE BEFORE ADOPTION.

Written notice shall be mailed by the Town Board to all rate payers of the utilities at least 30 days prior to final passage of this section by the Board of Trustees.

(Ord. 1989-3, passed 3-16-1989)

§ 52.999 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 \$2,500. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(B) Any person violating the provisions of § 52.015 shall have the water privileges cancelled and the water turned off at his or her premises, until the Town Board shall decide to again turn the water on.

(Ord. 9-6-66, passed 9-6-1966)

CHAPTER 53: PUBLIC WORKS CONSTRUCTION STANDARDS

Section

- 53.001 Findings
- 53.002 Adoption
- 53.003 Definitions
- 53.004 Minor revisions and administrative approval
- 53.005 Copies on file
- 53.006 Application and intent
- 53.007 Registration and administration fees
- 53.008 Right of entry and inspection
- 53.009 Responsibility for violations
- 53.010 Sidewalk standards
- 53.011 Location of applicable standards

- 53.999 Penalty

§ 53.001 FINDINGS.

The Town Council has determined that the town lacks adopted standards to design capital improvement projects and to review development projects. It is beneficial to the town to adopt construction standards. The need for construction standards to mitigate confusion and minimize the impact of poor construction techniques of public health and safety, and that understands that construction standards enhance the development process.
(Ord. 2014-10, passed 12-18-2014)

§ 53.002 ADOPTION.

The town adopts the "Standard Plans for Public Works Construction," 2009 edition and newer revisions as they are made available, the latest version of INDOT's Standards and Specifications, and the existing engineering designs for public works completed to date.
(Ord. 2014-10, passed 12-18-2014)

§ 53.003 DEFINITIONS.

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

SIDEWALK. The part of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.
(Ord. 2014-10, passed 12-18-2014)

§ 53.004 MINOR REVISIONS AND ADMINISTRATIVE APPROVAL.

The Town Superintendent is authorized to adopt, administratively, minor revisions to the public works standards to better implement the standards or allow for changes in design and construction technology and methods occurring after the effective date of this ordinance codified in this chapter.
(Ord. 2014-10, passed 12-18-2014)

§ 53.005 COPIES ON FILE.

One copy of the town's Public Works Standards shall be available in the office of the Clerk Treasurer for review and copying by members of the public. Additionally, any minor administrative revisions made by the Town Superintendent subsequent to the effective date of the ordinance codified in this chapter shall be dated by the Town Superintendent, and a copy of the Public Works Standards revisions shall be made available in the office of the Clerk Treasurer for review and copying by members of the public.
(Ord. 2014-10, passed 12-18-2014)

§ 53.006 APPLICATION AND INTENT.

All projects that are in or within 10 feet of the road right-of-way that are comprised of any element or design found in this chapter shall meet the minimum requirements as listed in this chapter. If the work being performed is limited to the elements or designs found in this chapter, the Town Superintendent may approve the work (without any additional approvals) at his discretion.

(Ord. 2014-10, passed 12-18-2014)

§ 53.007 REGISTRATION AND ADMINISTRATION FEES.

If the applicable project is required to pay a fee for a certificate of appropriateness or a road right-of-way permit, then no additional fee required. Otherwise, a Public Works project application must be completed, a review fee of \$35 paid to the town, and the application approved by the Town Superintendent.

(Ord. 2014-10, passed 12-18-2014)

§ 53.008 RIGHT OF ENTRY AND INSPECTION.

Right of entry or reentry is limited to the project area for inspections. If an owner fails to comply with the permitting process or if there is a complaint, the inspection shall be performed from within the road right-of-way.

(Ord. 2014-10, passed 12-18-2014)

§ 53.009 RESPONSIBILITY FOR VIOLATIONS.

All violations will be cited and noticed to the owner of record and shall become the owner's responsibility. The owner of any property containing an applicable element or design of this chapter shall be obligated to provide written notice to any prospective purchaser of a property containing any violations, fees, or obligations imposed by the town regarding that property with project violations. Failure of the owner to comply with this section shall constitute a

violation of this chapter. If the owner sells or otherwise disposes of the property to another party, the new owner shall not be entitled to any extension of time to correct or address such violations as existed at the time of sale, transfer or conveyance of the property.

(Ord. 2014-10, passed 12-18-2014)

§ 53.010 SIDEWALK STANDARDS.

(A) *Exhibit A.* "Standard Plans for Public Works Construction", 2009 edition, pages 100-1 (sheet 1 and 2), 101-2 (sheets 1 and 2), 111-4 (sheets 1 through 10), 112-2, and 113-2 (sheets 1 and 2).

(B) *Exhibit B.* Indiana Department of Transportation Standard Drawing No. E 604-SWCR-01 through E 604-SWCR-13.

(C) *Exhibit C.* Nashville Standard Plans for Public Works Construction, Main Street Sidewalk Standards (Sheets 1 through 6).

(Ord. 2014-10, passed 12-18-2014)

§ 53.011 LOCATION OF APPLICABLE STANDARDS.

(A) The standards set forth in § 53.010(A) shall be used in all areas of town except those areas specified in § 53.010(B) and (C).

(B) The standards set forth in § 53.010(B) shall be used in all areas of the town that abuts or is within a state road right-of-way.

(C) The standards set forth in § 53.010(C) shall be used in the Salt Creek Plaza area, the Village District, and areas as designated by the Town Superintendent between the Village District and other public facilities outside the Village District.

(Ord. 2014-10, passed 12-18-2014)

§ 53.999 PENALTY.

(A) A person who violates or fails to comply with the requirements of this chapter is guilty of a misdemeanor and shall be fined \$100 for the first offense; for the second and subsequent offense(s) shall be fined \$500.

(B) Each day that an owner of a property with a noncompliance fails to comply with the requirements of this chapter shall constitute a separate offense.

(C) In addition to any other penalty for this section, this chapter may be enforced by suit for injunction, action for damages, or any equitable relief appropriate to the enforcement of this chapter.

(Ord. 2014-10, passed 12-18-2014)

TITLE VII: TRAFFIC CODE

Chapter

- 70. TRAFFIC REGULATIONS**
- 71. PARKING REGULATIONS**
- 72. TRAFFIC SCHEDULES**
- 73. PARKING SCHEDULES**

CHAPTER 70: TRAFFIC REGULATIONS

Section

- 70.01 Traffic-control conformity
- 70.02 Enforcement
- 70.03 Vehicular inspections
- 70.04 Weight limits
- 70.05 Speed limits

- 70.99 Penalty

Cross-reference:

Accident Report Fund, see § 33.01

Tow service pool, see § 33.04

§ 70.01 TRAFFIC-CONTROL CONFORMITY.

All traffic-control signs, signals and devices shall conform to the Manual of Uniform Traffic Control Devices for Streets and Highways as published by the U.S. Department of Transportation or specific standards adopted in writing by the Town Council and shall, so far as is necessary, be uniform as to type and location.

(Ord. 1995-1, passed 7-7-1995)

§ 70.02 ENFORCEMENT.

(A) The Town Marshal and his or her duly appointed deputies are hereby authorized to cause any person in violation of any provision of this traffic code to be arrested or cited to appear in the County Circuit Court.

(B) The Prosecuting Attorney or his or her duly appointed deputy is authorized to prosecute all charges of violation of this traffic code.

(Ord. 1975-1, passed 8-4-1975)

§ 70.03 VEHICULAR INSPECTIONS.

(A) *Application.* This section shall apply to all persons, firms, partnerships, associations, corporations, company or organizations of any kind who engage in the ownership of a motor vehicle, semi-trailer, or recreational vehicle other than a new motor vehicle, semi-trailer or recreational vehicle, sold by a dealer licensed in the state or a motor vehicle transferred or assigned on certificate of title issued by the State Bureau of Motor Vehicles.

(B) *Declaration of need.* The state General Assembly has determined that all police officers shall be employed to conduct inspections for the purposes of complying with state licensing and registration requirements.

(C) *Official inspections.* All town police officers may perform official inspections of the vehicles referenced in division (A) above in compliance with any and all applicable state statutes.

(D) *Procedure.* A town police officer inspecting a vehicle shall make a record of the inspection upon the application form as prescribed by the State Department of Motor Vehicles and verify the facts set out in the application.

(E) *Fee.* A fee in the amount of \$5 per inspection shall be collected by the inspecting town police officer and:

(1) Shall be deposited with the Clerk-Treasurer;

(2) The revenue from the inspection fee shall be deposited into a special vehicle inspection fund;

(3) The Board of Trustees shall appropriate the money collected from the inspection only for law enforcement purposes.

(Ord. 1988-10, passed 9-15-1988)

Cross-reference:

Police Department, see Chs. 33 and 35

Statutory reference:

Statutory authorization, see I.C. 9-29-4-2

§ 70.04 WEIGHT LIMITS.

Vehicles having an axle weight in excess of 14,000 pounds shall be excluded from Snyder Road.
(Ord. 2011-08, passed 8-18-2011)

§ 70.05 SPEED LIMITS.

(A) The maximum speed permitted on streets, roads and alleys within the Town of Nashville, Indiana shall be 30 miles per hour, unless a lower maximum speed is ordained and posted.

(B) Any person who operates a motor vehicle on said streets, roads or alleys of the town in excess of 30 miles per hour violates Ordinance 2019-12 and shall be subject to the penalties as set out therein.

(C) All streets, roads and alleys that are not already posted with the 30 miles per hour speed limit or a lower speed limit shall be posted with a speed limit of 30 miles per hour.

(Ord. 2020-07, passed 9-17-2020)

§ 70.99 PENALTY.

(A) *Violations.*

(1) No person shall operate a vehicle in the opposing direction to the direction indicated in Chapter 72, Schedule I, One Way Streets of the Town of Nashville, Indiana Code of Ordinances. Any person so doing commits an ordinance violation and shall be subject to civil penalties as set out herein.

(2) No person shall operate a vehicle at a speed in excess of the speed limit established by Chapter 72, Schedule II, Speed Limits, and/or § 70.05, of the Town of Nashville, Indiana Code of Ordinances on the streets and alleys indicated therein. Any person so doing commits an ordinance violation and shall be subject to civil penalties as set out herein.

(3) All persons operating vehicles shall stop and yield to vehicles not required to stop at the intersections indicated in Chapter 72, Schedule III, Stop Streets of the Town of Nashville, Indiana Code of Ordinances. Any person so doing commits an ordinance violation and shall be subject to penalties as set out herein.

(4) All persons operating vehicles shall stop and yield to pedestrians at the crosswalks indicated in Chapter 72, Schedule IV, School Crosswalks of the Town of Nashville, Indiana Code of Ordinances, and all other marked crosswalks. Any person failing to do so commits an ordinance violation and shall be subject to penalties as set out herein.

(B) *Penalties.*

(1) Violations of Chapter 72, Schedule I, III, and IV (One-way streets, Stop streets, Crosswalks) shall be subject to a civil penalty of \$85 per violation plus court costs.

(2) Violations of Chapter 72, Schedule II (Speeding) and/or § 70.05 shall be subject to a civil penalty of \$85 plus \$10 per every 10 miles per hour in excess of the posted limit plus court costs.

(C) *Enforcement.* Enforcement of the moving violations set out herein shall be in the Brown Circuit Court and brought by the Town Attorney in the name of the town.

(D) *Pretrial diversion.*

(1) An action for the enforcement of the moving violations set out herein may be deferred by the Town Attorney on the following conditions:

(a) The violator agrees to the terms of a deferral program offered by the Town Attorney.

(b) The violator pays a fee of \$70 to the Clerk of the Court.

(c) The terms of the agreement are set out in writing, signed by the violator and the Town Attorney and filed with the Brown Circuit Court.

(d) The Town Attorney may set an initial user's fee not to exceed \$52 and a monthly user's fee not to exceed \$10 per month.

(2) When a violator complies with the terms of the diversion agreement, the Town Attorney shall request a dismissal of the enforcement action in the Brown Circuit Court, if the violator fails to comply with the terms of the agreement, then the matter shall proceed to trial and judgment.

(3) Funds derived from the pretrial diversion program shall be used for any of the purposes authorized by I.C. 33-37-8-4, but must be appropriated by separate ordinance designating the purpose.

(Ord. 1984-2, passed 5-17-1984; Am. Ord. 2016-11, passed 10-20-2016; Am. Ord. 2018-09, passed 8-16-2018; Am. Ord. 2019-12, passed 12-19-2019)

CHAPTER 71: PARKING REGULATIONS

Section

General Provisions

- 71.01 General parking provisions
- 71.02 Parking against flow of traffic
- 71.03 Obstructing traffic
- 71.04 Private pay parking areas
- 71.05 Motorcycle parking
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Residential Parking Permit Program

- 71.20 Applicability
- 71.21 Application
- 71.22 Permits
- 71.23 Hours in effect
- 71.24 Fees
- 71.25 Change of vehicle; residency
- 71.26 Abandoned vehicle regulations
- 71.22 No parking zones
- 71.23 Violations

- 71.99 Penalty

GENERAL PROVISIONS

§ 71.01 GENERAL PARKING PROVISIONS.

Subject to the limitations set forth in Schedules I and II of Chapter 73, all parking where permitted on public streets shall be within 18 inches of the curb line and within marked parking spaces where applicable. (Ord. 1975-1, passed 8-4-1975) Penalty, see § 71.99

§ 71.02 PARKING AGAINST FLOW OF TRAFFIC.

No parking shall be permitted on any street or alley in the town in which the parked car would be facing in a direction opposite the flow of traffic in the traffic lane immediately adjacent to the parking space. (Ord. 1977-1, passed 6-18-1977) Penalty, see § 71.99

§ 71.03 OBSTRUCTING TRAFFIC.

No parking of vehicles or storing of materials shall be permitted in any street or alley in the area designated for travel. Any vehicle or material found to be blocking any part of a street or alley as provided herein, for a period in excess of 15 minutes without having obtained the consent of the Town Marshal, shall be towed away at the expense of the owner of the vehicle or materials and the owner subject to the penalties provided in § 71.99. (Ord. 1977-1, passed 6-18-1977) Penalty, see § 71.99

§ 71.04 PRIVATE PAY PARKING AREAS.

(A) When requested, the town will place signs to indicate a full-time pay parking area.

(B) A **FULL-TIME PAY PARKING AREA** shall be defined as one which is in operation at least 5 days a week, 9 months of the year.

(C) The Street Department shall determine the number and placement of the required signs.

(D) All costs related to pay parking signs shall be paid through the Food and Beverage Fund.

(E) Sign requests must be made by the owner of the property to be designated as a pay parking area.

(F) The Town Council reserves the right to waive these administrative rules after a public hearing has been held to determine the effect and impact, if any, of such a waiver.

(Res. 1993-3, passed 7-15-1993)

§ 71.05 MOTORCYCLE PARKING.

No vehicle other than a motorcycle or motor scooter shall park on any portion of any street that is marked as motorcycle parking. Any prohibited vehicle or material found to be parked in any area marked as motorcycle parking shall be towed away at the expense of the owner of the vehicle or materials and the owner subject to the penalties provided in § 71.99.

(Ord. 2005-12, passed 3-16-2006)

§ 71.06 TRAILER PARKING.

No vehicle defined as a *TRAILER* under the Indiana Motor Vehicle Code (see I.C. 9-13-2-184) shall be parked on a public street for a period exceeding 4 hours within any 24-hour period. Permits may be granted for special events or special circumstances allowing trailer parking in excess of the times set out herein.

(Ord. 2013-01, passed 1-17-2013)

RESIDENTIAL PARKING PERMIT PROGRAM

§ 71.20 APPLICABILITY.

(A) Each parcel of occupied residential real estate shall be eligible for 2 parking permits.

(B) Residential parking permits shall be issued to only those parcels which have a solely residential use.

(C) Residential parking permits shall be issued to only those parcels that currently do not have a private drive.

(Ord. 1994-5, passed 8-18-1994; Am. Ord. 2003-6, passed 9-18-2003)

§ 71.21 APPLICATION.

Permits will be issued only to those residents living on an eligible parcel. Proof of residence must be submitted upon making an application for a parking permit. In addition, proof of ownership or principal use of the motor vehicle shall be submitted as part of the application process. Determination of eligibility shall be made by the Town Manager or his or her designee. Each application for a parking permit shall also contain the following information: applicant's name and address; make, model and license tag number of the motor vehicle for which an application is made; and any other information deemed relevant by the Town Manager.

(Ord. 1994-5, passed 8-18-1994)

§ 71.22 PERMITS.

(A) All parking permits shall be visibly displayed from the rear view mirror on the front windshield.

(B) The fee for replacement permits shall be \$5 each.

(C) Permits will expire June 30 of each year. The date of expiration shall be clearly marked on all permits.

(Ord. 1994-5, passed 8-18-1994)

§ 71.23 HOURS IN EFFECT.

The permit zone shall be in effect 24 hours a day, 7 days a week.

(Ord. 1994-5, passed 8-18-1994)

§ 71.24 FEES.

Initial user fees shall be in the amount of \$5 per permit, with a annual renewal fee of \$5.
(Ord. 1994-5, passed 8-18-1994)

§ 71.25 CHANGE OF VEHICLE; RESIDENCY.

(A) If a permit holder changes the make or model or license tag number of a permitted vehicle, the applicant shall furnish all information regarding the change to the Town Manager within 7 days.

(B) If occupancy of a particular parcel changes during the year, the new residents must complete a new application for a parking permit. The fee for a change of residency shall be \$5.
(Ord. 1994-5, passed 8-18-1994)

§ 71.26 ABANDONED VEHICLE REGULATIONS.

No part of this subchapter shall supersede any existing regulations or ordinance regarding abandoned vehicles.
(Ord. 1994-5, passed 8-18-1994)

§ 71.27 NO PARKING ZONES.

No parking zones are hereby defined as those areas of town, streets, and alleys that are marked with yellow curb and/or no parking signs, residential parking permit zones that are marked, and handicapped parking zones that are marked for all vehicles except those bearing handicapped license plates or handicapped parking permits issued by the Indiana Bureau of Motor Vehicles. In addition, the Town Street Department and Police Department shall have the right to designate by temporary signage no parking zones for tree removal, snow removal, street sweeping, parades and other actions deemed necessary

by the town. Private permit parking zones shall not take precedence over temporary no parking zones designated under this section.

(Ord. 1994-5, passed 8-18-1994; Am. Ord. 2004-09, passed 10-7-2004)

§ 71.28 VIOLATIONS.

The parking permit zones shall be tow-away zones. Any violation of this subchapter shall result in the motor vehicle being removed at the owner's expense, and regular parking fines shall be assessed.
(Ord. 1994-5, passed 8-18-1994)

§ 71.99 PENALTY.

A fine of \$25 shall be established for a violation of any parking regulation as established by the town with the following exceptions: the fine for violation of parking in a handicapped zone without a handicapped permit or license plate shall be \$40 and the fine for parking in a designated no parking zone containing a fire hydrant shall be \$40.

(Ord. 155, passed - -1948; Am. Ord. 1975-1, passed 8-4-1975; Am. Ord. 1992-11, passed 12-30-1992; Am. Ord. 1994-10, passed 10-20-1994; Am. Ord. 2004-09, passed 10-7-2004; Am. Ord. 2014-03, passed 5-15-2014)

Cross-reference:

Parking Violation Fund, see § 34.060

CHAPTER 72: TRAFFIC SCHEDULES

Schedule

- I. One-way streets
- II. Speed limits
- III. Stop streets
- IV. School crosswalk

SCHEDULE I. ONE-WAY STREETS.

Any person operating a vehicle on any of the following streets or alleys shall only move that vehicle in the direction indicated.

<i>Street</i>	<i>Location</i>	<i>Direction</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Locust Lane	From Main Street to Gould Street	North	1977-1	6-18-1977
Locust Lane	From Main Street to Mound Street	North	2014-6; 2015-05	10-16-2014; 4-16-2015
Old School Way	From Main Street to Washington Street	South	1977-1	6-18-1977
North-south alley between Van Buren Street and Jefferson Street	From Main Street to Gould Street	North	1977-1	6-18-1977
North-south alley between Van Buren Street and Jefferson Street	From Main Street to Washington Street	South	1977-1	6-18-1977
Robert "Buck" Stogsdill Way	From E. Mound Street to Main Street	South	2015-05	4-16-2015
Old Hickory Lane	From Jefferson Street to Johnson Street	West	2018-05	6-21-2018

Penalty, see § 70.99

SCHEDULE II. SPEED LIMITS.

The state traffic laws regulating the speed of vehicles shall be applicable upon all streets and alleys within the town unless as otherwise posted.

<i>Street</i>	<i>Location</i>	<i>Speed Limit</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Artist Drive	In entirety	20 mph	1995-1	7-7-1995
Bittersweet Lane	In entirety	10 mph	1995-1	7-7-1995
Commercial Drive	In entirety	20 mph	1995-1	7-7-1995
East High School Drive	In entirety	20 mph	1975-1	8-4-1975
Franklin Street	In entirety	20 mph	1995-1	7-7-1995
Gould Street	In entirety	20 mph	1995-1	7-7-1995
Honeysuckle Lane	In entirety	10 mph	1995-1	7-7-1995
Jefferson Street	In entirety	20 mph	1995-1	7-7-1995
Johnson Street	In entirety	20 mph	1995-1	7-7-1995
Locust Lane	In entirety	10 mph	1995-1	7-7-1995
Main Street	In entirety	20 mph	1995-1	7-7-1995
Molly's Lane	In entirety	10 mph	1995-1	7-7-1995
Mound Street	In entirety	20 mph	1995-1	7-7-1995
North High School Drive	In entirety	20 mph	1975-1	8-4-1975
Old Hickory Lane	In entirety	10 mph	1995-1	7-7-1995
Old High School Way	Between Washington Street and Gould Street	15 mph	1975-1	8-4-1975
Old School Way	In entirety	10 mph	1995-1	7-7-1995
Parkview Edition	In entirety	20 mph	1995-1	7-7-1995
Parkview Road	In entirety	25 mph	2005-01	2-17-2005
Pine Water Court	In entirety	25 mph	2019-05	7-18-2019
Pine Brook Trail	In entirety	25 mph	2019-05	7-18-2019
Pine Hills Drive	In entirety	25 mph	2019-05	7-18-2019
Pine Hollow Court	In entirety	25 mph	2019-05	7-18-2019

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<i>Street</i>	<i>Location</i>	<i>Speed Limit</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Pine Lake Court	In entirety	25 mph	2019-05	7-18-2019
Pine Valley Court	In entirety	25 mph	2019-05	7-18-2019
Pittman Lane	In entirety	10 mph	1992-3	11-19-1992
Pittman House Lane	In entirety	10 mph	1995-1	7-7-1995
Printers Lane	In entirety	10 mph	1995-1	7-7-1995
Ridgeway Drive	In entirety	20 mph	2019-04	5-16-2019
Salt Creek Plaza	In entirety	20 mph	1995-1	7-7-1995
Sycamore Lane	In entirety	10 mph	1995-1	7-7-1995
Van Buren Street	Between Washington Street and Gould Street	20 mph	1975-1	8-4-1975
Washington Street	In entirety	20 mph	1995-1	7-7-1995
Wells Drive	In entirety	20 mph	1995-1	7-7-1995

Penalty, see § 70.99

Cross-reference:

Speed limits, see § 70.05

SCHEDULE III. STOP STREETS.

The town hereby designates the following streets as preferential streets at the following intersections. All vehicles shall comply with the requirements of I.C. 9-21-8 by stopping as required by official control devices or signs posted under this traffic schedule.

<i>Stop Location</i>	<i>Intersection</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Artist Drive: Northbound lane of the north end	State Road 135	1975-1	8-4-1975
Artist Drive: Southbound lane	Main Street	1975-1	8-4-1975
East High School Drive: Westbound lane	Van Buren Street	1975-1	8-4-1975
Franklin Street: 4-way stop	Jefferson Street	1975-1	8-4-1975
Franklin Street: 4-way stop	Johnson Street	1975-1	8-4-1975
Franklin Street: Eastbound lane	Old High School Way	1975-1	8-4-1975
Franklin Street: Eastbound lane	Van Buren Street	1975-1	8-4-1975
Franklin Street: Westbound lane	Van Buren Street	1975-1	8-4-1975
Gould Street: Eastbound lane	Jefferson Street	1975-1	8-4-1975
Gould Street: Westbound lane	Jefferson Street	1975-1	8-4-1975
Gould Street: Eastbound lane	Van Buren Street	1975-1	8-4-1975
Gould Street: Westbound lane	Van Buren Street	1975-1	8-4-1975
Jackson Branch Road: Southbound lane	Main Street	1975-1	8-4-1975
Jefferson Street: Northbound lane of the north end	State Road 135	1975-1	8-4-1975
Jefferson Street: 4-way stop	Main Street	1975-1	8-4-1975
Jefferson Street: Northbound lane	Washington Street	1975-1	8-4-1975
Jefferson Street: Southbound lane	Washington Street	1975-1	8-4-1975
Johnson Street: Southbound lane	Gould Street	1975-1	8-4-1975
Johnson Street: Northbound lane	Gould Street	1975-1	8-4-1975
Johnson Street: Northbound lane	Main Street	1975-1	8-4-1975
Johnson Street: Southbound lane	Main Street	1975-1	8-4-1975
Johnson Street: Southbound lane	Washington Street	1975-1	8-4-1975

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<i>Stop Location</i>	<i>Intersection</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Locust Lane: 4-way stop	Gould Street	1995-1	7-7-1995
Molly's Lane: 3-way stop	Honeysuckle Lane	1995-1	7-7-1995
Molly's Lane: Eastbound lane	Van Buren Street	2005-12	3-16-2006
Molly's Lane: Eastbound lane	Bittersweet Lane	2006-4	4-20-2006
Molly's Lane: Westbound lane	Bittersweet Lane	2006-4	4-20-2006
Mound Street: Eastbound lane	Jefferson Street	1975-1	8-4-1975
Mound Street: Westbound lane	Jefferson Street	1975-1	8-4-1975
Mound Street: Eastbound lane	Van Buren Street	1975-1	8-4-1975
Mound Street: Westbound lane	Van Buren Street	1975-1	8-4-1975
North High School Drive: Northbound lane	Main Street	1975-1	8-4-1975
Old Hickory Lane: Eastbound Lane	Van Buren Street	2005-12	3-16-06
Old Hickory Lane: Westbound Lane	Van Buren Street	2005-12	3-16-06
Old School Way: Southbound lane	Franklin Street	1975-1	8-4-1975
Old School Way: Northbound lane	Main Street	1975-1	8-4-1975
Old High School Way: Northbound lane	Franklin Street	1975-1	8-4-1975
Old High School Way: Northbound lane	Washington Street	1975-1	8-4-1975
Parkview Road: 3-way stop	Lake Drive	2008-04	6-19-2008
Pittman House Lane: 3-way stop	Honeysuckle Lane	1995-1	7-7-1995
Washington Street: Eastbound lane	Van Buren Street	1975-1	8-4-1975
Washington Street: Westbound lane	Van Buren Street	1975-1	8-4-1975
Washington Street: Eastbound lane	North High School Drive	1975-1	8-4-1975

(Am. Ord. 2005-09, passed 7-21-2005) Penalty, see § 70.99

SCHEDULE IV. SCHOOL CROSSWALK.

The Town Council hereby creates a school crosswalk with appropriate signage at the following intersections.

<i>Street</i>	<i>Intersection</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Main Street	Main Street and School House Lane	2016-01	1-7-2016

CHAPTER 73: PARKING SCHEDULES

Schedule

- I. Parking prohibited
- II. Recreational vehicle parking prohibited
- III. Loading zones
- IV. Carriage stands
- V. Tour train zone
- VI. Fifteen-minute parking
- VII. Two-hour parking
- VIII. Handicap parking
- IX. Non-recreational vehicle parking prohibited

SCHEDULE I. PARKING PROHIBITED.

The painting of a curb or area with yellow paint shall constitute notice to the public that parking is prohibited. No parking zones may also be designated by signs. The following are no parking areas:

<i>Street</i>	<i>Side</i>	<i>Location</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Gould Street	South	From Van Buren Street east to the dead end of Gould Street	1995-1	7-7-1995
Main Street	South	From High School Lane East to Greasy Creek Road	1995-1	7-7-1995
Main Street	North	From Locust Lane East to Greasy Creek Road, and from Van Buren Street East to Old School Way	1995-1	7-7-1995
Mount Street	North	From Jefferson Street to Johnson Street	2011-11	12-15-2011
South Jefferson Street	West	From Washington South to the dead end of Jefferson Street	1995-1	7-7-1995
Washington Street	South	Beginning at a point 126 feet east of Old School Way to High School Lane	1995-1	7-7-1995

Penalty, see § 71.99

SCHEDULE II. RECREATIONAL VEHICLE PARKING PROHIBITED.

Parking of recreational vehicles is prohibited in the following locations:

<i>Street</i>	<i>Side</i>	<i>Location</i>	<i>Ord. No.</i>	<i>Date Passed</i>
East Main Street	South	Old School Way	1984-1	3-5-1984
Franklin Street	North	East of Old School Way	1984-1	3-5-1984
Franklin Street	South	Between Van Buren and Jefferson Streets	1984-1	3-5-1984
Franklin Street	North	Between Jefferson and Johnson Streets	1984-1	3-5-1984
Jefferson Street	West	Between Molly's Lane and Franklin Street	1984-1	3-5-1984
Jefferson Street	East	Between Main and Franklin Streets	1984-1	3-5-1984
Johnson Street	East	Between Ordinary Lane and Franklin Street	1984-1	3-5-1984
Van Buren Street	East	Between Mound and Washington Streets	1984-1	3-5-1984
West Main Street	North	Between Sycamore Lane and Jackson Branch	1984-1	3-5-1984
West Main Street	South	Between Jefferson Street and Sycamore Lane	1984-1	3-5-1984
The parking lot located south of Franklin Street		Between Van Buren Street and Old School Way	1984-1	3-5-1984

Penalty, see § 71.99

SCHEDULE III. LOADING ZONES.

The following zones are designated loading zones and shall be used solely for unloading and loading of passengers, inventory, merchandise and supplies, and shall have a time limit of 15 minutes for each instance of such activity:

<i>Street</i>	<i>Side</i>	<i>Location</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Franklin Street	South	Van Buren east to Old School Way	1995-1	7-7-1995
Franklin Street	North	Intersection of Van Buren and Franklin Streets and extending along West Franklin Street	2006-2	4-20-2006
Gould Street	North	Old School Way east to a point 48 feet east of Old School Way	1995-1	7-7-1995
Gould Street	South	Honeysuckle Lane east to Van Buren Street	1995-1	7-7-1995
Jefferson Street	East	Old Hickory Lane north to a point 58 feet north of Old Hickory Lane	1995-1	7-7-1995
Main Street	South	Van Buren Street east to Locust Lane	1995-1	7-7-1995
Washington Street	South	From a point 70 feet east of Van Buren, ending at a point 268 feet east of Old School Way	1995-1	7-7-1995
Main Street	Northwest	Corner of Main Street and Van Buren Street	2004-3	7-15-2004
West Main Street	Northeast	Corner of West Main Street and North Jefferson Street	2015-04	4-16-2015

Penalty, see § 71.99

SCHEDULE IV. CARRIAGE STANDS.

The following zones are designated as carriage stands, and shall be used solely for the unloading and loading of passengers from horse-drawn conveyances as licensed by the town.

<i>Street</i>	<i>Side</i>	<i>Location</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Franklin Street	North	Commencing 25 feet from the intersection with Van Buren and extending along West Franklin Street for a distance of 60 feet	2006-02	4-20-2006

Penalty, see § 71.99

SCHEDULE V. TOUR TRAIN ZONE.

The following zone is designated as a loading and unloading zone for the tour train and shall solely be used for this purpose:

<i>Street</i>	<i>Side</i>	<i>Location</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Franklin Street	North	Van Buren Street to a point 91 feet east of Van Buren Street	1995-1	7-7-1995

Penalty, see § 71.99

SCHEDULE VI. FIFTEEN-MINUTE PARKING.

The following zone shall be designated a 15-minute car parking zone:

<i>Street</i>	<i>Side</i>	<i>Location</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Main Street	North	Beginning at a point approximately 62 feet east of Old School Way to a point end approximately 102 feet west of Old School Way	1995-1	7-7-1995

Penalty, see § 71.99

SCHEDULE VII. TWO-HOUR PARKING.

The following zone shall be designated a 2-hour parking zone:

<i>Street</i>	<i>Side</i>	<i>Location</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Washington Street	North and South	Between Van Buren Street and School House Lane, Monday through Friday, 9:00 a.m. to 5:00 p.m.	2011-2	3-17-2011

Penalty, see § 71.99

SCHEDULE VIII. HANDICAP PARKING.

The following zones shall be designated as handicap parking:

<i>Street</i>	<i>Side</i>	<i>Location</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Franklin Street	East	Two van-accessible spaces at the east dead end	1995-1	7-7-1995
Jefferson Street	East	Beginning at a point approximately 13 feet south of Old Hickory Lane and ending at a point approximately 35 feet south of Old Hickory Lane	1995-1	7-7-1995
Jefferson Street	West	Beginning at a point approximately 20 feet south of Main Street and ending at a point approximately 39 feet south of Main Street	1995-1	7-7-1995
Jefferson Street	West	Beginning at a point approximately 9 feet south of Molly's Lane, and ending at a point approximately 27 feet south of Molly's Lane	1995-1	7-7-1995
Main Street	North	Beginning at a point approximately 42 feet east of Old School Way, and ending at a point approximately 62 feet east of Old School Way	1995-1	7-7-1995
Main Street	South	Beginning at a point approximately 7 feet east of Honeysuckle Lane, and ending at a point approximately 27 feet east of Honeysuckle Lane	1995-1	7-7-1995
Main Street	South	Beginning at a point approximately 21 feet west of Honeysuckle Lane, and ending at a point approximately 9 feet west of Honeysuckle Lane	1995-1	7-7-1995
Washington Street	North	Beginning at a point approximately 24 feet east of Jefferson Street, and ending at a point approximately 43 feet east of Jefferson Street	1995-1	7-7-1995
Washington Street	North	Beginning at a point approximately 19 feet east of Van Buren, and ending at a point approximately 39 feet east of Van Buren	1995-1	7-7-1995

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<i>Street</i>	<i>Side</i>	<i>Location</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Washington Street	South	Beginning at a point approximately 50 feet east of Van Buren, and ending at a point approximately 70 feet east of Van Buren	1995-1	7-7-1995
Washington Street	South	Beginning at a point approximately 268 feet east of Van Buren, and ending at a point approximately 288 feet east of Van Buren	1995-1	7-7-1995

Penalty, see § 71.99

SCHEDULE IX. NON-RECREATIONAL VEHICLE PARKING PROHIBITED.

Only recreational vehicle may park within the portion of the Jefferson Street parking area designated as motor coach parking. The parking of any car, truck, motorcycle, or other non-recreational vehicles within this area prohibited.

<i>Street</i>	<i>Location</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Jefferson Street parking area	Jefferson Street	2005-12	3-16-2006

(Ord. 2005-12, passed 3-16-2006)

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. ANIMALS
- 91. FAIR HOUSING
- 92. NUISANCES
- 93. STREETS AND SIDEWALKS
- 94. ABANDONED VEHICLES
- 95. TREES
- 96. PUBLIC ART

CHAPTER 90: ANIMALS

Section

- 90.01 License required
- 90.02 License applications
- 90.03 Clerk-Treasurer to issue license
- 90.04 Fees
- 90.05 Confinement of female dogs in heat, dangerous dogs, sick or diseased dogs
- 90.06 Disturbances
- 90.07 Nuisance
- 90.08 Impoundment
- 90.09 Definitions
- 90.10 Unlawful baiting of animals

- 90.99 Penalty

§ 90.01 LICENSE REQUIRED.

It shall be unlawful to keep a dog or dogs within the town limits without obtaining a license for the dog or dogs annually. In addition to other license requirements found in this chapter, each license applicant shall be required to obtain and provided certified proof of liability insurance amount of \$50,000 per occurrence in order to be granted a license or post proof of financial responsibility. (Ord. 1970-, passed 10-5-1970; Am. Ord. 1983-3, passed 9-12-1983; Am. Ord. 2006-08, passed 7-6-2006) Penalty, see § 90.99

§ 90.02 LICENSE APPLICATIONS.

The town will supply application forms to be used in obtaining dog licenses. The application forms will have blanks for supplying information, including the name and address of the dog's owner, the breed of dog, its sex, name and color. (Ord. 1970-, passed 10-5-1970; Am. Ord. 1983-3, passed 9-12-1983) Penalty, see § 90.99

§ 90.03 CLERK-TREASURER TO ISSUE LICENSE.

The Clerk-Treasurer shall be empowered to issue licenses pursuant to this chapter upon receipt of a properly completed application form and the fee hereinafter set forth. (Ord. 1970-, passed 10-5-1970; Am. Ord. 1983-3, passed 9-12-1983) Penalty, see § 90.99

§ 90.04 FEES.

The license fees are as follows:

(A) Unneutered male or unspayed female: \$15.

(B) Neutered male or spayed female: \$5. (Ord. 1970-, passed 10-5-1970; Am. Ord. 1983-3, passed 9-12-1983) Penalty, see § 90.99

§ 90.05 CONFINEMENT OF FEMALE DOGS IN HEAT, DANGEROUS DOGS, SICK OR DISEASED DOGS.

(A) The owner or keeper of any female dog in heat, dangerous dog, or sick or diseased or non-vaccinated dog, shall confine the dog within a secure enclosure and in such a manner as to prevent it from becoming a nuisance.

(B) Confinement of a dog means enclosure of the dog within a completely enclosed building or secure enclosure with no means of escape. Such an animal may be confined in the owner's home. The animal's confinement must be such as will prevent the

animal from harassing neighbors or passers-by and may not constitute either a sight, smell or noise nuisance. The enclosure shall be located on the owner's property not less than 10 feet from the nearest edge of any municipal right-of-way. Chaining or tethering is not an acceptable form of confinement, unless the dog is attended.

(C) The owner of a female dog in heat, dangerous dog, sick, diseased or non-vaccinated dog may not cause, suffer, or allow it to go unconfined, unrestrained, or to run at large on any public street or by-way, right-of-way, or any municipally owned or public land or public building at any time or upon any private property without the permission of the owner of such private property.

(D) Upon reasonable suspicion to believe that a female dog in heat, dangerous dog, non-vaccinated dog or sick or diseased dog has violated this section, an animal control officer or any law enforcement officer shall seize the dog and deliver it to the custody and control of the County Humane Society.

(E) The Council shall conduct a public hearing within 5 business days to determine whether this section was violated. In the event that the Council finds that this section has been violated. In the event that the Council finds that this section has been violated, the following penalties shall be imposed upon the owner or keeper of the animal.

(1) The owner or keeper of the animal shall be ordered to pay any and all costs associated with the Humane Society's care and treatment of the dog during the seizure period.

(2) The dog shall be required to undergo a certified re-training program not to exceed a cost of \$2,500 at the owners or keeper's expense or the dog shall be destroyed at the owner or keeper's expense. (Ord. 1970-, passed 10-5-1970; Am. Ord. 1983-3, passed 9-12-1983; Am. Ord. 2006-08, passed 7-6-2006) Penalty, see § 90.99

§ 90.06 DISTURBANCES.

It shall be unlawful for an owner or custodian of any dog to knowingly allow or permit the dog to disturb the peace and quiet of a neighborhood by continued loud barking or by making any other loud or unusual noise.

(Ord. 1970-, passed 10-5-1970; Am. Ord. 1983-3, passed 9-12-1983) Penalty, see § 90.99

§ 90.07 NUISANCE.

Any dog which is found unlicensed or creating a disturbance as described in § 90.06 is hereby declared to be a nuisance.

(Ord. 1970-, passed 10-5-1970; Am. Ord. 1983-3, passed 9-12-1983; Am. Ord. 2006-08, passed 7-6-2006) Penalty, see § 90.99

§ 90.08 IMPOUNDMENT.

(A) All dogs found to be a nuisance shall be delivered to the custody and control of the County Humane Society by the Town Marshal. The Humane Society will be entitled to collect from the owner of any dog in their custody the reasonable costs incurred in the care and treatment of the dog.

(B) To assist the Humane Society in maintaining a shelter for dogs and other animals and because of the Humane Society's duties as outlined in this chapter, ½ of each fee collected by the Town Clerk-Treasurer, pursuant to § 90.04, will be paid over to the Humane Society.

(Ord. 1970-, passed 10-5-1970; Am. Ord. 1983-3, passed 9-12-1983) Penalty, see § 90.99

§ 90.09 DEFINITIONS.

DANGEROUS DOG. For purposes of this chapter, is any dog which, because of its nature, training, or characteristic behavior, is capable of inflicting physical harm or death to humans, and

which would constitute a danger to human life or property if it were not kept in the manner required by this chapter. The term ***DANGEROUS DOG*** includes any dog which has:

- (1) Attacked a person.
- (2) Attacked at a place other than its owner's property; or
- (3) Chased or approached a person at some place other than its owner's property in a menacing fashion or apparent attitude of attack.

NON-VACCINATED DOG. Any dog whose owner can not provide proof of current legal rabies vaccination as defined by state law.

SICK or DISEASED DOG. For purposes of this chapter is any dog sick with or liable to communicate Rabies or any other contagious or infectious disease. A ***SICK or DISEASED DOG*** for the purpose of this chapter is any dog with a highly contagious disease including but not limited to canine parvovirus and canine distemper virus.
(Ord. 2006-08, passed 7-6-2006)

§ 90.10 UNLAWFUL BAITING OF ANIMALS.

It shall be unlawful to bait deer or other large wild animals with salt, mineral blocks or other attractants within the limits of the town. It is further ordained that any person who violates this chapter shall be fined upon conviction thereof any sum of money not exceeding \$25. It is further ordained that each time a person continues to feed or bait deer or other large wild animals in violation of this section after said person has been notified to cease and desist by the Town Marshal, Town Manager or other town staff, shall be deemed a separate violation subject to separate fine.
(Ord. 2005-13, passed 1-19-2006)

§ 90.99 PENALTY.

Any person who violates any provision of this chapter, including the obligation upon owners to pay the Humane Society for dog care and treatment, shall be fined, upon conviction thereof, any sum of money not exceeding \$2,000.
(Ord. 1970-, passed 10-5-1970; Am. Ord. 1983-3, passed 9-12-1983; Am. Ord. 2006-08, passed 7-6-2006)

CHAPTER 91: FAIR HOUSING

Section

- 91.01 Policy
- 91.02 Authority and responsibility
- 91.03 Complaints and remedies
- 91.04 Definitions

§ 91.01 POLICY.

It shall be the policy of the town to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the Federal Civil Rights Act of 1968, as amended, the Federal Housing and Community Development Act of 1974, as amended, and I.C. 22-9.5-1 *et seq.* (Res. 1994-4, passed 3-17-1994)

§ 91.02 AUTHORITY AND RESPONSIBILITY.

(A) The authority and responsibility for properly administering this chapter and referral of complaints hereunder to the Indiana Civil Rights Commission as set forth in § 91.02(B) hereof shall be vested in the Town Manager.

(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 to the Indiana Civil Rights Commission (Commission) for administrative enforcement actions pursuant to I.C. 22-9.5-6, and the Town Manager shall refer all complaints to the Commission as provided under I.C. 22-9.5-6. (Res. 1994-4, passed 3-17-1994)

§ 91.03 COMPLAINTS AND REMEDIES.

The Town Manager or the Town Manager's designee, shall provide information on remedies available to any aggrieved person or complainant requesting that information. (Res. 1994-4, passed 3-17-1994)

§ 91.04 DEFINITIONS.

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

AGGRIEVED PERSON. Includes 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. (See I.C. 22-9.5-2-2.)

COMMISSION. The Indiana Civil Rights Commission created pursuant to I.C. 22-9-1-4, *et seq.* (See I.C. 22-9.5-2-3.)

COMPLAINANT. A person, including the Commission, who files a complaint under I.C. 22-9.5-6. (See I.C. 22-9.5-2-4.)

DISCRIMINATORY HOUSING PRACTICE. An act that is unlawful under 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 1 or more families; or any vacant land which is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as a residence by 1 or more families. (See I.C. 22-9.5-2-8.)

FAMILIAL STATUS. One or more individuals who have not attained the age of 18 years being domiciled with a parent or another person having legal custody of the individual or the written permission of the parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

FAMILY. A single individual (see I.C. 22-9.5-2-9), with the status of the family being further defined in the definitions of **FAMILIAL STATUS**. Also, pursuant to 24 C.F.R. Part 5, the definition of **FAMILY** is revised to include families regardless of the actual or perceived sexual orientation, gender identity, or marital status of its members.

HANDICAP. With respect to a person:

(1) A physical or mental impairment which substantially limits 1 or more of the person's major life activities;

(2) A record of having such an impairment;
or

(3) Being regarded as having such an impairment.

(4) An impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990.

(5) Any other impairment defined under I.C. 22-9.5-2-10.

(6) The term **HANDICAP** shall not include current illegal use of or addictions to a controlled substance as defined in 21 U.S.C. § 802 (see I.C. 22-9.5-2-10(b)); nor does the term **HANDICAP** include an individual solely because that individual is a transvestite (see I.C. 22-9.5-2-10(c)).

PERSON. Includes 1 or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, non-incorporated organizations, trustees, trustees in cases under U.S.C., Title 11, receivers, and fiduciaries. (See I.C. 22-9.5-2-11.)

TO RENT. To lease, to sublease, to let and otherwise to grant for a consideration the rights to occupy the premises owned by the occupant. (See I.C. 22-9.5-2-13.)
(Res. 2012-13, passed 11-29-2012)

CHAPTER 92: NUISANCES

Section

General Provisions

- 92.01 Nuisances prohibited
- 92.02 Violations

Noise Control

- 92.15 Definitions
- 92.16 Acts prohibited
- 92.17 Exemptions
- 92.18 Special permits
- 92.19 Presumptions
- 92.20 Enforcement

- 92.99 Penalty

(D) The failure of any person to cut and remove weeds and other rank vegetation upon his or her property; or

(E) Pursuant to federal and state regulations, the spraying of herbicides, pesticides or other agents which might cause toxic or allergic reactions among neighboring residents without prior notification to same and/or in harmful concentrations will also be considered as a nuisance. Whenever such nuisance is observed, town personnel shall investigate and document details, serving notice to landowner and/or resident of ordinance violation.
(Ord. 1978-2, passed 6-5-1978; Am. Ord. 1991-4, passed 9-26-1991)

GENERAL PROVISIONS

§ 92.01 NUISANCES PROHIBITED.

Pursuant to I.C. 36-8-2-4, it is hereby declared that the following activities, when conducted within the town limits constitute a nuisance:

(A) The collection of any offal, filth or noisome substance in any place to the damage or prejudice of others or the public;

(B) The obstruction or encumbrance by fences, buildings, structures or otherwise, of any public grounds, by an individual, so as to injure the property of another;

(C) The maintenance of any structure or building which has fallen into such a state of disrepair as to endanger the public and passers-by;

§ 92.02 VIOLATIONS.

(A) Whenever any of the above shall occur, 2 consecutive 5-day notices to remove the nuisance shall be issued by the Clerk-Treasurer of the town and served by the town and served by the Town Marshal upon the landowner, if he or she is a resident, or by registered mail addressed to the landowner's last known address, if he or she is a nonresident.

(B) If the landowner fails to remove the nuisance within the time prescribed, the Town Board may remove the nuisance, and the Clerk-Treasurer of the town shall, at the direction of the Board at the regular Board meeting, make a certified statement of the actual cost incurred by the town in the removal. The statement shall be delivered to the owner of the real estate by the Town Marshal, or by registered mail, and the owner shall have not more than 10 days within which to pay the amount to the Clerk-Treasurer.

(C) If the landowner fails to pay the sum within the time prescribed, a certified copy of the statement of the costs shall be filed in the Auditor's Office of the county wherein the real estate is located, and the Auditor shall place the amount claimed on the tax duplicate against the lands of the landowner affected by the work, and the amount shall be collected as taxes are collected, and when collected shall be dispersed to the General Fund of the town.

(D) If the landowner and/or resident fails to heed a first warning of violation, or is deemed to be flagrantly irresponsible or incompetent in the use of the agents described in § 92.01(E), then further legal action will be pursued against the landowner and/or resident through the Town Attorney. (Ord. 1978-2, passed 6-5-1978; Am. Ord. 1991-4, passed 9-26-1991)

NOISE CONTROL

§ 92.15 DEFINITIONS.

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

MODIFIED EXHAUST SYSTEM. Any exhaust system in which the original noise abatement devices have been removed, altered or replaced to produce more noise. The officer may use any other state or federal regulations that may apply.

MUFFLER. Any device used upon a motor vehicle whose purpose is the deadening of the combustion noises of any engine thereon, or the deadening of any other motor noises, including but not limited to the noise of exhaust gases, or any other mechanical device for the deadening of the noise and intake gases upon a motor vehicle.

NOISE. Sound that is of a volume, frequency, or pattern that prevents, disrupts, injures, or

endangers the health, safety, welfare, prosperity, comfort or repose of reasonable persons, including law enforcement officers.

PARKING AREAS. Both public and private locations where motor vehicles are permanently or temporarily located, with or without charge.

PERSON. An individual, firm, association, co-partnership, joint venture, corporation, or any entity, public or private in nature.

PUBLIC WAY. Any street, roadway, alley, sidewalk, or other area deeded or dedicated for public travel or transportation services. (Ord. 2012-14, passed 10-18-2012)

§ 92.16 ACTS PROHIBITED.

It shall be unlawful under this subchapter to:

(A) Intentionally create noise as defined in § 92.15, or to allow others to do so on property owned and controlled by a person;

(B) Intentionally create noise after being requested to stop by a law enforcement officer;

(C) It shall be unlawful for any person to operate a truck, motor vehicle, motorcycle or motorized bicycle, which causes noise as a result of a defective or modified exhaust system(s) or as a result of rapid acceleration, de-acceleration, engine revving or cause tire squeal, sliding or skidding. This also includes "blipping", "racking" and use of compression braking;

(D) Except as used for warning purposes, it shall be a violation of this chapter for any person to use, operate or sound any horn or signaling device on any motor vehicle in any public street or public place in the town for any unreasonable period of time;

(E) To play, use, or operate or allow to be played, used or operated in any motor vehicle on a public way or parking area any radio, television,

digital media player, loudspeaker, sound amplifier, musical instrument, or any other machine or device for producing or reproducing sound at a volume that is louder than necessary for the convenient hearing of persons who are inside the vehicle within which the device is played, used or operated. Sound that is clearly audible 25 feet from the vehicle is prima facie evidence of a violation of this action;

(F) In a residential district (R1, R2) it shall be a violation of this subchapter to play, use, operate or allow to be played, used, or operated a radio, television, digital media player, loudspeaker, sound amplifier, musical instrument, or any other machine or device for producing sound in a manner that the sound produced persists continuously, intermittently and can be heard outside the immediate premises where it is being produced, and is an annoyance to another person or persons. It is prima facie evidence of a violation of this section if the sound is audible from any place outside the premises where it is being produced, and it continues after the person is advised by a law enforcement officer to abate or diminish the sound.

(G) In a business district (B1, B2, B3, RB), it shall be a violation of this chapter to play, use, operate or allow to be played, used, or operated a radio, television, digital media player, loudspeaker, sound amplifier, musical instrument, or any other machine or device for producing sound in a manner that the sound produced can be heard at a location 25 feet or more from the immediate premises where it is being produced, and is any annoyance to another person or persons. It is prima facie evidence of a violation of this section of the sound is audible 25 feet or more from the premises where it is being produced, and it continues after the person is advised by a law enforcement officer to abate or diminish the sound;

(H) It shall be a violation of this subchapter for any person or persons to create any loud, disturbing, or offensive noise on any street, sidewalk or public place except as listed in the exemptions in § 92.17; and

(I) To allow an animal or bird kept as a pet to make continuous noise as defined in § 92.15.
(Ord. 2012-14, passed 10-18-2012)

§ 92.17 EXEMPTIONS.

The following uses and activities shall be exempt from the provisions of this chapter:

(A) Non-amplified crowd noises resulting from legal activities;

(B) Construction operations for which building permits have been issued or for which a permit is not required under the following conditions and with the following exceptions:

(1) Because of the loud and unusual sounds, and the ground vibrations associated with pile drivers, excavating equipment, pneumatic hammers, and diesel gasoline hoists, the operation of this equipment shall be exempt only when it occurs between the hours of 7:00 a.m. and 8:00 p.m. or when allowed by a special permit.

(2) In order to be exempt, all equipment used in the operations shall be operated with the manufacturer's mufflers and noise reducing equipment in use and in proper operating conditions.

(C) Noises of safety signals, warning devices, and emergency pressure relief valves;

(D) Noises resulting from any authorized emergency, fire or police vehicle when responding to an emergency call, acting in time of emergency or in connection with official Police or Fire Department business;

(E) Noises resulting from emergency work;

(F) Reasonable noises made by churches between the hours of 7:00 a.m. and 8:00 p.m.;

(G) Noises resulting from burglar alarms and other warning devices when properly installed, providing the cause for the alarm or warning device sound is investigated and turned off within a reasonable period of time;

(H) Noises resulting from rubbish collection utilizing any mechanical equipment between the hours of 6:00 a.m. and 5:00 p.m. only;

(I) Noises associated with equipment or animals lawfully utilized by persons with disabilities to accommodate their disability;

(J) Noises associated with legal consumer fireworks used during the times state law prohibits regulations by municipalities, which are as follows:

(1) Between the hours of 5:00 p.m. and 2 hours after sunset on June 29, June 30, July 1, July 2, July 3, July 6, July 7, July 8, and July 9.

(2) Between the hours of 10:00 a.m. and 11:00 p.m. on July 4.

(3) Between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1.

(K) Any other noise resulting from activities of a temporary duration permitted by law and for which permit has been granted by the town. Regulation of noises emanating from operations under permit shall be according to the conditions and limits stated in the permit.

(Ord. 2012-14, passed 10-18-2012)

§ 92.18 SPECIAL PERMITS.

The Town Council may authorize civic event permits.

(Ord. 2012-14, passed 10-18-2012)

§ 92.19 PRESUMPTIONS.

(A) An act shall be presumed to be intentional if it occurs or persists after the actor has been asked to stop.

(B) Repeated violations of this subchapter shall be deemed a nuisance and may be subject to all legal and equitable remedies including damages and injunction. Any aggrieved person may bring action under this presumption.

(Ord. 2012-14, passed 10-18-2012)

§ 92.20 ENFORCEMENT.

(A) In order to facilitate the prosecution of this subchapter, any person making a complaint hereunder shall be required to give his or her name, address and telephone number at the time of making the complaint.

(B) Making unreasonable noise and continuing to do so after being asked to stop may be a criminal act (Class B Misdemeanor) in violation of I.C. 35-45-1-1.

(C) The Town Marshal is empowered to enforce this subchapter by written warning, citation for fines or arrest if the actor's conduct violates I.C. 35-45-1-1 or any other state statute.

(D) The Town Council or any aggrieved person may bring action to enjoin repeated violations of this subchapter.

(Ord. 2012-14, passed 10-18-2012)

§ 92.99 PENALTY.

Violations of § 92.15 through § 92.20 shall be punished by fines according to the following schedule:

(A) First violations: \$50.

(B) Second violation within 12 months: \$100.

(C) Third violation within 12 months: \$200.

(D) Fourth and subsequent violations: \$500.

(E) Each day that the violation occurs or persists shall be deemed a separate violation for the purpose of assessing fines. Fines must be paid or appealed to the Town Council in writing within 5 days. The fine shall be paid to the town at 200 Commercial St., Box 446, Nashville, Indiana 47448. Decisions on appeal to the Town Council shall be final unless appealed pursuant to I.C. 4-21.5-5-1 within 30 days of the decision. (Ord. 2012-14, passed 10-18-2012)

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CHAPTER 93: STREETS AND SIDEWALKS

Section

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93.002	Use of skateboards and roller skates		
93.003	Sidewalks out of repair		
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93.005	Allowing filthy or noisome liquid to flow on streets	93.055	Permit required for transport of equipment
93.006	Duty of abutting property owner to keep sidewalk clean	93.056	Restoration of damage
93.007	Snow and ice removal; duty of abutting property owner	93.057	Compliance with federal and state law
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93.009	Obstructing gutters	93.059	Use of grade; obstruction of traffic; storage of equipment
		93.060	Removal of dirt and materials
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	<i>Cutting, Obstructing or Altering Rights-of-Way</i>		
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		93.095	Truck loads causing litter
		93.096	Litter in private places
		93.097	Owner to maintain premises free of litter
		93.999	Penalty

GENERAL PROVISIONS**§ 93.001 OBSTRUCTING OR DRIVING ON SIDEWALKS.**

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

SIDEWALK. Any portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians, excluding parkways.

(B) No person shall obstruct or interfere in any way with the free use of any sidewalk area.

(C) The driver of any vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway. In no event shall the driver of any vehicle park within any sidewalk area.
(Ord. 4-3-68, passed 5-6-1968) Penalty, see § 93.999

§ 93.002 USE OF SKATEBOARDS AND ROLLER SKATES.

(A) No person shall ride or otherwise operate a skateboard on the public streets, public sidewalks or public rights-of-way in the town.

(B) No person shall ride or otherwise operate roller skates on the public streets, public sidewalks, or public rights-of-way in the town.

(C) The Town Marshal or his or her deputy is hereby authorized to enforce the provisions of this section.
(Ord. 1989-7, passed 7-20-1989) Penalty, see § 93.999

§ 93.003 SIDEWALKS OUT OF REPAIR.

Every owner of any house or other building and any owner of any vacant lot within the town shall keep the sidewalks in front of the house, building or vacant

lot in repair. Any person neglecting or refusing to comply with the provisions of this section, or neglecting or refusing to put the sidewalk in front of any house, building or vacant lot owned or occupied by him or her in repair, after having received notice from the Town Manager to do so, shall be subject to general penalty provisions of this code. Should the town find it necessary to make repairs to any sidewalk, it shall be the duty of the property owner to reimburse the town for that expense, and the making of these repairs shall in no manner be construed as relieving the property owner from his absolute and total liability for any and all claims that may result from the sidewalk being out of repair.

(Ord. 4-6-70, passed 4-6-1970; Am. Ord. 1996-2, passed - -) Penalty, see § 93.999

§ 93.004 DISCHARGE OF WATER ON SIDEWALK.

It is unlawful for any person owning or controlling any building in the town adjacent to an improved sidewalk to permit water to run from a downspout attached to the building onto and over the sidewalk.

(Ord. 1996-2, passed - -) Penalty, see § 93.999

§ 93.005 ALLOWING FILTHY OR NOISOME LIQUID TO FLOW ON STREETS.

It is unlawful for any person to cause or permit the flow or stagnation of any filthy or noisome liquid or substance upon any street, alley, other public place or into any stream in the town.

(Ord. 1996-2, passed - -) Penalty, see § 93.999

§ 93.006 DUTY OF ABUTTING PROPERTY OWNER TO KEEP SIDEWALK CLEAN.

It shall be the duty of every owner of real estate within the town to keep the sidewalk fronting upon that real estate reasonably clean and free from all dirt, filth or litter that may be washed or deposited thereon.

(Ord. 1996-2, passed - -)

§ 93.007 SNOW AND ICE REMOVAL; DUTY OF ABUTTING PROPERTY OWNER.

It shall be the duty of every owner of any premises abutting a sidewalk in the town to remove, or cause to be removed, all snow and ice from the sidewalk to its full paved width within 24 hours after snow or ice has ceased to fall or in any way accumulate. Where the ownership of the premises abutting a sidewalk is being transferred by means of a sales contract that has been recorded in the office of the county, the purchaser of the premises shall be considered the owner for purposes of this section. (Ord. 1996-2, passed - -)

§ 93.008 SNOW AND ICE REMOVAL; FAILURE TO REMOVE.

(A) If the owner of any premises abutting a sidewalk fails to remove or cause to be removed snow and ice as required in § 93.007, the owner shall be issued a notice of ordinance violation and may be fined \$25 for failure to comply with any provision of § 93.007. In the event payment is not made within the time designated, court proceedings may be initiated by the Town Attorney.

(B) Each day a violation of § 93.007 continues after the owner has been notified of the violation shall constitute a separate violation.

(C) (1) Instead of or in addition to imposing the fine set forth above, the town may, at its discretion, remove or contract for the removal of the snow, and the Clerk-Treasurer of the town shall make a certified statement of the costs incurred by the town in the removal. The statement shall be delivered to the owner of the property by the Town Marshal, or by certified mail, and the owner shall have 10 days within which to pay the amount to the Clerk-Treasurer.

(2) If the property owner fails to pay the sum within the time prescribed, a certified copy of the statement of costs shall be filed in the County Auditor's Office of the county where the real estate is located, and the Auditor shall place the amount

claimed on the tax duplicate against the lauds of the owner affected by the work, and the amount shall be collected as taxes are collected, and when collected shall be disbursed to the General Fund of the town. (Ord. 1996-2, passed - -; Am. Ord. 2007-03, passed 6-21-2007)

§ 93.009 OBSTRUCTING GUTTERS.

It is unlawful for any person to obstruct any gutter in any manner with planks, timbers, pipe, bridge or other material or design. (Ord. 1996-2, passed - -) Penalty, see § 93.999

CUTTING, OBSTRUCTING OR ALTERING RIGHTS-OF-WAY

§ 93.015 APPLICABILITY.

(A) *Permit to cut required.* No person, organization, group or association shall cut into, under or over, or otherwise alter any public right-of-way of the town without first obtaining from the Town Superintendent a permit to cut into a public right-of-way.

(B) *Permit to obstruct public right-of-way required.* No person, organization, group or association shall obstruct any public right-of-way of the town for a period exceeding 15 minutes without first obtaining from the Town Superintendent a permit for temporary obstruction. (Ord. 1993-2, passed 5-6-1993) Penalty, see § 93.999

§ 93.016 ENFORCEMENT, FORCE AND EFFECT.

(A) *Enforcement agent.* This subchapter shall be enforced by the Town Superintendent or his or her designated agent. Each person charged with enforcement of this subchapter shall have the power and authority to issue all orders and give notice of violations as are designated under this subchapter.

(B) *Suspension or revocation of permit.* Any violation of this subchapter by the holder of a permit issued hereunder shall be grounds for suspension or revocation of the permit by the Town Superintendent.

(C) *Force and effect.* This subchapter shall be in full force and effect from and after its passage by the Town Council.

(Ord. 1993-2, passed 5-6-1993)

§ 93.017 PERMIT APPLICATION AND FEES.

(A) *Application; fee.* Before issuing a permit to cut, obstruct or otherwise alter any public right-of-way, the Town Superintendent shall first receive from each applicant a completed application to cut, obstruct or otherwise alter, along with the required fee of \$35 and any required bond as set forth on the application to cut, obstruct or otherwise alter a public right-of-way.

(B) *Fee waivers.* Not-for-profit organizations may be excluded from any permit fee and/or bond requirements at the discretion of the Town Council.

(Ord. 1993-2, passed 5-6-1993)

§ 93.018 TERM OF PERMIT.

Each permit to cut, obstruct or otherwise alter any public right-of-way shall be in full force and effect according to provisions dictated by the permit.

(Ord. 1993-2, passed 5-6-1993)

§ 93.019 DISPLAY OF PERMIT.

Each permittee shall display the permit to any town agent upon request.

(Ord. 1993-2, passed 5-6-1993) Penalty, see § 93.999

§ 93.020 TRAFFIC-CONTROL PLAN.

(A) Before a permit shall be issued to cut, obstruct or otherwise alter any portion of a public

right-of-way, a traffic-control plan shall be submitted to the Town Superintendent or his or her agent. The obstruction of the public right-of-way shall not begin until the traffic-control plan is approved.

(B) An acceptable traffic-control plan shall include but not be limited to the following items:

(1) The traffic-control plan shall demonstrate compliance with street construction and maintenance operations as set forth in the state manual on Uniform Traffic Control Devices for Streets and Highways.

(2) Provide for properly working devices at the site, particularly when site is unattended.

(3) Provide for the documentation of all actions taken on or related to traffic controls that are placed in effect at the worksite.

(4) Provide for the documentation of permittee's or his or her authorized agent's inspection of the worksite at frequent intervals with special attention to detecting and immediately correcting deficiencies in the traffic-control plan.

(5) Provide for the removal of all unnecessary materials and provide protection to motorists, pedestrians and workers to prevent potential conflicts and hazards that may result from work being done at the site.

(6) Provide a diagram indicating placement of the traffic-control devices and proposed traffic flow patterns.

(7) The permittee shall provide a list of all potentially affected persons.

(Ord. 1993-2, passed 5-6-1993) Penalty, see § 93.999

§ 93.021 BONDS.

(A) The permittee shall post a performance bond in an amount set by the Town Superintendent, but the bond shall not be less than \$1,000.

(B) Before a permit shall be issued or renewed, the applicant therefore shall post or maintain with the Town Superintendent either an indemnity bond or a policy of public liability insurance, approved as to form by the Town Attorney and conditioned substantially that the permittee will indemnify and hold harmless the town, its Council members, agents and employees, from any and all loss, costs, damages or expenses, by reason of legal liability which may result from or arise out of the granting of the permit for the operations for which a permit is issued, and that the permittee will pay any and all loss or damage that may be sustained by any person resulting from or arising out of the legal or negligent acts of the permittee. The bond or policy of insurance shall be maintained in its original amount by the permit at their expense at all times during the period for the which the permit is in effect. In the event that 2 or more permits are issued to 1 permittee, 1 such bond or policy of insurance may be furnished to cover 2 permits, and each bond or policy shall be of a type where coverage shall automatically be restored after the occurrence of accident or event from which liability may thereafter accrue.

(C) The limit of liability upon any bond or policy posted shall in no case be less than \$100,000 for death or injury of 1 person, \$500,000 for total liability for death or personal injury arising out of any 1 event or casualty and \$100,000 for property damage.

(D) Any bond posted pursuant to this section shall be accompanied by good and sufficient sureties approved by the Clerk-Treasurer.
(Ord. 1993-2, passed 5-6-1993) Penalty, see § 93.999

§ 93.022 NOTICE OF CLAIM.

The Town Superintendent shall notify the permittee under this subchapter of any claim of which the town has notice, where the claim arises from the operations granted by the issuance of the permit.
(Ord. 1993-2, passed 5-6-1993)

§ 93.023 PUBLIC HEARING.

(A) *Notice required.* The Town Superintendent shall give public notice of any right-of-way permit given for a period exceeding 1 day. All potentially affected persons listed as part of the traffic-control plan shall be contacted by certified mail, cost of which shall be born by the permittee.

(B) *Hearing.* The Town Superintendent shall upon receipt of a petition by a potentially affected person set a hearing date to evaluate the concerns listed in the hearing petition.
(Ord. 1993-2, passed 5-6-1993)

§ 93.024 MODIFICATION OF PERMIT CONDITIONS.

Upon hearing the concerns listed by the potentially effected person, the Town Superintendent shall review and incorporate the relevant comments in the right-of-way permit.
(Ord. 1993-2, passed 5-6-1993)

§ 93.025 REQUIREMENTS TO BE MET.

Before a permit shall be issued to cut, obstruct or otherwise alter any portion of the public right-of-way, the following general provisions must be observed.

(A) All work described in the permit shall be subject to the inspection of any town agent and the permittee shall adjust or stop operations upon direction of any police officer or town agent employee.

(B) The permit may be rescinded at any time by the Town Superintendent for noncompliance with any and/or all provisions of the permit.

(C) The permittee shall notify the Town Superintendent 5 working days preceding the beginning of any work activity.

(D) The permittee shall notify the Town Superintendent that the work is complete and this notice is to be provided within 7 days from completion of all work on this permit.

(E) The permittee shall have the permit complete with drawings and special provisions in their possession during work operations and will show the permit, on demand, to any police officer or other town agent.

(F) The permit is valid through the stated expiration date. If work is not completed within the allotted time, the permit expires. An extension may be requested prior to the expiration date and the request may be approved by the Town Superintendent upon a showing of good cause. If a permit has expired, a new application must be submitted and approved before the proposed work can be resumed.

(G) The permittee shall erect and maintain all necessary signs, barricades, detour signs, and warning devices required to safely direct traffic over or around the part of the highway where permitted operations are to be done, so long as the work does not interfere with traffic, in accordance with Indiana Manual of Uniform Traffic Control Devices.

(H) All construction and materials used within the public right-of-way must conform to the current Indiana Department of Transportation “Standard Specifications” and any special provisions indicated on permit with the permittee being considered in the same status as the contractor.

(I) The permitted operations shall not interfere with any existing structure on the town right-of-way without specific permission in writing from the Town Superintendent. In the event that any buildings, railings, traffic-control devices or other structures are damaged, the cost of the removal and/or damage shall be borne by the permittee.

(J) This permit does not apply to any town rights-of-way that are closed for construction purposes by the town.

(K) Approval of the permit application shall be subject to the permittee obtaining all necessary authorizations from local authorities and complying with all applicable laws. The issuance of the permit shall in no way imply the town approval of, or be intended to influence any action pending before a local board, commission or agency.

(L) In accordance with the notice requirements of this permit, any objection to the conditions and provisions of an approved permit must be submitted in writing to the town.
(Ord. 1993-2, passed 5-6-1993) Penalty, see § 93.999

§ 93.026 OFFICIAL WARNINGS.

Those charged with violating the provisions of this subchapter may at the discretion of the enforcing agent be issued an official warning advising them of their violation of the provisions. If an official warning is issued, it shall be considered as affording the violator 1 opportunity to comply with this subchapter’s provision. An official warning shall be issued by any person charged with enforcing this subchapter.
(Ord. 1993-2, passed 5-6-1993)

SIDEWALK CONSTRUCTION

§ 93.040 COMPLIANCE TO PLANNING AND ZONING COMMISSION.

All future construction of sidewalks must comply with construction requirements mandated by the Town Superintendent or Planning and Zoning Commission, the construction being specifically of concrete, 5 feet in width unless otherwise required or waived by the Town Superintendent or the Planning and Zoning Commission, and meeting all other requirements conforming with the State Building Handbook or other official reference manuals.

(Res. 1989-4, passed - -1989)

§ 93.041 CONSTRUCTION PLANS.

Plans for new building construction presented to the Planning and Zoning Commission for a building permit must include plans for sidewalks meeting the required specifications, and construction can be waived only by Planning and Zoning or the Town Superintendent.

(Res. 1989-4, passed - -1989)

§ 93.042 REQUEST TO CONSTRUCT SIDEWALKS AT EXISTING BUILDINGS.

For safety reasons and to limit liability in the event of accidents, construction of sidewalks and/or curblines at existing building sites may be required by request of the Town Board, and a Barrett Assessment may be used if necessary to expedite the improvement.

(Res. 1989-4, passed - -1989)

§ 93.043 MATERIALS.

New or replacement sidewalk construction of wood, asphalt, or brick material is specifically banned on the public right-of-way due to safety hazards associated with the surface.

(Res. 1989-4, passed - -1989)

STANDARDS FOR STREET CONSTRUCTION

§ 93.055 PERMIT REQUIRED FOR TRANSPORT OF EQUIPMENT.

Use of any town street for transport of any equipment or materials for development, construction or any other purposes where street or infrastructure damages may occur shall require a permit, as follows:

(A) *Permit fee.* Any person desiring to use town streets as access to the development of property shall pay to the Clerk-Treasurer for the required permit the sum of \$25 per site.

(B) *Bond required; amount; conditions.* At the time of filing and fee payment, the person desiring use shall also file a bond or insurance certificate payable to the town in the sum designated by the Town Superintendent and/or Town Engineer as applicable to cover any specific damages which might occur in the street right-of-way, including infrastructure, water mains, sewer interceptors, or any other utilities for which the town might otherwise be held liable.

(C) *Bonds.* Bonds shall be filed with the Town Clerk-Treasurer and shall be conditioned to save the town harmless from any loss, cost or damage by reason of the proposed work, and that the same shall be done in all respects in conformity to the requirements of this subchapter and all other ordinances of the town regulating same. The bond or insurance certificate shall embrace all work of the permittee for a period of time between the date of execution of the same and 1 year from the date of completion of the project.

(D) *Effective date.* The permit shall be effective and shall expire on dates as specified by the Town Superintendent at time of filing.
(Ord. 1991-6, passed 2-20-1992)

§ 93.056 RESTORATION OF DAMAGE.

The person to whom a permit is issued under the provisions of this subchapter shall properly restore or

cause to be restored all damages incurred under the permit in the manner and following specifications required by the Town Superintendent and/or Town Engineer. In the event of the permittee's failure to do so, the town may restore the damages or employ another contractor to do so, at the expense of the permittee, the expense to be deducted from the bond or insurance certificate. In addition, the town may take such civil action as provided by law, including, but not limited to, imposition of penalties or other relief as provided for herein. In the event reinspection of repaired damages is required as result of noncompliance with any section contained herein, a reinspection fee in the amount of \$50 may be charged by the Town Superintendent and/or Town Engineer for each day the work remains unfinished beyond the specified completion time.

(Ord. 1991-6, passed 2-20-1992)

§ 93.057 COMPLIANCE WITH FEDERAL AND STATE LAW.

The permittee shall keep fully informed of federal and state laws; local laws; ordinances; and regulations, orders, and decrees of bodies or tribunals having any jurisdiction or authority which in any manner affect those engaged or employed on the work or which in any way affect the conduct of the work. He or she shall at all times observe and comply with all such laws, ordinances, regulations, orders and decrees.

(Ord. 1991-6, passed 2-20-1992)

§ 93.058 WEIGHT RESTRICTIONS.

The permittee shall restrict gross weight loads on town streets to no more than 15 tons unless otherwise specifically permitted by Town Superintendent and/or Town Engineer. He or she shall constantly monitor street condition for any sign of material fatigue or failure and report same to the town. Where any initial minor damage appears, the permittee shall minimize same by reducing weight loads and/or otherwise altering operations to control.

(Ord. 1991-6, passed 2-20-1992)

§ 93.059 USE OF GRADE; OBSTRUCTION OF TRAFFIC; STORAGE OF EQUIPMENT.

The permittee shall arrange work so that all operations on the pavement will be held to a minimum by using the new grade insofar as possible. The work shall be conducted in a manner that will ensure the least obstruction to traffic so as to cause only such inconvenience to the traveling public and residents as is considered unavoidable. There shall be no storage or placement of nonoperating construction equipment, workers' vehicles, materials, field offices, and the like within 10 feet of the town right-of-way or within 10 feet of adjacent residential property line.

(Ord. 1991-6, passed 2-20-1992)

§ 93.060 REMOVAL OF DIRT AND MATERIALS.

Provisions shall be made for prompt removal from traveled roadways of all dirt and other materials that have been deposited thereon by operations concerned with the project whenever the accumulation is sufficient to cause the formation of dust or mud, interfere with drainage, damage pavements or create a traffic hazard. Construction methods and means shall be employed to keep flying dust and air pollution to a minimum.

(Ord. 1991-6, passed 2-20-1992)

§ 93.061 PUBLIC STREET INSPECTIONS.

(A) The construction of all streets in the town and any outlying streets scheduled for public dedication shall be reviewed by the Town Superintendent or designated Street Inspector. The minimum acceptable standard, for local streets, is 1 inch asphalt surface (110#/syd) on 2 inches asphalt base (220#/syd) on 7 inches compacted aggregate (No. 2 and/or No. 53 at 0.3888 tons/syd) on a smooth subgrade. Three inspections will be required.

(1) *Subgrade inspection.* The subgrade will be inspected prior to placement of stone. It will be

inspected for compaction, wetness and proper depth from finish grade. The curb and gutter will also be inspected at this time.

(2) *Base inspection.* Prior to placing asphalt base, the depth of stone will be inspected.

(3) *Asphalt inspection.* Prior to placement of asphalt surface.

(B) Final road inspection will be done as part of the final site inspection to be done prior to acceptance. (Ord. 1991-6, passed 2-20-1992)

ACCESS STANDARDS

§ 93.075 APPLICATION.

This subchapter shall apply to all persons, firms, partnerships, associations, corporations, companies or organizations of any kind in the town limits hereafter referred to as "citizens."

(Ord. 1988-15, passed - -1988)

§ 93.076 PURPOSE.

The purpose of this subchapter is to regulate access to all streets, alleys and other public rights-of-way in the town limits, to ensure proper traffic flow conformance with established standards and adequate drainage.

(Ord. 1988-15, passed - -1988)

§ 93.077 ACCESS STANDARDS; PRIVATE DRIVE.

(A) No private drive or other access way shall be made onto any town street, without a specific permit being first duly obtained from the Street Department for that particular drive or access at that particular location.

(B) No entrance shall be closer than 5 feet to the adjacent property line, and no approach shall be so constructed that any part of the same extends in front of property belonging to a person other than the permittee, unless both owners sign a joint application for a permit, except for deceleration lanes, acceleration lanes or passing lanes, as required by the Street Department.

(C) All drainage pipes or tiles used in the construction of driveways and approaches shall be a minimum of 12 inches in diameter and as much larger than the Street Department shall deem necessary for proper drainage, and on all new driveways and approaches shall be furnished by the permittee. All pipe or tile and other drainage structures used shall meet the approval of the Street Department as to type, quality, size and length.

(D) All driveways and approaches shall be so constructed that they shall not interfere with drainage of or cause erosion to the street. If it is proposed to construct any portion of an approach on a slope or grade greater than 15%, the grade or slope shall be designated on the application. If no designation or grade is shown on the application, the approach shall not be constructed on a grade greater than 15%.

(E) All disturbed areas shall be fertilized and seeded or sodded to prevent erosion.

(F) That the construction of these driveways and approaches shall not interfere with any existing structure utility or any town right-of-way without specific permission in writing from the Town Superintendent or other owner thereof.

(G) All entrances and approaches shall be so located as to provide adequate sight distance in both directions along the street for safe access to the street without interfering with traffic on the street.

(H) No entrance or approach shall be located or constructed so as to interfere with or prevent the proper location of necessary street signs.

(I) The permittee shall assume responsibility for all maintenance of such approaches from the right-of-way line to the edge of the traveled street.

(J) No entrance or approach shall be relocated or its dimensions altered without written consent of the Town Superintendent.

(K) The permittee shall assume all responsibility for any injury or damage to persons or property resulting directly or indirectly from the construction of any approach or driveway.

(L) The permittee shall remove or relocate any entrance or approaches when requested to do so by the Town Superintendent in the interest of safety to town street traffic. For the purpose of road or bridge construction or improvements, the driveway entrances and approaches shall be removed at any time upon the request of the Town Superintendent. Driveway entrances and approaches may be rescinded at any time by the Town Superintendent. Driveway entrances and approaches must be complete within 1 year after the permit is issued. Otherwise, their permit will be cancelled.

(M) The right-of-way area adjacent to or between the approaches may be graded at the permittee's expense, subject to drainage requirements as determined by the Town Superintendent. The permittee may plant in this area grass, flowers, or low-growing shrubs that never attain sufficient height to obstruct clear vision in any direction or interfere with drainage, so long as they are in compliance with all other applicable law, ordinances or regulations.

(N) All work shall be done in accordance with the approved plans and the latest issue of the State Highway Standard Specifications, and shall meet the approval of the Town Superintendent.

(O) No driveway or other vehicle access road onto a town street shall be less than 10 feet in width as measured along the private property line for a single-family residential access, or less than 24 feet as measured along the private property line for all other

accesses. The drainage pipe shall be exposed at least 12 inches at each side of the driveway or access road unless approved otherwise, in writing in advance, by the Town Superintendent.

(Ord. 1988-15, passed - -1988)

§ 93.078 EXISTING PRIVATE DRIVES.

(A) The Town Superintendent may require the removal and replacement of existing private drives and/or the drainage pipe and tiles for existing private drives when necessary to ensure proper drainage or in the interest of safety to town street traffic in accordance with the access standards set forth in § 93.077.

(B) The cost of all drainage pipes or tiles required by the Town Superintendent to be replaced shall be paid by the property owner.

(C) The Town Superintendent may furnish such assistance as may be necessary for the removal and replacement of existing drives and/or the drainage pipes and tiles, such as technical assistance, equipment and grading.

(D) All work on existing drives shall be in accordance with the access standards set forth in § 93.077 and shall be acceptable to and approved by the Town Superintendent.

(Ord. 1988-15, passed - -1988)

§ 93.079 PERMIT APPLICATION.

(A) No person shall cut, dig, trench or otherwise interfere with the surface or subsurface of any town street which is a part of the town street system or the easement adjacent to any street, unless the person shall first obtain a permit from the Town Superintendent.

(B) A form shall be developed and used for the application by any person seeking a permit to construct a driveway onto any town street, or on the right-of-way adjacent thereto.

(Ord. 1988-15, passed - -1988)

§ 93.080 PERMIT FEES.

The following schedule of fees shall be charged for driveway permits onto the town streets:

<i>Type</i>	<i>Fee</i>
Private drive	\$5
Commercial drive	\$50
Subdivision entrance	\$150

(Ord. 1988-15, passed - -1988)

LITTER

§ 93.090 DEFINITIONS.

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

GARBAGE. Rejected food wastes and shall include every waste, accumulation of animal, fruit or vegetable matter used or intended for food or used in the preparation, use, cooking, sale or storage of meat, fish, fowl, vegetables or fruits.

LITTER. Garbage and rubbish as these terms are commonly used as defined herein, newspapers, handbills, circulars, paper and plastic waste items, food wrappers and beverage containers, and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

RUBBISH. Such matter as ashes, cans, metalware, broken glass, crockery, foul and filthy substances, dirt, sweepings, boxes, wood, grass, weeds and waste matter of any kind.

(Ord. 2013-07, passed 8-15-2013)

§ 93.091 LITTER IN PUBLIC PLACES.

No person shall throw or deposit litter in or upon any street, sidewalk, or other public place within the town except in public receptacles or in authorized private receptacles for collection.
(Ord. 2013-07, passed 8-15-2013)

§ 93.092 PLACEMENT OF LITTER IN RECEPTACLES SO AS TO PREVENT SCATTERING.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.
(Ord. 2013-07, passed 8-15-2013)

§ 93.093 SWEEPING LITTER IN GUTTERS PROHIBITED.

No person shall sweep into or deposit in any gutter, street, or other public place within the town the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.
(Ord. 2013-07, passed 8-15-2013)

§ 93.094 LITTER THROWN FROM VEHICLES.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the town, or upon private property.
(Ord. 2013-07, passed 8-15-2013)

§ 93.095 TRUCK LOADS CAUSING LITTER.

No person shall drive or move any truck or other vehicle within the town unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any

street, alley, or other public place. No person shall drive or move any vehicle or truck within the town, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.
(Ord. 2013-07, passed 8-15-2013)

§ 93.096 LITTER IN PRIVATE PLACES.

No person shall throw or deposit litter in or upon any private property within the town, whether owned by such person or not, except that the owner or person in control of private property may maintain private receptacles for collection in such manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.
(Ord. 2013-07, passed 8-15-2013)

§ 93.097 OWNER TO MAINTAIN PREMISES FREE OF LITTER.

The owner or person in control of any private property shall at all times maintain the premises free of litter, provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.
(Ord. 2013-07, passed 8-15-2013)

§ 93.999 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 \$2,500. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(B) Any person guilty of violating § 93.001 of this chapter, may, within 24 hours of the time a notice is given, pay to the Clerk-Treasurer as a penalty for, and in full satisfaction of the violation the sum of \$5. All monies paid under this provision for violation of those sections shall be deposited to the credit of the

town and in the General Fund. The failure of the person to make the payment within 24 hours shall constitute a misdemeanor. Any person who is convicted of a misdemeanor under the terms of this division (B), shall be punished by a fine not exceeding \$300 or by imprisonment not exceeding 6 months, or both.

(Ord. 4-3-68, passed 5-6-1968)

(C) Any person failing to comply with the provisions of § 93.002 shall be subject to fine of \$50.

(Ord. 1989-7, passed 7-20-1989)

(D) Any person violating the provisions of § 93.003 shall, upon conviction, be fined in any sum not more than \$100.

(Ord. 4-6-70, passed 4-6-1970)

(E) Any person, organization, group or association violating the provisions of §§ 93.015 through 93.026 shall be fined a sum of \$150 per violation and cost of right-of-way restoration. Each day a violation continues shall be deemed a separate violation.

(Ord. 1993-2, passed 5-6-1993)

(F) Whoever violates any of the provisions of §§ 93.090 *et seq.*, shall be fined not less than \$50 for the first offense, \$200 for the second offense, and \$400 for each subsequent offense. The payment of a penalty for the violation of any provision of this chapter shall not excuse the violation or permit to continue nor shall such payment be held to prevent the enforced correction of the prohibited conditions. A separate offense shall be deemed committed upon each day during or on which such violation occurs or continues.

(Ord. 2013-07, passed 8-15-2013)

CHAPTER 94: ABANDONED VEHICLES

Section

- 94.01 Definitions
- 94.02 Intent
- 94.03 Nuisance declared
- 94.04 Abandonment of vehicles prohibited
- 94.05 Right to possession; inability to establish
- 94.06 Responsibility and liability of vehicle owner
- 94.07 Notice tag to be placed on vehicle by police officer
- 94.08 Disposition of unclaimed vehicle
- 94.09 Disposal of vehicle by bureau
- 94.10 Bill of sale
- 94.11 Facilitation of removal of abandoned vehicles
- 94.12 Abandoned vehicles on private property
- 94.13 Liability for loss or damage
- 94.14 Proceeds of sale applied to costs
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- 94.16 Proceeds of sale; abandoned vehicle fund
- 94.17 Exceptions

Cross-reference:

Tow service pool, see § 33.04

§ 94.01 DEFINITIONS.

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

ABANDONED VEHICLE.

- (1) A vehicle located on public property illegally.

(2) A vehicle left on public property continuously without being moved for 3 days.

(3) A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicular traffic on a public right-of-way.

(4) A vehicle that has remained on private property without the consent of the owner or person in control of that property for more than 48 hours.

(5) A vehicle from which the engine, transmission, 2 or more tires or differential has been removed or that is otherwise partially dismantled or inoperable and left on public property.

(6) A vehicle that has been removed by a towing service or a public agency upon request of an officer enforcing a statute or an ordinance other than this chapter, if the impounded vehicle is not claimed or redeemed by the owner or his or her agent within 15 days of its removal.

(7) A vehicle that is at least 6 model years old, mechanically inoperable or unlicensed, and is left on private property continuously in a location visible from public property for more than 30 days.

AUTOMOBILE SCRAP YARD. A business organized for the purpose of scrap metal processing, automobile wrecking or operating a junk yard.

BUREAU. The State Bureau of Motor Vehicles.

OFFICER. Any regular member of the state police, any regular member of the town Police Department or any regular member of the county Sheriff's Department.

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

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

PRIVATE PROPERTY. All property other than public property.

PUBLIC AGENCY. The bureau or local agency given the responsibility by statute or ordinance for the removal, storage and disposal of abandoned vehicles.

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

TOWING SERVICE. A business that engages in moving or removing disabled vehicles and, once removed, scores or impounds vehicles.

VEHICLE. An automobile, motorcycle, truck, trailer, semi-trailer, tractor, bus, school bus, recreational vehicle, motorized bicycle, farm equipment or other means of carrying or transporting something.
(Ord. 1995-8, passed 9-21-1995)

§ 94.02 INTENT.

It is the purpose of this chapter to provide for the disposal of abandoned or junk vehicles which are discarded or otherwise permitted to remain on public property or private property without the permission of the person having the right to possession of the property upon which the motor vehicle was left. The Police Department is given the responsibility for removal, storage and disposal of abandoned vehicles.
(Ord. 1995-8, passed 9-21-1995)

§ 94.03 NUISANCE DECLARED.

Abandoned or junk vehicles which are located on public property or private property without the permission of the person having the right to possession of the property upon which the motor vehicle was left are detrimental to the safety and welfare of the general public. In addition, these vehicles are a detriment to the economic welfare of the state, by producing a scenic blight which is adverse to the maintenance and continuing development of the municipalities in the state. These vehicles are declared to be a public nuisance and a safety and health hazard.
(Ord. 1995-8, passed 9-21-1995) Penalty, see § 10.99

§ 94.04 ABANDONMENT OF VEHICLES PROHIBITED.

(A) *Public property.* No person shall abandon a vehicle on any public property continuously, without being moved from the location, for 3 days; or abandon a vehicle in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicle traffic on a public right-of-way.

(B) *Private property.* No person shall abandon a vehicle on private property without the consent of the owner or person in control of that property, for more than 48 hours.
(Ord. 1995-8, passed 9-21-1995) Penalty, see § 10.99

§ 94.05 RIGHT TO POSSESSION; INABILITY TO ESTABLISH.

When an officer discovers a vehicle in the possession of a person other than the person who owns the vehicle and the person cannot establish the right to possession of the vehicle, the vehicle shall be taken to and stored in a suitable place.
(Ord. 1995-8, passed 9-21-1995)

§ 94.06 RESPONSIBILITY AND LIABILITY OF VEHICLE OWNER.

The person who owns an abandoned vehicle or parts is responsible for the abandonment, and liable for all of the costs incidental to the removal, storage and disposal of the vehicle or the parts under this chapter.

(Ord. 1995-8, passed 9-21-1995) Penalty, see § 10.99

§ 94.07 NOTICE TAG TO BE PLACED ON VEHICLE BY POLICE OFFICER.

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

(1) The date, time, officer's name, town and address and telephone number to contact for information;

(2) That the vehicle or parts are considered abandoned;

(3) That the vehicle or parts will be removed after 72 hours;

(4) That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage and disposal of the vehicle; and

(5) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within 72 hours.

(B) If a vehicle or a part tagged under division (A) above is not removed within the 72-hour period, the officer shall prepare a written abandoned vehicle report of the vehicle or parts, including information on condition, missing parts, and other facts that might substantiate the estimated market value of the vehicle or parts. Photographs shall be taken to describe the condition of the vehicle or parts.

(Ord. 1995-8, passed 9-21-1995)

§ 94.08 DISPOSITION OF UNCLAIMED VEHICLE.

(A) *Less than \$100 in value.* If in the opinion of the officer the market value of the vehicle or parts abandoned under § 94.07 is determined to be less than \$100 in value, the officer shall immediately dispose of the vehicle to an automobile scrap yard. A copy of the abandoned vehicle report and photographs relating to the abandoned vehicle shall be forwarded to the State Bureau of Motor Vehicles. The town or towing agency disposing of the vehicle shall retain the original records and photographs for at least 2 years.

(B) *Greater than \$100 in value.* If in the opinion of the officer the market value of the abandoned vehicle or parts is at least \$100, the officer, before placing a notice tag on the vehicle or parts, shall make a reasonable effort to ascertain the person who owns the vehicle or parts or who may be in control of the vehicle or parts. After 72 hours, the officer shall require the vehicle or parts to be towed to a storage area.

(C) *Abandoned vehicle report.*

(1) Within 72 hours after removal of an abandoned vehicle to a storage area under divisions (A) and (B) of this section and I.C. 9-22-1-16, the town or storage lot shall prepare and forward to the Bureau an abandoned vehicle report containing a description of the vehicle, including the following information concerning the vehicle:

(a) The make;

(b) The model;

(c) The identification number; and

(d) The number of the license plate.

(2) The town or storage lot shall request that the Bureau advise the town or storage lot of the name and most recent address of the person who owns or holds a lien on the vehicle.

(Ord. 1995-8, passed 9-21-1995)

§ 94.09 DISPOSAL OF VEHICLE BY BUREAU.

(A) This section applies to the Bureau. If the person who owns or holds a lien upon a vehicle does not appear within 15 days after the mailing of a notice, the Bureau shall sell the vehicle or parts to the highest bidder at a public sale. Notice of the sale shall be given under I.C. 5-3-1, except only 1 newspaper insertion 1 week before the public sale is required.

(B) If a vehicle or parts are in such a condition that vehicle identification numbers or other means of identification are not available to determine the person who owns or holds a lien on the vehicle, the vehicle may be disposed of without notice.

(Ord. 1995-8, passed 9-21-1995)

§ 94.10 BILL OF SALE.

A person who purchases a vehicle under § 94.09 or I.C. 9-22-1-23 shall be furnished a bill of sale for each abandoned vehicle sold by the Bureau or public agency upon paying the fee for a bill of sale under I.C. 9-29-7. A person who purchases a vehicle under § 94.09 or I.C. 9-22-1-23 must present evidence from a law enforcement agency that the vehicle purchased is road-worthy, if applicable; and pay the appropriate title fee under I.C. 9-29-4 in order to obtain a certificate of title under I.C. 9-17 for the vehicle.

(Ord. 1995-8, passed 9-21-1995)

§ 94.11 FACILITATION OF REMOVAL OF ABANDONED VEHICLES.

To facilitate the removal of abandoned vehicles or parts, a public agency may employ personnel; acquire equipment, property and facilities; and enter into towing contracts for the removal, storage, and disposition of abandoned vehicles and parts. The Town Council may, by ordinance, establish procedures to carry out this section.

(Ord. 1995-8, passed 9-21-1995)

§ 94.12 ABANDONED VEHICLES ON PRIVATE PROPERTY.

Upon complaint of a person who owns or controls private property that a vehicle has been left on the property for at least 48 hours without the consent of the person who owns or controls the property, an officer shall follow the procedures set forth in §§ 94.07 and 94.08.

(Ord. 1995-8, passed 9-21-1995)

§ 94.13 LIABILITY FOR LOSS OR DAMAGE.

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

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

(B) A public agency;

(C) A towing service; or

(D) An automobile scrap yard.

(Ord. 1995-8, passed 9-21-1995)

§ 94.14 PROCEEDS OF SALE APPLIED TO COSTS.

(A) The costs for removal and storage of an abandoned vehicle or parts not claimed by the person who owns or holds a lien on a vehicle shall be paid from the abandoned vehicle account under I.C. 9-22-1-30. The charge payable by the person who owns or holds a lien on a vehicle for towing, storing, or removing an abandoned vehicle or parts may not exceed the limits established by ordinance adopted under I.C. 9-22-1-30.

(B) The proceeds of sale of an abandoned vehicle or parts in accordance with §§ 94.07 and

94.08 shall be credited against all costs incident to the removal, storage and disposal of the vehicle.
(Ord. 1995-8, passed 9-21-1995)

§ 94.15 LIMITATION OF COSTS.

In no event shall the owner of the motor vehicle be charged for towing or removing the vehicle a sum in excess of \$40, nor shall the cost of storage exceed the sum of \$15 per day. The storage charge shall be limited to the number of days of actual storage.
(Ord. 1995-8, passed 9-21-1995)

§ 94.16 PROCEEDS OF SALE; ABANDONED VEHICLE FUND.

(A) This section applies to sales of abandoned vehicles or parts by local units.

(B) The proceeds from the sale of abandoned vehicles or parts, including charges for bills of sale, and money received from persons who own or hold liens on vehicles for the cost of removal or storage of vehicles shall be placed by the Clerk-Treasurer in the unit's abandoned vehicle fund.

(C) The costs incurred by a public agency in administering this chapter shall be paid from the abandoned vehicle fund.

(D) The Town Council shall annually appropriate sufficient money to the fund to carry out this chapter. Money remaining in the fund at the end of a year remains in the fund and does not revert to the General Fund.
(Ord. 1995-8, passed 9-21-1995)

Statutory reference:

Similar provisions, see I.C. 9-22-1-27

§ 94.17 EXCEPTIONS.

This chapter does not apply to the following:

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

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

(C) A vehicle located on a vehicle sale lot or at a commercial vehicle servicing facility.

(D) A vehicle located upon property licensed or zoned as an automobile scrap yard.

(E) A vehicle registered and licensed under I.C. 9-18-12 as an antique vehicle.
(Ord. 1995-8, passed 9-21-1995)

CHAPTER 95: TREES

Section

- 95.01 Authority and power
- 95.02 Town's right to plant, maintain, and remove trees on private property

- 95.99 Penalty

§ 95.02 TOWN'S RIGHT TO PLANT, MAINTAIN, AND REMOVE TREES ON PRIVATE PROPERTY.

(A) *Right to enter private property.* The Town Administration, upon the advice of the Town Tree Board or an Indiana Department of Natural Resources Forester, has authority to enter onto private property for the purpose of inspecting a public tree when the tree cannot be adequately inspected from public property, or for the purpose of inspecting a private tree believed to be a nuisance.

(B) *Duty to inspect for and control insect and disease problems.*

(1) The Town Administration may inspect any trees, shrubs, vines, hedges, plants, logs, or branches existing or growing upon any property within the town. The Town Administration shall conduct surveys to determine if any destructive or communicable disease or other pestilence exists which may be detrimental to or endanger the good health and well being of trees or other plant life in the town.

(2) The town may, upon the advice of the Town Tree Board or an Indiana Department of Natural Resources Forester remove diseased or damaged trees from private property.

(C) *Order required for a notice to take action.*

(1) Upon discovery of any destructive or communicable disease or other pestilence which endangers the growth or health of trees, hedges, or shrubbery, or threatens to spread disease or insect infestations, the Town Administration shall at once cause written notice to be served upon the owner of

§ 95.01 AUTHORITY AND POWER.

(A) Town's right to plant, maintain, and remove trees on public property. It is the public policy of the town to maintain existing trees and to provide for and encourage the planting of new trees within the town to the greatest extent possible.

(B) The Town Council, upon the advice of an Indiana Department of Natural Resources Forester or the Town Tree Board, shall have the authority and jurisdiction of regulating, but does not have the obligation, to plant, maintain, or remove trees, plants, and shrubs on streets and other publicly owned and right-of-way to ensure safety or preserve the aesthetics of such public sites. Also, the Town Administration may remove or cause or order to be removed, any tree or part thereof which is an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is infected with any injurious fungus, insect, or other pest.

(C) Private citizens desiring to plant trees (to be deemed to include shrubs and bushes) in the public right-of-way abutting their property shall comply with the terms and conditions of this chapter and such trees shall, once planted, be strictly subject to management by the town to include pruning and removal as necessary to protect the public health.
(Ord. 2005-04, passed 3-16-2006)

the property or his or her agent upon which such diseased or infested trees, hedges, or shrubs are situated.

(2) Such notice shall state the actions that the property owner shall undertake to abate the nuisance; and the notices shall require such property owner(s) to eradicate, remove, or otherwise control such conditions within 30 days to be specified in such notice.

(3) The Town Administration shall have the authority and it shall be its duty to order the trimming, preservation, or removal of trees or plants upon private property when it may find such action necessary to public safety or to prevent the spread of disease or insects to public trees and places.

(D) *Failure to comply with a notice to take action.* If the owner fails to comply with such notice, the Town Administration shall cause such trees or shrubs to be pruned, treated, or removed as necessary to remove the obstruction or threat of communicable disease or insect infestation, and assess the property owner for the cost of services in the same manner in which the cost of a nuisance abatement under §§ 92.01 and 92.02 may be assessed.

(E) *Cutting, killing or removing trees from private property.* Prior to the cutting, killing or removal of any tree in excess of 8 inches bole diameter measured 1 foot from the soil line and located on private property in a B1, B2 or B3 zone, the property owner must first obtain a permit from the Town Administration. Upon receiving an application for a tree cutting, killing or removal permit, the Town Administration shall forward said application to the Tree Board. The Tree Board shall grant or deny the application for permit at its next regularly scheduled meeting.

(F) *Landscaping.*

(1) Subdivision and development plans shall be designed to preserve natural vegetation areas as much as possible. Streets, parcels, structures, and parking areas shall be made out to minimize the

destruction of wooded areas or outstanding tree specimens. Developers of land are encouraged to designate wooded areas as park reserves.

(2) The Development Review Commission shall consider a landscape plan as part of its review of any subdivision plat, development plan, or site plan application.

(3) The Design Review Commission shall submit all subdivision development landscape plans within its jurisdiction for review and approval by the Town Tree Board established by §§ 33.40 through 33.48.

(G) *Protection from mutilation and damage.*

(1) No person shall be allowed to post any bills, advertisements, cards, or notices of any kind upon any trees, placed or growing for ornamental use, in any street or square within the limits of the town, without the permission of the Town Administration, if such tree is within the limits of a public place.

(2) Each public utility company shall exercise reasonable diligence in the maintenance of its plant construction so as to avoid the damage of trees.

(3) It shall be unlawful for any person, firm, or public utility to place salt, brine, petroleum products, herbicides, or any other substances in such amounts as to be toxic or injurious to the health, growth, or vitality of any tree or shrub in any public area or public right-of-way.

(4) Heavy equipment and other implements, machines, and tools shall be used or operated in such a manner as to not damage or destroy any tree, shrub, or plant in any public area or public right-of-way.

(5) Unless specifically authorized by the Town Administration, no person shall intentionally damage, cut, carve, transplant, or remove any tree on public property or on any public place of right-of-way.

(6) It shall be unlawful for any person, firm, or corporation to cut or break any branch of any tree or shrub or injure in any way the bark of said tree or shrub growing on public property.

(7) No person shall remove, or substantially alter the habit of any tree located within a public right-of-way, or in a park, without first obtaining a permit from the Town Administration.

(H) *Enforcement.*

(1) The Town Administration shall have the power to promulgate and enforce rules, regulations, and specifications concerning the trimming, spraying, removal, planting, pruning, and protection of trees, shrubs, vines, hedges, and other plants upon the right-of-way of any street, alley, sidewalk, or other public place in the town.

(2) No person shall unreasonably hinder, prevent, delay, or interfere with the Town Administration while engaged in the execution and/or enforcement of this chapter.

(I) *Appeals.* Any person or party aggrieved by an act or decision of the Town Administration, the Development Review Commission or the Tree Board shall have a right to appeal that matter to the Town Council and shall be entitled to a judicial review of any decision on said appeal by the Town Council in accordance with I.C. 4-22-1.

(Ord. 2005-04, passed 3-16-2006) Penalty, see § 95.99

§ 95.99 PENALTY.

(A) *Violations.*

(1) Any person who shall injure, damage, or destroy any tree, shrub, vine, hedge, or other plant situated upon public property or right-of-way of any street, alley, sidewalk, or other public place within the town shall promptly notify the Town Administration of such occurrence and shall, within such reasonable

time as specified by the Town Administration, repair or replace the damaged vegetation to the satisfaction of the Town Administration. Any replacement planting shall be no less than 50% of the stump diameter of the replaced tree.

(2) It is prohibited for any person to violate the provisions of this chapter, including failure to comply with any notice or decision of the Town Administration following appeal.

(3) The town must be compensated for damage to or the loss of any tree as determined in accordance with this chapter. If, as a result of the violation of any provision of this chapter, the injury, mutilation, or death of a tree, shrub, or other plant located on town-owned property, public property, or right-of-way is caused, the cost of repair and replacement, or the appraised dollar value of such tree, shrub, or other plant shall be borne by the party in violation.

(4) In addition to the remedies set out above, the violator shall be subject to a fine not to exceed \$500 per violation.

(B) *Separate violations.*

(1) Each tree affected by noncompliance with this article shall constitute a separate violation.

(2) Each day during which any violations of the provisions of this chapter shall occur or continue will constitute a separate violation.

(3) The owner of any property where any violation exists and any builder, contractor, or agent who may have assisted in the commission of any such violation, shall be guilty of a separate violation.

(C) *Assessment of claim.* In the event that a violation is not abated by the date specified in the notice, the Town Administration is authorized to cause the abatement of the violation. The reasonable cost of such abatement shall be filed and a lien against the property on which the violation was located.

(Ord. 2005-04, passed 3-16-2006)

CHAPTER 96: PUBLIC ART

Section

- 96.01 Definition
- 96.02 Permit required

- 96.99 Penalty

§ 96.01 DEFINITION.

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

PUBLIC ART. All works of human creativity, the primary purpose of which is to please the visual and tactile senses, including but not limited to, paintings, sculptures, mobiles, fountains, and murals, located outdoors, which can be viewed or touched from public streets, sidewalks, parks or parking areas. **PUBLIC ART** does not include works or products that are displayed for sale on private property. (Ord. 2013-04, passed 3-21-2013)

§ 96.02 PERMIT REQUIRED.

(A) No work of public art as defined in § 96.01 shall be built, erected, drawn, painted, or displayed on public property or on private property within the Village District, or Zones B1, B2, B3, or RB without a permit.

(B) The Nashville Arts and Entertainment Commission as established by §§ 33.80 through 33.82 shall be the permitting agent for the Town Council.

(C) There shall be no fee charged for a permit.

(D) All applications shall be on the forms provided by the Commission. The permit will be reviewed by the Commission and granted or denied within 45 days of the application date. Any application not reviewed within 45 days shall be deemed granted. Applicants may appeal any decision of the Commission to the Town Council. All appeals will be heard by the Council at the next regular meeting following the date of the denial. Any decision of the Council may be subject to judicial review pursuant to statutory procedure.

(E) Any project which would otherwise require an improvement location permit or a certificate of appropriateness shall also be subject to review by the Development Review Commission, and all other requirements of the Town Land Use Ordinance. (Ord. 2013-04, passed 3-21-2013)

§ 96.99 PENALTY.

Violations of this chapter shall be subject to the General Penalty provisions of § 10.99 of the Nashville Code of Ordinances. (Ord. 2013-04, passed 3-21-2013)

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. BUSINESS LICENSES**
- 111. ALCOHOLIC BEVERAGES**
- 112. AMUSEMENTS**
- 113. FOOD MARKETS**
- 114. FOOD SERVICE**
- 115. HORSE-DRAWN CARRIAGE BUSINESS**
- 116. ITINERANT MERCHANTS**
- 117. TAXICABS**
- 118. SEXUALLY ORIENTED BUSINESSES**
- 119. NEWSRACKS AND NEWSSTANDS**
- 120. BUSINESS USE OF LAND FOR PARKING**
- 121. PEDICAB TAXIS**

CHAPTER 110: BUSINESS LICENSES

Section

- 110.01 License required
- 110.02 License application and fee
- 110.03 Conditions of approval
- 110.04 Revocation of license
- 110.05 Term of license
- 110.06 License transfers
- 110.07 Exemptions
- 110.08 Sale on public right-of-way

- 110.99 Penalty

Cross-reference:

Tow service pool, see § 33.04

§ 110.01 LICENSE REQUIRED.

No person, corporation, or other legal entities shall engage in the selling, display for sale of goods, wares, merchandise, food, beverages, or the advertising thereof at retail or wholesale, or provide entertainment or exhibition for a fee or admission charge without first obtaining a license. No person, corporation or other legal entity shall provide services within the town without first obtaining a license, unless the services are professional services licensed and regulated by the State of Indiana or the United States.

(Ord. 2012-01, passed 1-19-2012; Am. Ord. 2012-05, passed 5-17-2012)

§ 110.02 LICENSE APPLICATION AND FEE.

All applicants shall apply at the office of the Town Clerk-Treasurer on a form provided by that office and pay an administrative fee of \$30. Applicants should apply at least 3 days prior to commencing operation to allow for administrative processing.

(Ord. 2012-01, passed 1-19-2012)

§ 110.03 CONDITIONS OF APPROVAL.

Each applicant for a license shall show compliance with all appropriate ordinances, rules, regulations and statutes of the town, state, county and the United States in relation to public health, safety, planning, zoning and land use. If the applicant intends to display new or changed signage the applicant must, within 45 days of the issuance of the license obtain a sign permit for the new or changed signage.

(Ord. 2012-01, passed 1-19-2012)

§ 110.04 REVOCATION OF LICENSE.

In the event the applicant fails to meet the conditions set out in § 110.03 at any time during the term of the license, the Clerk-Treasurer may cause the license to be revoked or suspended. If revoked, the licensee must apply for a new license, show proof of compliance with the conditions of § 110.03 and pay an administrative fee in the amount of \$30. Revocation may be appealed to the Town Council within 30 days. Revocation is not an exclusive remedy and does not bar the town from pursuing all other available remedies at law or in equity against a business in violation of this chapter or any other ordinance of the town.

(Ord. 2012-01, passed 1-19-2012)

§ 110.05 TERM OF LICENSE.

Licenses issued hereunder shall be valid from the date of issuance to the end of the calendar year of issuance, unless revoked under § 110.04. New businesses shall obtain a license before commencing operation; continuing businesses shall renew their

licenses within 30 days of the beginning of the calendar year, or before commencing operation after the beginning of the calendar year, whichever is earlier.

(Ord. 2012-01, passed 1-19-2012)

§ 110.06 LICENSE TRANSFERS.

Any holder of a license may transfer the license to the purchaser, lessee, or assignee of its business, if the business is to continue without substantial change at the same location. Both the holder and its assignee shall sign and file a request for transfer with the Clerk-Treasurer. An administrative fee of \$5 shall be paid when the transfer is approved.

(Ord. 2012-01, passed 1-19-2012)

§ 110.07 EXEMPTIONS.

(A) Charitable, educational, or faith based organizations engaging in activities that would otherwise be subject to the requirements of this chapter on behalf of or for the benefit of a bona fide Brown County organization shall be required to obtain a license but shall not be required to pay the fee.

(B) Private garage and yard sales of used merchandise from no more than 5 families at the residential premises belonging to 1 of the families for no more than 2 consecutive days in a 6 month period shall not be required to obtain a license.

(C) Farm produce grown in Brown County and the adjacent counties may be sold for a period of no more than 45 non-consecutive days in any calendar year without obtaining a license. Location of the sale site may be subject to approval of the Town Administration or the Town Council if it involves or encroaches on a public right-of-way.

(D) Disabled veterans issued a peddler's license pursuant to state law shall not be required to obtain a license for those activities permitted under their peddler's license.

(Ord. 2012-01, passed 1-19-2012)

§ 110.08 SALE ON PUBLIC RIGHT-OF-WAY.

A license issued under this chapter shall not give the holder the right to operate on any public right-of-way, street, alley, sidewalk, parking lot or governmentally owned land without the express consent of the Town Council and the owner of the land.

(Ord. 2012-01, passed 1-19-2012)

§ 110.99 PENALTY.

Violation of this chapter shall be punished by the imposition of a fine not to exceed \$50 per day. The fine may be imposed by the Clerk-Treasurer or the Town Council as a late fee for applications that commence business without a license or that fail to timely renew their annual license. The Town Marshal shall enforce this chapter by citation and all other legal remedies.

(Ord. 2012-01, passed 1-19-2012)

[Text continues on page 7]

CHAPTER 111: ALCOHOLIC BEVERAGES

Section

- 111.01 Application for permit
- 111.02 Compliance to Alcoholic Beverage Act required
- 111.03 Issuance of permits

§ 111.01 APPLICATION FOR PERMIT.

All proper parties making application to retail liquor within the corporate limits of the town may be granted a retailer's permit.
(Ord. passed - -1937)

§ 111.02 COMPLIANCE TO ALCOHOLIC BEVERAGE ACT REQUIRED.

Applicants for a retailer's permit to retail intoxicating liquors must otherwise be duly qualified to obtain retailer's permits under terms and provisions of the Alcoholic Beverage Act enacted by the legislature of 1935 and in Chapter 226 of the Acts of 1935.
(Ord. passed - -1937) Penalty, see § 10.99

§ 111.03 ISSUANCE OF PERMITS.

Permits may be issued to all applicants, therefore to all parties making application for the permits, provided the applicants for the permits shall have complied in full detail with all the provisions and requirements as provided in Chapter 226 of the Acts of 1935, and being an Act concerning Alcohol and Alcoholic Beverages to promote temperance and declaring an emergency.
(Ord. passed - -1937)

CHAPTER 112: AMUSEMENTS

Section

- 112.01 License required; designated businesses
- 112.02 Application for license
- 112.03 Fees
- 112.04 Charitable entertainments

- 112.99 Penalty

§ 112.01 LICENSE REQUIRED; DESIGNATED BUSINESSES.

(A) It shall be unlawful for any person or combination of persons however organized, whether real or corporate, to engage in any business for profit of providing entertainment or amusement to others within the town limits without first having obtained a license issued by the town authorizing the engagement in that business.

(B) The businesses required to be licensed by this chapter are billiard parlors, bowling alleys, carnivals, circuses, dance halls, fortune telling, merry-go-rounds, poolrooms, skating rinks, theaters and other similar and related activities.

(Ord. 1970-, passed 10-5-1970) Penalty, see § 112.99

§ 112.02 APPLICATION FOR LICENSE.

(A) The town will provide application forms which will request the name of the applicant, his or her permanent address, his or her local address, the type of business he or she will engage in and period of time for which he or she is requesting a license.

(B) The application for license completely filled out together with the fee required by this chapter will

be delivered to the Clerk-Treasurer who is hereby empowered to issue a license upon finding the application in due form and being in receipt of full payment of the fee in cash. The license will include the name of the licensee, the type of business he or she is authorized to conduct, and the expiration date of the license. The Clerk-Treasurer will maintain a record of all applications and licenses.

(Ord. 1970-, passed 10-5-1970) Penalty, see § 112.99

§ 112.03 FEES.

The Clerk-Treasurer shall collect fees for licenses issued pursuant hereto according to the following schedule:

(A) Billiard parlor, bowling alley, poolroom and skating rink licenses will cost \$100.00 and the license must be renewed annually.

(B) Theater licenses will cost \$5.00 and the license must be renewed annually.

(C) Carnival and circus licenses will cost \$50.00 per day and will be issued for a stated number of days, full payment in cash being required in advance. Only 1 such license may be issued to a person in any 6-month period of time.

(D) Dance hall, fortune telling and merry-go-round licenses will cost \$2.50 per day and will be issued for a stated number of days not exceeding 30 days, full payment in cash being required in advance. Only 1 such license may be issued to a person in any 30-day period of time.

(E) A license for any other entertainment or amusement business not herein specifically named will cost \$5.00 per day.

(Ord. 1970-, passed 10-5-1970) Penalty, see § 112.99

§ 112.04 CHARITABLE ENTERTAINMENTS.

It shall be unlawful for any person to use any ticket, poster, placard, badge or other advertisement in the promotion of any dance, bazaar, picnic, game, theater or other entertainment or performance purporting to be given for charitable purposes, unless the names of the persons or organizations intended to be benefited by the receipts from the entertainment or performance are stated on the ticket, poster, placard, badge or other advertisement.

(Ord. 4-6-70, passed 4-6-1970) Penalty, see § 112.99

§ 112.99 PENALTY.

Any person or combination of persons however organized, whether real or corporate, who violates any provision of this chapter shall be fined upon conviction thereof, any sum of money not exceeding \$100. A separate offense of this chapter shall be deemed to have occurred each day a violation is committed.

(Ord. 5-4-70, passed 5-4-1970; Am. Ord. 1970-, passed 10-5-1970)

CHAPTER 113: FOOD MARKETS

Section

General Provisions

- 113.01 Definitions
- 113.02 Minimum sanitation requirements
- 113.03 Sale of unwholesome, adulterated or misbranded food
- 113.04 Disease control
- 113.05 Approval of plans

Permits

- 113.15 Permit required
- 113.16 Separate permits; nontransferable
- 113.17 Inspection; compliance
- 113.18 License and fees

Inspection of Food Markets

- 113.35 Frequency of inspection
- 113.36 Procedure when violations noted
- 113.37 Authority to inspect and to copy records
- 113.38 Final inspection; prosecution or hearing for violators
- 113.39 Revocation of permit
- 113.40 Suspension of permit
- 113.41 Reinstatement of permit

- 113.99 Penalty

GENERAL PROVISIONS

§ 113.01 DEFINITIONS.

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

BROWN COUNTY. Those rural and urban areas which are under the jurisdiction of the County Health Officer and shall not apply to incorporated cities or towns, except as provided for under authority of Chapter 80, Indiana Acts of 1953, and Chapter 118, Indiana Acts of 1957.

EMPLOYEE. Any person who comes in contact with any utensil or equipment in which food is prepared or stored, or who is employed in a room or place in which food is prepared, processed, displayed or sold.

FOOD. All articles used for food, drink, confectionery or condiment, whether simple, mixed or compound, and all substances or ingredients used in the preparation thereof.

FOOD MARKET. Retail grocery, meat market, poultry market, fish market, fresh fruit and vegetable market, delicatessen, confectionery, cheese shop, candy kitchen, nut store, retail bakery store or any other establishment where food intended for human consumption is manufactured, produced, stored, prepared, processed, handled, transported, sold or offered for sale at retail.

HEALTH OFFICER. The County Health Officer, or his or her authorized representative.

PERSON. Includes, but is not limited to any individual, partnership, copartnership, firm, company, corporation, association, joint-stock company, trust, estate or municipality, or his, her or its legal representative or agent.

UTENSIL. All containers, or any equipment of any kind or nature with which food comes in contact after delivery to a food market, during storage, preparation, processing, display or sale. (Ord. 2-65, passed 4-20-1965)

§ 113.02 MINIMUM SANITATION REQUIREMENTS.

All food markets shall comply with the minimum sanitation requirements specified by the Indiana State Board of Health as now provided in its Regulation HFD 19 or as the same may be hereafter changed or amended. This regulation and any changes and amendments thereto which may be hereafter adopted or promulgated are by reference incorporated herein and made a part hereof, 2 copies of which are on file in the office of the Board of Health of the county for public inspection.

(Ord. 2-65, passed 4-20-1965) Penalty, see § 113.99

§ 113.03 SALE OF UNWHOLESOME, ADULTERATED OR MISBRANDED FOOD.

(A) It shall be unlawful for any person to sell through a food market any food which is unwholesome, adulterated or misbranded.

(B) Samples of food may be taken and examined by the Health Officer as often as may be necessary to determine freedom from contamination, adulteration, or misbranding. The Health Officer may, on written notice to the owner/operator, impound and forbid the sale of any food which is unwholesome, adulterated or misbranded, or which he or she has probable cause to believe is unfit for human consumption,

unwholesome, adulterated or misbranded; provided, that in the case of misbranding which can be corrected by proper labeling, the food may be released to the operator for correct labeling under the supervision of the Health Officer. The Health Officer may also cause to be removed or destroyed any dairy product, meat, meat product, seafood, poultry, poultry product, confectionery, bakery product, vegetable, fruit or other perishable articles which in his or her opinion are unsound, or contain any filthy, decomposed or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe. (Ord. 2-65, passed 4-20-1965) Penalty, see § 113.99

§ 113.04 DISEASE CONTROL.

(A) No person who is affected with any disease in a communicable form or is a carrier of such a disease shall work in any food market, and no food market shall employ any such person or any person believed to be affected with any disease in a communicable form or of being a carrier of a disease. If the food market manager has reason to believe that any employee has contracted any disease in a communicable form or has become a carrier of disease, he or she shall notify the Health Officer immediately.

(B) When the Health Officer has reason to believe there exists a possibility of transmission of infection from any food market employee, the Health Officer is authorized to require any or all of the following measures:

(1) The immediate exclusion of the employee from all food markets;

(2) The immediate closing of the food market concerned until no further danger of disease outbreak exists in the opinion of the Health Officer; and/or

(3) Adequate medical examination of the employee and of his or her associates with such laboratory examinations as may be indicated.

(Ord. 2-65, passed 4-20-1965) Penalty, see § 113.99

§ 113.05 APPROVAL OF PLANS.

All food markets which are hereafter constructed or altered shall conform with the applicable requirements set forth in § 113.02 of this chapter. Properly prepared plans and specifications shall be submitted to and approved by the Health Officer as may be required before starting any work. (Ord. 2-65, passed 4-20-1965) Penalty, see § 113.99

PERMITS

§ 113.15 PERMIT REQUIRED.

(A) (1) It shall be unlawful for any person to operate a food market in the county, who does not possess a valid permit from the Health Officer. The permit shall be posted in a conspicuous place in the food market. Only persons who comply with the applicable requirements of this chapter shall be entitled to receive and retain a permit.

(2) The permit for a food market shall be for a term of 1 year beginning January 1 and expiring December 31 of the same year and shall be renewed annually. Any permit issued by the Health Officer shall contain the name and address of the person to whom the permit is granted, the address of the premises for which the same is issued and such pertinent data as may be required by the Health Officer.

(B) No permit or renewal thereof shall be denied or revoked on arbitrary or capricious grounds. (Ord. 2-65, passed 4-20-1965) Penalty, see § 113.99

§ 113.16 SEPARATE PERMITS; NONTRANSFERABLE.

A separate permit shall be required for each food market operated or to be operated by any person. A permit issued under this chapter is not transferable. (Ord. 2-65, passed 4-20-1965)

§ 113.17 INSPECTION; COMPLIANCE.

A permit shall be issued to any person on application after inspection and approval by the Health Officer; provided, that the food market complies with all the applicable provisions of this chapter. (Ord. 2-65, passed 4-20-1965)

§ 113.18 LICENSE AND FEES.

(A) It shall be unlawful for any person to operate a food market in Brown County who does not possess a valid license for the operation of such an establishment. The license shall be for a term of 1 year beginning January 1 and expiring December 31 of the same year and shall be renewed annually. The license shall be provided by the County Health Department, if there is presented at that office a valid permit from the Health Officer, together with \$5, or with \$5, if the application for license is made on or after June 1.

(B) A separate license shall be required for each food market operated or to be operated by any person. A license issued under this chapter is not transferable.

(C) Mobile food markets owned by a person operating a food market which is licensed under the provisions of this chapter, and possessing a valid permit from the Health Officer to operate such a food market, shall be exempt from the provisions of this section. (Ord. 2-65, passed 4-20-1965) Penalty, see § 113.99

INSPECTION OF FOOD MARKETS

§ 113.35 FREQUENCY OF INSPECTION.

At least once each 3 months, the Health Officer shall inspect each food market for which a permit is required under the provisions of this chapter. (Ord. 2-65, passed 4-20-1965)

§ 113.36 PROCEDURE WHEN VIOLATIONS NOTED.

If during the inspection of any food market the Health Officer discovers the violation of any of the sanitation requirements in § 113.02 of this chapter, he or she shall issue a written order listing the violations to the proprietor or, in his or her absence, to the person in charge and fixing a time within which the proprietor of the food market shall abate and remedy the violations. A copy of the written order shall be filed with the records of the Health Department. (Ord. 2-65, passed 4-20-1965)

§ 113.37 AUTHORITY TO INSPECT AND TO COPY RECORDS.

The person operating the food market shall, upon the request of the Health Officer, permit the Health Officer or his or her authorized representative access to all parts of the food market and shall permit the Health Officer or his or her authorized representative to collect evidence and/or exhibits and to copy any or all records relative to the enforcement of this chapter. (Ord. 2-65, passed 4-20-1965)

§ 113.38 FINAL INSPECTION; PROSECUTION OR HEARING FOR VIOLATORS.

(A) If upon a second and final inspection the Health Officer finds that a food market, person or employee is violating any of the provisions of this chapter which were in violation on the previous inspection, and concerning which a written order was issued, the Health Officer shall furnish evidence of the violation to the prosecutor having jurisdiction in the county in which the violation occurs, and he or she shall prosecute all persons violating the provisions of this chapter.

(B) As an alternate measure, the Health Officer may promptly issue a written order to the permittee of the food market to appear at a certain time, no later

than 10 days from the date of final inspection, and at a place in the county fixed in the order to show cause why the permit issued under the provisions of § 113.15 should not be revoked. (Ord. 2-65, passed 4-20-1965)

§ 113.39 REVOCATION OF PERMIT.

The Health Officer upon the hearing, if the permittee should fail to show cause, shall revoke the permit and promptly give written notice of the action to the permittee. The Health Officer shall maintain a permanent record of his or her proceedings filed in the office of the Health Department. (Ord. 2-65, passed 4-20-1965)

§ 113.40 SUSPENSION OF PERMIT.

(A) Any permit issued under this chapter may be temporarily suspended by the Health Officer without notice of hearing for a period of not to exceed 30 days, for any of the following reasons:

(1) Insanitary or other conditions which in the Health Officer's opinion endangers the public's health; or

(2) Interference with the Health Officer or any of his or her authorized representatives in the performance of their duties.

(B) This is provided, however, that upon written application from the permittee, served upon the Health Officer within 15 days after the suspension, the Health Officer shall conduct a hearing upon the matter after giving at least 5 days' written notice of the time, place and purpose thereof to the suspended permittee; provided further, that any such suspension order shall be issued by the Health Officer in writing and served upon the permittee by leaving a copy at his or her usual place of business or by delivery of registered or certified mail to that address.

(Ord. 2-65, passed 4-20-1965)

§ 113.41 REINSTATEMENT OF PERMIT.

Any person whose permit has been suspended may at any time make application to the local Health Officer for the reinstatement of his or her permit.
(Ord. 2-65, passed 4-20-1965)

§ 113.99 PENALTY.

(A) Any person who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor. On conviction the violator shall be punished for the first offense by a fine of not more than \$500; for the second offense by a fine of not more than \$1,000; and for a third offense and each subsequent offense by a fine of not more than \$1,000 to which may be added imprisonment for any determinate period not exceeding 90 days.

(B) Each day of operation of a food market in violation of § 113.15 of this chapter or after the expiration of the time limit for abating insanitary conditions and completing improvements to abate the conditions, as ordered by the Health Officer, shall constitute a distinct and separate offense.
(Ord. 2-65, passed 4-20-1965)

CHAPTER 114: FOOD SERVICE

Section

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GENERAL PROVISIONS

§ 114.01 DEFINITIONS.

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

ADULTERATED AND MISBRANDED. As provided in Article 5, Chapter 157, Acts of 1949, known as the Indiana Food, Drug and Cosmetic Act.

BROWN COUNTY. Those rural and urban areas which are under the jurisdiction of the County Health Officer and shall not apply to incorporated cities or towns, except as provided for under authority of Chapter 80, Indiana Acts of 1953.

CLOSED. Fitted together snugly, leaving no openings large enough to permit the entrance of vermin.

CORROSION-RESISTANT MATERIAL. A material which maintains its original surface characteristics under prolonged influence of the food, cleaning compounds and sanitizing solutions which may contact it.

EASILY CLEANABLE. Readily accessible and of such material and finish, and so fabricated that residue may be completely removed by normal cleaning methods.

EMPLOYEE. Any person working in a food-service establishment who transports food or food containers, who engages in food preparation or service, or who comes in contact with any food, food utensils or equipment.

EQUIPMENT. All stoves, ranges, hoods, tables, counters, food or utensil carts, refrigerators, sinks, dishwashing machines, steam tables and similar items, other than utensils, used in the operation of a food-service establishment.

FOOD. Any raw, cooked or processed edible substances, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

FOOD-CONTACT SURFACES. Those surfaces of equipment and utensils with which food normally comes in contact, and those surfaces with which food may come in contact and drain back into food or onto surfaces normally in contact with food.

FOOD-PROCESSING ESTABLISHMENT. A commercial establishment in which food is processed or otherwise prepared, packaged or manufactured for human consumption.

FOOD-SERVICE ESTABLISHMENT. Any food-service establishment; restaurant; coffee shop; cafeteria; short-order café; luncheonette; grill; tea room; sandwich shop; soda fountain; tavern; bar; cocktail lounge; night club; industrial feeding establishment; private, public or nonprofit organization or institution; a catering kitchen; a commissary or similar place in which food or drink is

prepared for sale or for service on the premises or elsewhere; and any other eating or drinking establishment or operation where food is served or provided for human consumption with or without charge. The term **FOOD-SERVICE ESTABLISHMENT**, however, shall not include a food establishment licensed by the State Board of Health or one that is known as a food market or vending machine.

HEALTH OFFICER. The County Health Officer, or his or her duly authorized representative.

KITCHENWARE. All multi-use utensils other than tableware used in the storage, preparation, conveying or serving of food.

MOBILE FOOD-SERVICE ESTABLISHMENT. Any food-service establishment capable of being readily moved from location to location; one without a fixed location.

PERISHABLE FOOD. Any food of a type or in such condition as may spoil.

PERSON. Not limited to, any individual, partnership, copartnership, firm, company, corporation, association, joint-stock company, trust, estate or municipality, or his, her or its legal representative or agent.

POTENTIALLY HAZARDOUS FOOD. Any food which consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish or other food capable of supporting growth of infectious or toxigenic micro-organisms.

SAFE TEMPERATURES. As applied to potentially hazardous food, shall mean food temperatures of 45°F or below, and 140°F or above.

SANITIZE. Effective bactericidal treatment of clean surfaces of equipment and utensils by a process which has been approved by the Health Officer as being effective in destroying micro-organisms, including pathogens.

SEALED. Free of cracks or other openings which permit the entry or passage of moisture.

SINGLE-SERVICE ARTICLES. Cups, containers, lids or closures, plates, knives, forks, spoons, stirrers, paddles, straws, placemats, napkins, doilies, wrapping materials, and all similar articles which are constructed wholly or in part from paper, paperboard, molded pulp, foil, wood, plastic, synthetic or other readily destructible materials, and which are intended by the manufacturers and generally recognized by the public as for 1 usage only, then to be discarded.

TABLEWARE. All multi-use eating and drinking utensils, including flatware (knives, forks and spoons).

TEMPORARY FOOD-SERVICE ESTABLISHMENT. Any food-service establishment which operates for a temporary period of time, not to exceed 2 weeks, in connection with a fair, carnival, circus, public exhibition or similar transitory gathering.

WHOLESOME. In sound condition, clean, free from adulteration and otherwise suitable for use as human food.

(Ord. 3-65, passed 4-20-1965)

§ 114.02 MINIMUM REQUIREMENTS FOR FOOD-SERVICE ESTABLISHMENTS.

All food-service establishments, mobile food-service establishments, and temporary food-service establishments shall comply with the minimum requirements specified by the State Board of Health as now provided in its Regulation HFD 17 or as the same may be hereafter changed or amended. This regulation and any changes and amendments thereto which may be hereafter adopted or promulgated are by reference incorporated herein and made part hereof, 2 copies of which are on file in the office of the County Clerk for public inspection.

(Ord. 3-65, passed 4-20-1965) Penalty, see § 114.99

§ 114.03 SELLING OF UNWHOLESOME AND CONTAMINATED FOOD PROHIBITED.

(A) It shall be unlawful for any person to sell through a food-service establishment, mobile food-service establishment or temporary food-service establishment any food which is unwholesome, adulterated or misbranded.

(B) Samples of food may be taken and examined by the Health Officer as often as may be necessary to determine freedom from contamination, adulteration, or misbranding. The Health Officer may, on written notice to the owner or operator, impound and forbid the sale of any food which is unwholesome, adulterated or misbranded, or which he or she has probable cause to believe is unfit for human consumption, unwholesome, adulterated or misbranded; provided, that in the case of misbranding which can be corrected by proper labeling, the food may be released to the operator for correct labeling under the supervision of the Health Officer. The Health Officer may also cause to be removed or destroyed any dairy product, meat, meat product, seafood, poultry, poultry product, confectionery, bakery product, vegetable, fruit or other perishable articles which, in his or her opinion, are unsound or contain any filthy, decomposed, or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe.

(Ord. 3-65, passed 4-20-1965) Penalty, see § 114.99

§ 114.04 APPROVAL OF PLANS.

All food-service establishments and mobile food-service establishments which are hereafter constructed or altered shall conform with the applicable requirements set forth in § 114.02. Properly prepared plans and specifications shall be submitted to and approved by the Health Officer as may be required before starting any construction work.

(Ord. 3-65, passed 4-20-1965)

PERMITS**§ 114.15 PERMITS REQUIRED.**

It shall be unlawful for any person to operate a food-service establishment, mobile food-service or temporary food-service establishment in the county who does not possess a valid permit from the Health Officer. The permit shall be posted in a conspicuous place in the food-service establishment, mobile food-service establishment or temporary food-service establishment. Only persons who comply with the applicable requirements of this chapter shall be entitled to receive and retain a permit. The permit for a food-service establishment and a mobile food-service establishment shall be for a term of 1 year beginning January 1 and expiring December 31 of the same year and shall be renewed annually. The permit for a temporary food-service establishment shall be for the term of 1 continuous operation. Any permit issued by the Health Officer shall contain the name and address of the person to whom the permit is granted, the address of the premises for which the same is issued, and other pertinent data as may be required by the Health Officer.

(Ord. 3-65, passed 4-20-1965) Penalty, see § 114.99

§ 114.16 SEPARATE PERMITS MANDATORY.

A separate permit shall be required for each food-service establishment, mobile food-service establishment or temporary food-service establishment operated or to be operated by any person. A permit issued under this chapter is not transferable.

(Ord. 3-65, passed 4-20-1965) Penalty, see § 114.99

§ 114.17 INSPECTIONS.

A permit shall be issued to any person on application after inspection and approval by the Health Officer; provided, that the food-service establishment, mobile food-service establishment or temporary food-service establishment complies with all the applicable provisions of this chapter.

(Ord. 3-65, passed 4-20-1965)

§ 114.18 DENIAL OR REVOCATION OF PERMIT.

No permit or renewal thereof shall be denied or revoked on arbitrary or capricious grounds.

(Ord. 3-65, passed 4-20-1965)

LICENSES**§ 114.30 LICENSES REQUIRED.**

(A) It shall be unlawful for any person to operate a food-service establishment or mobile food-service establishment in the county who does not possess a valid license for the operation of that establishment. The license shall be for a term of 1 year beginning January 1 and expiring December 31 of the same year and shall be renewed annually.

(B) The license shall be provided by the County Health Department, if there is presented at the County Health Department a valid permit from the Health Officer, together with \$5, if the application for license is made on or after June 1.

(Ord. 3-65, passed 4-20-1965) Penalty, see § 114.99

§ 114.31 FEES FOR TEMPORARY OPERATION.

Any person who desires to operate a temporary food-service establishment in the county shall, after securing a permit from the Health Officer, obtain from the County Health Department a license for a temporary food-service establishment. The license shall be provided by the County Health Department, if there is presented at that office a valid permit from the Health Officer, together with \$5, for each day of operation, not to exceed \$20, for any 1 continuous operation.

(Ord. 3-65, passed 4-20-1965)

§ 114.32 SEPARATE LICENSES MANDATORY.

A separate license shall be required for each food-service establishment or temporary food-service establishment operated or to be operated by any person. A license issued under this chapter is not transferable.
(Ord. 3-65, passed 4-20-1965) Penalty, see § 114.99

§ 114.33 LICENSE AND FEE EXCEPTION.

No license shall be required and no license fee shall be paid for food-service establishments, mobile food-service establishments or temporary food-service establishment operated by religious, educational, or charitable organizations. However, these establishments shall comply with the other provisions of §§ 114.15 through 114.17 of this chapter.
(Ord. 3-65, passed 4-20-1965)

INSPECTION OF FOOD-SERVICE ESTABLISHMENTS

§ 114.50 FREQUENCY OF INSPECTION.

At least once each 3 months, the Health Officer shall inspect each food-service establishment and mobile food-service establishment for which a permit is required under the provisions of this chapter.
(Ord. 3-65, passed 4-20-1965)

§ 114.51 PROCEDURE.

If during the inspection of any food-service establishment or mobile food-service establishment the Health Officer discovers the violation of any of the requirements in § 114.02 of this chapter, he or she shall issue a written order listing the violations to the proprietor or, in his or her absence, to the person in charge, and fixing a time within which the proprietor of the food-service establishment or mobile food-

service establishment shall abate and remedy the violations. A copy of the written order shall be filed with the records of the Health Department.
(Ord. 3-65, passed 4-20-1965)

§ 114.52 AUTHORITY TO INSPECT AND TO COPY RECORDS.

The person operating the food-service establishment or mobile food-service establishment shall, upon the request of the Health Officer, permit the Health Officer or his or her authorized representative access to all parts of the food-service establishment or mobile food-service establishment, and shall permit the Health Officer or his or her authorized representative to collect evidence and/or exhibits and to copy any or all records relative to the enforcement of this chapter.
(Ord. 3-65, passed 4-20-1965)

§ 114.53 FINAL INSPECTION; PROSECUTION OR HEARING FOR VIOLATORS.

If upon a second and final inspection the Health Officer finds that the food-service establishment or mobile food-service establishment, person, or employee is violating any of the provisions of this chapter which were in violation on the previous inspection, and concerning which a written order was issued, the Health Officer shall furnish evidence of the violation to the prosecutor having jurisdiction in the county in which the violation occurs, and he or she shall prosecute all persons violating the provisions of this chapter; or the Health Officer may promptly issue a written order to the permittee of the food-service establishment to appear at a certain time, no later than 10 days from the date of final inspection, and at a place in the county fixed in order to show cause why the permit issued under the provision of § 114.15 should not be revoked.
(Ord. 3-65, passed 4-20-1965)

§ 114.54 REVOCATION OF PERMIT.

The Health Officer upon the hearing, if the permittee would fail to show cause, shall revoke the permit and promptly give written notice of the action to the permittee. The Health Officer shall maintain a permanent record of his or her proceedings filed in the office of the Health Department.

(Ord. 3-65, passed 4-20-1965)

§ 114.55 SUSPENSION OF PERMIT.

(A) Any permit issued under this chapter may be temporarily suspended by the Health Officer without notice or hearing for a period of not to exceed 30 days, for any of the following reasons:

(1) Insanitary or other conditions which in the Health Officer's opinion endangers the public's health; or

(2) Interference with the Health Officer or any of his or her authorized representatives in the performance of their duties.

(B) (1) Provided, however, that upon written application from the permittee, served upon the Health Officer within 15 days after the suspension, the Health Officer shall conduct a hearing upon the matter after giving at least 5 days' written notice of the time, place, and purpose thereof to the suspended permittee;

(2) Provided, further, that any such suspension order shall be issued by the Health Officer in writing and served upon the permittee by leaving a copy at his or her usual place of business or by delivery of registered or certified mail to that address. (Ord. 3-65, passed 4-20-1965) Penalty, see § 114.99

§ 114.56 REINSTATEMENT OF PERMIT.

Any person whose permit has been suspended may at any time make application to the Health Officer for the reinstatement of his or her permit.

(Ord. 3-65, passed 4-20-1965)

INSPECTION OF TEMPORARY FOOD-SERVICE ESTABLISHMENTS**§ 114.70 FREQUENCY OF INSPECTION.**

At least once in each 24-hour period, the Health Officer shall inspect each temporary food-service establishment for which a permit is required under the provisions of this chapter.

(Ord. 3-65, passed 4-20-1965)

§ 114.71 PROCEDURE.

If during the inspection of any temporary food-service establishment the Health Officer discovers the violation of any of the requirements in § 114.02 of this chapter, he or she shall order the immediate correction of the violation.

(Ord. 3-65, passed 4-20-1965)

§ 114.72 AUTHORITY TO INSPECT AND TO COPY RECORDS.

The person operating the temporary food-service establishment shall, upon the request of the Health Officer, permit the Health Officer or his or her authorized representative access to all parts of the temporary food-service establishment and shall permit collecting evidence and/or exhibits and copying any or all records relative to the enforcement of this section.

(Ord. 3-65, passed 4-20-1965)

§ 114.73 REVOCATION OF PERMIT FOR CONTINUED OPERATION.

Upon failure of any person maintaining or operating a temporary food-service establishment to comply with any order of the Health Officer, it shall be the duty of the Health Officer summarily to revoke the permit of the person and establishment and to forbid the further sale or serving of food therein. Any person continuing to sell or serve food in a temporary food-service establishment, the permit of which has

been revoked, shall be subject to the penalties provided in § 114.99 of this chapter.

(Ord. 3-65, passed 4-20-1965) Penalty, see § 114.99

§ 114.99 PENALTY.

(A) Any person who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor. On conviction, the violator shall be punished for the first offense by a fine of not more than \$500; for the second offense by a fine of not more than \$1,000; and for a third and each subsequent offense by a fine of not more than \$1,000 to which may be added imprisonment for any determinate period not exceeding 90 days.

(B) Each day of operation of a food-service establishment, mobile food-service establishment or temporary food-service establishment in violation of §§ 114.15 through 114.18 and 114.30 through 114.33, or after the expiration of the time limit for abating insanitary conditions and completing improvements to abate the conditions, constitutes a separate offense.

(Ord. 3-65, passed 4-20-1965)

CHAPTER 115: HORSE-DRAWN CARRIAGE BUSINESS

Section

General Provisions

- 115.01 License required
- 115.02 Definitions
- 115.03 Horse-drawn vehicles
- 115.04 Animal care and control guidelines

Licenses

- 115.15 Applications for horse-drawn carriage business license
- 115.16 Public liability
- 115.17 Issuance of licenses
- 115.18 Operation of horse-drawn carriage business
- 115.19 Weather conditions
- 115.20 Denial, suspension, revocation of license
- 115.21 Fees
- 115.22 Transfers

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GENERAL PROVISIONS

§ 115.01 LICENSE REQUIRED.

The operation of any horse-drawn vehicle or shuttle upon the streets of the town for the purpose of transporting persons for hire or as a contractual service is a violation of this chapter unless operated in accordance with valid licenses issued pursuant to this chapter. The Clerk-Treasurer of the town is hereby authorized to issue up to a maximum of 6 licenses concurrently pursuant to this chapter for the operation of horse-drawn carriage or shuttle businesses. Application shall be made and fees paid for same no

later than 3 business days before the first day of commencing business in any calendar year. Licenses are annually renewable. However, should a license holder from the previous year not apply by April 1 of the application year, that license shall become available to other applicants.

(Ord. 2003-03, passed 6-19-2003; Am. Ord. 2009-07, passed 5-21-2009; Am. Ord. 2016-05, passed 6-16-2016)

§ 115.02 DEFINITIONS.

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

CARRIAGE. All vehicles drawn by animal power such as, but not limited to: wagons, carriages, surreys, buckboards, tumbrels, carts, sulkeys and sleighs.

HORSE. All draft animals used to draw vehicles such as, but not limited to: horses, mules, oxen, camels, burros, water buffalo, and reindeer.

SHUTTLE. A public transport consisting of a multi-passenger vehicle with all trips originating from a designated "loading zone" approved by the town. (Ord. 2009-07, passed 5-21-2009; Am. Ord. 2016-05, passed 6-16-2016)

§ 115.03 HORSE-DRAWN VEHICLES.

Only vehicles constructed and equipped as follows may be licensed:

(A) Carriages shall have wheels with spokes of no less than 1-1/4 inch diameter and with a rubber covering thick enough to protect the streets from damage and keep noise to a minimum;

(B) All carriages shall be equipped with brakes, taillights and turn signals on the rear of the vehicle;

(C) Carriages shall be equipped with front lights on both sides that will emit light to the front and side. They shall be visible from a distance of 500 feet;

(D) Each carriage shall be equipped with a device to catch horse manure from falling to the pavement; device must be installed and operating properly, or manure must be picked up;

(E) Each carriage shall be equipped with a chemical to be poured over horse urine by drivers so as to break down and eliminate accumulated agents and odor;

(F) Each carriage shall be equipped with a slow-moving vehicle sign approved by the state and attached to the rear of the vehicle; and

(G) No carriage shall be larger in capacity than to transport 6 passengers. It shall be equipped with a safety strap across the carriage entrance. (Ord. 2003-03, passed 6-19-2003)

§ 115.04 ANIMAL CARE AND CONTROL GUIDELINES.

(A) The animal shall be maintained in a clean condition, free of manure and well groomed.

(B) (1) Any 1 animal shall not be worked more than 8 hours in any given 24-hour period, or more than 48 hours in any given 7-day period.

(2) A log book shall be maintained for any horse in the carriage trade.

(C) An owner, operator, or custodian of a horse engaged in the horse-drawn carriage trade shall:

(1) Provide that the harness, shoes, bridle and any other equipment for the horse fits properly, is in good working condition and shall not cause injury or pain to the horse or pose a safety hazard to any person;

(2) Not use curb bits, twisted wire, twisted wire snaffles, spurs, bucking straps, flank straps or similar devices;

(3) Not drive, use or work an injured, sick, diseased or lame horse in the horse-drawn carriage trade;

(4) Keep a record of horse-shoeing and hoof care; and

(5) Never allow a horse with a missing shoe to pull a carriage.

(Ord. 2003-03, passed 6-19-2003) Penalty, see § 115.99

LICENSES

§ 115.15 APPLICATIONS FOR HORSE-DRAWN CARRIAGE BUSINESS LICENSE.

(A) Applications for horse-drawn carriage business licenses shall be made to the Clerk-Treasurer on forms provided by that office. The application shall contain but not be limited to the following information:

(1) The name and business address of the applicant;

(2) The number of carriages to be operated pursuant to the license, the seating capacity, the manufacturer and a photograph of each carriage; and

(3) A route and operation schedule for the business which has been approved by the Town Marshal.

(B) The application shall be verified under oath and include a written agreement by the applicant to operate the business, if licensed, strictly in accordance with the terms of this chapter and to indemnify and hold harmless the town for all judgments, losses and expenses arising out of the operations permitted by the license.

(C) The Clerk-Treasurer of the town shall be provided with a certification from a licensed veterinarian that each horse is physically fit to engage in the horse-drawn carriage trade and is free of any disease or internal parasites. Recertification shall be required within 30 days prior to application or annual renewal application.

(D) The Clerk-Treasurer shall be provided with an inspection certification from the Town Manager, for each horse-drawn vehicle to be used in the business, certifying that the vehicle conforms to all of the requirements of § 115.02 of this chapter.

(Ord. 2003-03, passed 6-19-2003)

§ 115.16 PUBLIC LIABILITY.

(A) Before a license required by § 115.01 shall be issued or renewed, the applicant shall post or maintain with the Clerk-Treasurer either an indemnity bond or a policy of public liability insurance, approved as to form by the Town Attorney, and a signed agreement that the licensee will indemnify and hold harmless the town, its Council members, agents and employees from any and all loss, costs, damages or expenses, by reason of any and all liability which may result from or arise out of granting of the license for the operation of a carriage for which a license is issued; and that the licensee will pay any and all loss or damage that may be sustained by any person resulting from or arising out of the legal or negligent operation or maintenance of a carriage. The bond or policy of insurance shall be maintained in its original amount by the licensee at his or her expense at all times during the period for which the license is in effect. In the event that 2 or more licenses are issued to 1 licensee, 1 such bond or policy or insurance may be furnished to cover 2 or more vehicles. If a claim is paid during any period of coverage which causes the aggregate amount of available insurance to fall below \$300,000, the licensee shall enter the market place and purchase additional layers of insurance so that there is a minimum of \$300,000 of available insurance during the remainder of the policy period.

(B) The limit of liability upon any bond or policy posted pursuant to division (A) above shall in no case be less than \$500,000 for death or injury of 1 person, \$1,000,000 for total liability for death or personal injury arising out of any 1 event or casualty, and \$75,000 for property damage.

(C) Any bond posted pursuant to this section shall be accompanied by good and sufficient sureties approved by the Clerk-Treasurer of the town.

(D) The Clerk-Treasurer shall notify the licensee under this chapter of any claim of which the town has notice, where the claim arises from the operation or maintenance of any carriage.

(E) The licensee under this chapter shall notify the Clerk-Treasurer of any claim of which the licensee has notice, where the claim arises from the operation or maintenance of any carriage.

(Ord. 2003-03, passed 6-19-2003)

§ 115.17 ISSUANCE OF LICENSES.

Upon receipt of the completed application pursuant to § 115.15 of this chapter, filing of bond or insurance as required by § 115.16 and payment of the license fees provided in § 115.21, the Clerk-Treasurer shall issue a horse-drawn carriage business license to the applicant, if a license is available to be issued.

(Ord. 2003-03, passed 6-19-2003)

§ 115.18 OPERATION OF HORSE-DRAWN CARRIAGE BUSINESS.

Horse-drawn carriage businesses shall be operated only in accordance with the following regulations:

(A) A copy of the horse-drawn carriage license shall be carried by the carriage driver or the carriage. The Clerk-Treasurer, upon issuance of the license, shall issue that number of duplicates as requested in the application, identifying each carriage listed in the application.

(B) Each carriage shall be operated by a holder of a valid Indiana driver's license issued pursuant to state statute and shall have the license on his or her person at all times when operating the vehicle.

(C) When carrying persons for hire or by contract, the vehicle shall be operated only upon the routes and during the hours approved by the Town Marshal, which approval shall not be unreasonably withheld.

(D) When picking up or discharging passengers, horse-drawn vehicles and shuttles shall park only in "stands" designated in their respective routes. Horse carriage and shuttle stands must be approved by the Town Council and be so marked.

(E) Horse-drawn vehicles, when in motion, shall be operated only in the curb-most traffic lane on any public street, and the driver shall obey all applicable state and local traffic laws, chapters and regulations.

(F) No horse-drawn vehicle shall be operated on a public street unless a valid bond or public liability insurance policy, as specified in this chapter, is on file with the Clerk-Treasurer.

(G) Rates shall be prominently displayed at the boarding area so as to advise prospective clientele of the rates and fares.

(H) Occupancy of a horse-drawn carriage shall not exceed a total load of more than 1,000 pounds, not including the carriage.

(I) No passengers shall be allowed to ride on any part of the vehicle which is in motion, except on designated seating upon the vehicle. Passengers should not be allowed in the driver’s seat, only operators and owners.

(J) The driver shall not solicit patronage in a loud tone of voice or in any manner to annoy or obstruct the movement of a person, or follow any person for the purpose of soliciting patronage.

(K) Special events can be approved by the Town Manager. Special events are for special limited usage and time.

(L) The horse may not be allowed to exceed a walk while working in the town, with the exception of a short route on Van Buren Street as determined by the Town Marshal, so as not to hinder the flow of traffic.

(Ord. 2003-03, passed 6-19-2003; Am. Ord. 2016-05, passed 6-16-2016) Penalty, see § 115.99

§ 115.19 WEATHER CONDITIONS.

(A) An owner, operator or custodian of a horse engaged in the horse-drawn carriage trade shall not drive, use or work a horse on a public street or byway in the town:

(1) During periods when the temperature exceeds that deemed safe to work the horse as determined by the Town Manager;

(2) During periods when it is snowing; or

(3) During other periods determined by the Town Council by rule as being dangerous or unsuitable.

(B) Water should be available for horses. (Ord. 2003-03, passed 6-19-2003) Penalty, see § 115.99

§ 115.20 DENIAL, SUSPENSION, REVOCATION OF LICENSE.

(A) Any violation of this chapter by the holder of a license issued hereunder shall be grounds for suspension or revocation of the license by the Clerk-Treasurer.

(B) Any denial of a license application shall be subject to review by the Town Council upon request of the applicant.

(C) A variance may be granted from these rules and regulations by the Town Manager, not to exceed 30 days. (Ord. 2003-03, passed 6-19-2003) Penalty, see § 115.99

§ 115.21 FEES.

The fees for licenses under this chapter shall be as follows:

<i>Horse-drawn Carriage Business License</i>	
License fee: \$50.00 (rental per parking space)	plus \$57.00 (administrative)

(Ord. 2003-03, passed 6-19-2003)

§ 115.22 TRANSFERS.

Any person holding a license pursuant to the provisions of this chapter, who sells the business requiring the license, may assign the license to the purchaser, provided the purchaser is continuing the same business at the same location. Both the seller and the purchaser shall sign a request for transfer which shall be filed with the Clerk-Treasurer. A transfer fee of \$5 shall be paid if the transfer is approved.

(Ord. 2003-03, passed 6-19-2003)

§ 115.99 PENALTY.

(A) Any person, organization, group or association failing to comply with the provisions of this chapter shall be subject to a fine of \$50 per day.

(B) Each day a violation continues shall be deemed a separate violation.

(Ord. 2003-03, passed 6-19-2003)

Cross-reference:

*Suspension, revocation or denial of license,
see § 115.20*

CHAPTER 116: ITINERANT MERCHANTS

Section

General Provisions

116.01 License required

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- 116.16 Date of application
- 116.17 Term of license
- 116.18 Display of license
- 116.19 Definitions
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- 116.45 Requirements
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GENERAL PROVISIONS

§ 116.01 LICENSE REQUIRED.

(A) No person, organization, group or association shall engage in any temporary or transient selling or display for sale of goods, wares, merchandise, advertising, food or beverages of any kind, at retail or wholesale, or provide services from any 1 locality or in traveling from place to place within the town, or provide entertainment for a fee or admission charge within the town, without first obtaining a license from the Town Clerk-Treasurer.

(B) Notwithstanding any of the provisions contained herein, no person, organization, group or association providing professional services regulated and licensed by the State of Indiana shall be denied permission to continue furnishing the professional services or assessed any penalty under this chapter should the person, organization, group or association refuse to obtain a license.
(Ord. 1998-3, passed 9-17-1998)

LICENSE PROCEDURES

§ 116.15 APPLICATION AND FEES.

Before issuing a license, each business shall file with the Clerk-Treasurer an application on forms provided by the town. The Clerk-Treasurer shall receive from each applicant for each location as follows:

(A) A photostatic copy of a valid Indiana Registered Retail Merchants Certificate (if business is a retail business);

(B) A fee in the amount of \$10 per day of operation. Operation during any part of a day shall be considered a full day;

(C) The name, residence and post-office address and phone number of the person, firm or corporation making the application; and if a firm or corporation, the name, address and phone number of the members of the firm or officers of the corporation, as the case may be;

(D) If the applicant is a corporation, then there shall be stated on the application form the date of incorporation, the state of incorporation, and if the applicant is a corporation formed in a state other than the State of Indiana, the date on which the corporation qualified to transact business as a foreign corporation in the State of Indiana;

(E) A statement showing the kind of business proposed to be conducted, the actual dates for which the applicant desires to transact business, and if for the purpose of transacting such business any permanent or mobile building, structure or real estate is to be used for the exhibition by means of samples, catalogues, photographs and price lists or sale of goods, wares or merchandise; the location of the proposed place of business; and a verified statement from the owner(s) of the real estate that seller has permission to use the real estate for the sale of goods for the time period indicated;

(F) A detailed inventory and description of the goods, wares and merchandise to be offered for sale, the manner in which the same is to be advertised for sale and the representations to be made in connection therewith, and any and all details necessary to locate and identify all goods, wares and merchandise to be offered for sale; and

(G) The application shall be verified by signature of the applicant or his or her authorized agent.
(Ord. 1998-3, passed 9-17-1998)

§ 116.16 DATE OF APPLICATION.

Any person, organization, group or association requiring a business license shall apply for and pay for the same no later than 3 business days before the first date of commencing business in any calendar year.
(Ord. 1998-3, passed 9-17-1998)

§ 116.17 TERM OF LICENSE.

A license issued under this subchapter is valid for any 15-day period during the calendar year. Additionally, a license issued under this subchapter is not renewable.
(Ord. 1998-3, passed 9-17-1998)

§ 116.18 DISPLAY OF LICENSE.

Each business shall display the issued license in a place clearly visible to the Town Marshal.
(Ord. 1998-3, passed 9-17-1998)

§ 116.19 DEFINITIONS.

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

BUILDING. Any structure enclosed by walls on all sides, covered by a roof and requiring permanent location on the ground. Tents, temporary frames covered by soft material, or structures built without a building permit are excluded from this definition.

BUSINESS. Any person, organization, group or association engaging in the selling or display for sale for goods, wares, merchandise, food or beverages; providing services; or providing entertainment for a fee or admission charge.

ORGANIZATION, GROUP or ASSOCIATION.
Any organization, group or association claiming to be a single legal entity and therefore entitled to purchase a single license for the organization, group or

association. The organization, group or association must furnish the Clerk-Treasurer with a list of its individual members at the time of making application and furnish evidence that the organization, group or association is, in fact, doing business as a single entity, keeping a single set of books, a single deposit of their incomes, and paying expenses of doing business and state sales tax as a single entity. Failure to make such proof shall constitute an admission that each individual member of the organization, group or association is an individual business therefore required to purchase separate licenses.

TEMPORARY. That which is to last for a limited time only, as distinguished from that which is indefinite in its duration.

TRANSIENT. One who or that which is temporary.
(Ord. 1998-3, passed 9-17-1998)

§ 116.20 EXCEPTIONS.

(A) *Exhibitors.* Individual exhibitors shall be exempted from applying for and paying for an itinerant business license, provided the exhibitor is sponsored by a current Nashville business license holder. The sponsor and the individual exhibitors shall not be required to satisfy the definition of organization, group or association as set forth in § 116.19, provided the exhibition is at a single location and is limited to 4 consecutive days.

(B) *Charitable, educational or religious organizations.* Any person, organization, group or association requiring a license as set forth in § 116.01 above, but engaging in the activity on behalf of and solely for the benefit of any bona fide local (Brown County), public, charitable, educational or religious organization shall apply for a license, but shall be exempted from paying for a business license.

(C) *Garage and yard sales.* Any person, organization, group or association requiring a license fee as set forth in § 116.01 above, selling his, her or its own used merchandise from the garage, basement

or yard and offering the merchandise for sale no more than 2 days in any given 6 months, shall be exempted from applying for and paying for a business license.

(D) *Farm produce.* Any person, organization, group or association requiring a license as set forth in § 116.01 above, selling only local (Brown County) produce, which is grown by that person, organization, group or association and engaging in such selling for less than 45 days in any calendar year, shall be exempted from applying for and paying for a business license.

(E) *Veterans.* Any veteran shall be exempted from applying for and paying for a business license.

(F) *Commercial agents.* The provisions of this subchapter shall not apply to sales made to dealers by commercial travelers or selling agents in the usual course of business.

(G) *Governmental action.* The provisions of this subchapter shall not apply to sheriffs, constables or other public officers selling goods, wares and merchandise according to law. Additionally, this subchapter shall not apply to bona fide assignees or receivers appointed in this state selling goods, wares and merchandise for the benefit of creditors.
(Ord. 1998-3, passed 9-17-1998)

§ 116.21 LICENSE APPROVAL, REVOCATION OR TRANSFER.

(A) *Approval of application.* Each applicant for a license must show compliance with the appropriate ordinances, rules, regulations and statutes of the Town of Nashville, County of Brown and State of Indiana, and in relation to public health, safety and welfare.

(B) *Revocation of license.* In the event any licensee fails to comply with the conditions set forth in division (A) of this section, the Clerk-Treasurer shall cause the license to be revoked. Before commencing operations again, the licensee must apply for a new license.

(C) *Revocation not exclusive.* The revocation of a license shall not act as a bar to the town proceeding to prosecute violations in accordance with this chapter.

(D) *Transfer.* Itinerant merchants licenses shall not be transferable.
(Ord. 1998-3, passed 9-17-1998)

§ 116.22 SALE WITHIN PUBLIC RIGHT-OF-WAY OR FROM PUBLIC LANDS.

The issuance of a business license shall not give any business the right to sell goods, wares, merchandise, food, beverages or provide entertainment on or within any public right-of-way, street, alley, sidewalk, parking lot or from any land owned by any governmental unit without the express written consent of the owner of the land.
(Ord. 1998-3, passed 9-17-1998)

REVOCATION PROCEDURE; APPEAL

§ 116.35 REVOCATION PROCEDURE.

Any license issued pursuant to this chapter may be revoked by the Clerk-Treasurer on behalf of the Board of Trustees after notice and an inquiry has been made for any of the following causes:

(A) Any fraud, misrepresentation or false statement contained in the application for license;

(B) Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares or merchandise;

(C) Any violation of this chapter;

(D) Conducting the business licensed under this chapter in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the

public. Notice of a possible revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and requesting any information from the licensee regarding a denial; this notice shall be mailed, postage prepaid, to the licensee at his or her last known address at least 10 days prior to the date set for the revocation by the Clerk-Treasurer.

(Ord. 1985-3, passed 5-6-1985)

§ 116.36 APPEAL PROCEDURE.

Any person aggrieved by the decision of the Clerk-Treasurer in regard to the denial of application for a license as provided for in this chapter, or by a decision of the Clerk-Treasurer in connection with the revocation of a license as provided herein, shall have the right to appeal to the Board of Trustees. This appeal shall be taken by filing with the Board of Trustees within 14 days after notice of the decision of the Clerk-Treasurer has been mailed to the person's last known address, a written statement setting forth the grounds for the appeal. The Board of Trustees shall set the time and place for a hearing on the appeal and notice of the hearing shall be given to the person by registered or certified mail, return receipt requested, at least 10 days prior to the hearing date. The order of the Board of Trustees on the appeal shall be final.

(Ord. 1985-3, passed 5-6-1985)

ALTERNATIVE COMPLIANCE

§ 116.45 REQUIREMENTS.

The provisions of this chapter shall not apply to solicitors representing member companies, firms, corporations or partnerships of a trade association recognized by the town, or the solicitors of individual companies, firms, corporations or partnerships which:

(A) Subscribe to and are bound by policy statement code or regulation established either by the

company, firm, corporation or partnership individually, or subscribe to and are bound by the policy statement, code or regulation of a trade association of which the company, firm, corporation or partnership is a member in good standing and which policy statement, code or regulation requires that:

(1) The offer of products or services for sale, either through oral representation or advertising literature, shall be truthful and accurate as to price, grade, quality, make, value, performance, quantity, currency or model and availability;

(2) The terms of any guaranty offered by the seller in connection with the sale shall be furnished to the buyer in writing and shall clearly state the nature and extent of such guaranty; and

(3) The policy statement, code or regulation prohibits the initiation or continuation of any deceptive or unlawful trade practices as defined by any statute or ordinance in force and effect within this jurisdiction.

(B) Recognize a responsibility to consumers for violations of either its policy statement, code or regulation or deceptive and/or unlawful trade practices, statutes and ordinances by the solicitors of its products or services, even if the company, firm, corporation or partnership had no knowledge of the violation or acts, and this lack of knowledge is the result of failure by the company, firm, corporation, or partnership to establish procedures whereby it would be kept informed of the activity of the solicitors selling its products or services; or

(C) Have established a procedure for processing consumer complaints within a reasonable time and providing for consumer redress if, after the fact-finding is completed, it is determined that the consumer was aggrieved by a violation of the policy statement, code or regulation or a statutory deceptive or unlawful practice.

(D) Festival exception.

(1) Itinerant merchants who participate in festivals or similar activities which have been

pre-approved by the Town Council and which have a representative or fiscal agent who can handle the application process may be licensed for a period of up to 7 consecutive days for a single payment of \$15 per merchant.

(2) The holder of a license under this exception shall be permitted to conduct business on public streets, alleys, sidewalks or parking lots within the area designated by the Town Council in its approval of the festival for which the merchant's license has been issued.

(Ord. 1985-3, passed 5-6-1985; Am. Ord. 2008-02, passed 4-17-2008) Penalty, see § 116.99

§ 116.46 APPLICATION.

Application for alternative compliance as provided in this chapter shall be completed and alternative compliance status shall be granted upon the filing of the following information and items with the Clerk-Treasurer:

(A) Five current copies of the policy statement, code or regulation which meet the requirements specified in § 116.21;

(B) A notarized statement containing the name of the company, firm, corporation, or partnership subscribing thereto, and listing the address, telephone number and the name of the executive within the company, firm, corporation or partnership designated to administer the policy statement, code or regulation. In the case of a trade association making application on behalf of its membership based upon an association policy statement, code or regulation, which the membership must subscribe to and be bound by, the application must contain the above-required information for each of its individual members which desire alternative compliance status, and, in addition, must list the name, address and telephone number of the officer or agent in charge of administering the association policy statement, code or regulation; and

(C) The application, whether submitted by an individual company, firm, corporation or partnership, or by a trade association recognized by the town on its

membership's behalf, must be signed by the chief executive officer of the individual applicant or trade association applicant and must be notarized.

(Ord. 1985-3, passed 5-6-1985) Penalty, see § 116.99

§ 116.47 PROCESSING OF COMPLAINTS.

(A) A consumer complaint against a company, firm, corporation or partnership having alternative compliance status may be filed in the following ways:

(1) A consumer may register a complaint against an alternative compliance company, firm, corporation, or partnership or trade association with the Clerk-Treasurer in person, by telephone or in writing; or

(2) A consumer or his or her duly authorized representative, including but not limited to legal counsel, may file a written complaint directly with the alternative compliance company, firm, corporation, partnership or trade association, so long as the Clerk-Treasurer receives a copy of the directly submitted complaint, and so long as the written complaint filed directly with the alternative compliance company, firm, corporation, partnership or trade association clearly indicates that the Clerk-Treasurer has been notified.

(B) In the situation where the complaint is filed with the Clerk-Treasurer, the Clerk-Treasurer may notify the alternative compliance company, firm, corporation, partnership or trade association that the complaint has been lodged, either by sending the complaint in writing or by placing a collect call to the person, officer, agent, or employee designated by the company, firm, corporation or partnership to receive that information in its alternative compliance application.

(C) The complaint, as filed with the alternative compliance company, firm, corporation, partnership or trade association shall contain the following information:

- (1) Name and address of consumer;

(2) Name or trade name of the product or service purchased;

(3) Name of the company, firm, corporation, or partnership that manufactured and/or distributed the product or service, if the name differs from the trade name of the product or service and if it is known by the consumer;

(4) Name of the solicitor involved in the transaction, if remembered by the consumer;

(5) Purchase date, if known;

(6) Identifying contract or receipt numbers, if available; and

(7) Copy of the contract, invoice or receipt, if available.

(D) Upon receipt of a consumer complaint or an official complaint against alternative compliance company, firm, corporation or partnership which does not necessarily involve a sales transaction, but alleges a violation of a deceptive or unlawful trade practice statute or ordinance in force and effect in the jurisdiction, the Clerk-Treasurer, the individual or his or her authorized representative shall submit the information surrounding the allegation to the person, officer, agent or employee designated by the company, firm, corporation, partnership or trade association to receive such complaints in its alternative compliance application.

(E) Each company, firm, corporation, partnership, or trade association on behalf of its membership that has received alternative compliance status shall, upon receipt of a complaint, file a written statement with the Clerk-Treasurer and the individual consumer complainant, or his or her duly authorized representative, containing the disposition of the complaint. The statement shall contain the findings of facts upon which the disposition was based and shall be filed within 20 business days from the date of receipt of the complaint.

(Ord. 1985-3, passed 5-6-1985)

§ 116.48 LOSS OF STATUS.

(A) Any company, firm, corporation or partnership having received alternative compliance status as provided for in this chapter, which fails to honor the provisions of the policy statement, code or regulation or which violates any of the other requirements for obtaining and maintaining alternative compliance status shall be subject to revocation of alternative compliance status for not less than 1 year.

(B) The authority to revoke the alternative compliance status, as provided in this chapter shall rest with the Clerk-Treasurer who shall consider the following criteria in making that determination:

(1) Failure by the company to file any responses with the Clerk-Treasurer concerning a consumer complaint(s) forwarded by the Clerk-Treasurer to the person, officer or agent or employees designated by the company, firm, corporation, partnership or trade association to receive the information;

(2) Failure to return money or replace products which were received by the consumer in a defective condition;

(3) A pattern of failure to deliver ordered goods without adequate explanation shall constitute grounds for automatic revocation. For purposes of this provision, a pattern shall be defined as 10 instances of failure to deliver without explanation; or

(4) Failure to correct or adequately explain repeated allegations of violation of statutory deceptive or unlawful trade practices in force and effect within the corporate limits of the company, firm, corporation, partnership or trade association or violation filed with the town as part of the application for alternative compliance even where a sale did not result, when such allegations have been forwarded by the Clerk-Treasurer, individual consumer, or his or her authorized representative to the person, officer, agent or employee designated by that company, firm, corporation or partnership to receive the material.

(C) Prior to a revocation of alternative compliance status becoming final, the Clerk-Treasurer shall give written notice at least 15 business days in advance of the effective revocation date to the company, firm, corporation or partnership informing it of the effective date of the revocation for that company, firm, corporation or partnership, and the finding upon which the determination was based, and in addition, notice that the company, firm, corporation or partnership can appeal the determination to revoke the alternative compliance status by filing a notice of review with the Clerk-Treasurer not later than 15 business days after receipt of the notice of revocation. (Ord. 1985-3, passed 5-6-1985)

§ 116.49 REVIEW OF REVOCATION.

(A) The determination of the Clerk-Treasurer to revoke the alternative compliance status of a company, firm, corporation or partnership as provided for in this chapter shall be subject to review. An appeal is perfected if the company, firm, corporation or partnership within 15 business days after receipt of the notice of revocation files a written petition for review with the Clerk-Treasurer.

(B) Upon receipt of a petition for review, the Clerk-Treasurer shall place petitioner on the agenda of the next regularly scheduled monthly meeting of the Board of Trustees, at which time the petitioner may present written and oral testimony and evidence contesting the revocation of its alternative compliance status. The Clerk-Treasurer may designate the Town Attorney to present to the Town Board of Trustees the findings upon which the revocation was made.

(C) The review panel shall notify the petitioning company, firm, corporation or partnership of its decision to either uphold or reverse the revocation within 30 days from the date of the review hearing. (Ord. 1985-3, passed 5-6-1985)

§ 116.99 PENALTY.*(A) General.*

(1) Any person, firm or corporation failing to comply with the provisions of §§ 116.01 and 116.15 through 116.22 shall be subject to a fine of \$100 per day.

(Ord. 1998-3, passed 9-17-1998)

(2) Any person, firm or corporation failing to comply with the provisions of §§ 116.35, 116.36 and 116.45 through 116.49 shall be subject to a fine of \$100 per day up to a maximum penalty of \$2,500 per licensing period.

(Ord. 1985-3, passed 5-6-1985)

(B) Separate violations. Each day a violation continues shall be deemed a separate violation during any 1 licensing period.

(Ord. 1985-3, passed 5-6-1985; Am. Ord. 1998-3, passed 9-17-1998)

(C) Enforcing officer. The Town Marshal or his or her deputy is hereby authorized to enforce the provisions of this chapter.

(Ord. 1998-3, passed 9-17-1998)

CHAPTER 117: TAXICABS

Section

- 117.01 Application
- 117.02 Provisions

§ 117.01 APPLICATION.

The Town Board consents and agrees that all proper parties making application to operate a taxicab within the corporate limits may be granted a certificate to operate upon the filing of a fee of \$10 and the Board reserves the right to grant or reject any application for certificate.

(Ord. 1, passed 2-4-1946)

§ 117.02 PROVISIONS.

A certificate may be issued to applicants, providing applicants for certificates shall have complied in full detail with all the provisions and requirements as provided in I.C. 9-13-1-1 *et seq.*, being an act known as the Motor Vehicle Act of the state.

(Ord. 1, passed 2-4-1946)

CHAPTER 118: SEXUALLY ORIENTED BUSINESSES

Section

- 118.01 Purpose and intent
- 118.02 Definitions
- 118.03 Establishment and classification of businesses regulated
- 118.04 Measurement of distance
- 118.05 Location of sexually oriented businesses
- 118.06 Injunction
- 118.07 Inspection
- 118.08 Minors
- 118.09 Advertising regulations
- 118.10 Hours of operation
- 118.11 Nudity prohibited
- 118.12 Civil penalties; additional legal, equitable and injunctive relief
- 118.13 Immunity from prosecution

deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.
(Ord. 1998-8, passed 6-1-1998)

§ 118.02 DEFINITIONS.

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

ESCORT. A person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

PERSON. An individual, proprietorship, partnership, corporation, association or other legal entity.

PUBLIC BUILDING. Any building owned, leased or held by the United States, the state, the county, the town, any special district, school district, or any other agency or political subdivision of the state or the United States, which building is used for governmental purposes.

PUBLIC PARK or RECREATION AREA. Public land which has been designated for park or recreational activities including, but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the town or county

§ 118.01 PURPOSE AND INTENT.

It is the purpose and intent of this chapter to regulate sexually oriented businesses to promote the health, safety, morals, the general welfare of the citizens of the Town of Nashville and County of Brown and to establish reasonable and uniform regulations to prevent any deleterious location and concentration of sexually oriented businesses within the town and county, thereby reducing or eliminating the adverse secondary effects from sexually oriented businesses. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to

which is under the control, operation, or management of the town or county park and recreation authorities.

RELIGIOUS INSTITUTION. Any church camp, church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.

RESIDENTIAL DISTRICT OR USE. A single-family, duplex, townhouse, multiple-family, retirement home, mobile home park or campground as defined in the Nashville and Brown County zoning ordinances.

SCHOOL. Any public or private educational facility including, but not limited to child daycare facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities. **SCHOOL** includes the school grounds but does not include facilities used primarily for another purpose and only incidentally as a school.

SEXUALLY ORIENTED BUSINESSES. An adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, massage parlor, sexual encounter establishment, escort agency or semi-nude model studio, further defined as follows:

(1) **ADULT ARCADE.** An establishment where, for any form of consideration, 1 or more still or motion picture projectors, slide projectors or similar machines, or other image producing machines, for viewing by 5 or fewer persons each, are regularly used to show films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of **SPECIFIED SEXUAL ACTIVITIES** or **SPECIFIED ANATOMICAL AREAS**.

(2) **ADULT BOOKSTORE, ADULT NOVELTY STORE** or **ADULT VIDEO STORE.** A commercial establishment which has a significant or

substantial portion of its stock-in-trade, has more than 10% of its total square footage of floor area or in excess of 50 square feet of floor area or derives 25% or more of its revenues to the sale or rental of any form of consideration, of any 1 or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual representations which are characterized by the depiction or description of **SPECIFIED SEXUAL ACTIVITIES** or **SPECIFIED ANATOMICAL AREAS**;

(b) Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others;

(c) An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing **SPECIFIED SEXUAL ACTIVITIES** or **SPECIFIED ANATOMICAL AREAS**, and still be categorized as **ADULT BOOKSTORE, ADULT NOVELTY STORE** or **ADULT VIDEO STORE**. These other business purposes will not serve to exempt the establishment from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe **SPECIFIED ANATOMICAL AREAS** or **SPECIFIED SEXUAL ACTIVITIES**; or

(d) Regardless of the percentage of revenues from adult materials defined herein, any business which devotes any portion of its interior business space or advertising for any form of consideration or viewing of any of the adult materials defined herein shall be considered to be an **ADULT BOOKSTORE, ADULT NOVELTY STORE** or **ADULT VIDEO STORE** as defined by and governed by this chapter.

(3) **ADULT CABARET.** A nightclub, bar, restaurant “bottle club,” or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

(a) Persons who appear semi-nude or in a state of semi-nudity; or

(b) Live performances which are characterized by the exposure of **SPECIFIED ANATOMICAL AREAS**, the performance of **SPECIFIED SEXUAL ACTIVITIES** or by pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of **SPECIFIED SEXUAL ACTIVITIES** or **SPECIFIED ANATOMICAL AREAS**.

(4) **ADULT MOTEL.** A motel, hotel or similar commercial establishment which:

(a) Offers public accommodations, for any form of consideration; which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of **SPECIFIED SEXUAL ACTIVITIES** or **SPECIFIED ANATOMICAL AREAS** and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including, but not limited to newspapers, magazines, pamphlets or leaflets, radio or television;

(b) Offers a sleeping room for rent for a period of time less than 10 hours; or

(c) Allows a tenant or occupant to subrent the sleeping room for a time period of less than 10 hours.

(5) **ADULT MOTION PICTURE THEATER.** A commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by the depiction or description of

SPECIFIED SEXUAL ACTIVITIES or **SPECIFIED ANATOMICAL AREAS** are regularly shown for any form of consideration.

(6) **ADULT THEATER.** A theater, concert hall, auditorium or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of semi-nudity or live performances which are characterized by exposure of **SPECIFIED SEXUAL ACTIVITIES** or **SPECIFIED ANATOMICAL AREAS**.

(7) **ESCORT AGENCY.** A person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its business purposes for a fee, tip or other consideration.

(8) **MASSAGE PARLOR.** Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of or in connection with **SPECIFIED SEXUAL ACTIVITIES**, or where any person providing such treatment, manipulation, or service related thereto exposes his or her **SPECIFIED ANATOMICAL AREAS**. The definition of sexually oriented businesses shall not include the practice of massage in any licensed hospital, nor by a licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program.

(9) **NUDE** or **SEMI-NUDE MODEL STUDIO.** Any place where a person, who regularly appears in a state of semi-nudity, is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons.

(10) **SEXUAL ENCOUNTER ESTABLISHMENT.** A business or commercial establishment that, as 1 of its primary business

purposes, offers for any form of consideration a place where 2 or more persons may congregate, associate or consort for the purposes of ***SPECIFIED SEXUAL ACTIVITIES*** when 1 or more of the persons is semi-nude. The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

SPECIFIED ANATOMICAL AREAS.

(1) Less than completely and opaquely concealed:

(a) Human genitals, pubic region;

(b) Human buttocks, anus; or

(c) Female breasts below a point immediately above the top of the areola.

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely concealed.

SPECIFIED SEXUAL ACTIVITIES.

(1) Human genitals in a state of sexual stimulation or arousal;

(2) Actual or simulated acts of human masturbation, sexual intercourse or sodomy; or

(3) Fondling or other erotic touching of human genitals, pubic region, buttock, anus or female breasts.

(Ord. 1998-8, passed 6-1-1998)

§ 118.03 ESTABLISHMENT AND CLASSIFICATION OF BUSINESSES REGULATED.

(A) The establishment of a sexually oriented business shall be permitted only in the appropriately designated zoning category; and

(B) It shall be subject to the following restriction. No person shall cause or permit the establishment of any of the following sexually oriented businesses, as defined above, within 1,000 feet of another such business or within 1,000 feet of any religious institution, school, boys' club, girls' club or similar existing youth organization, or public park or public building, or within 1,000 feet of any property zoned for residential use or used for residential purposes. Sexually oriented businesses are classified as follows:

(1) Adult arcade;

(2) Adult bookstore, adult novelty store or adult video store;

(3) Adult cabaret;

(4) Adult motel;

(5) Adult motion picture theater;

(6) Adult theater;

(7) Massage parlor;

(8) Sexual encounter establishment;

(9) Escort agency; or

(10) Nude model studio.

(Ord. 1998-8, passed 6-1-1998) Penalty, see § 10.99

§ 118.04 MEASUREMENT OF DISTANCE.

As regarding § 118.03(B), distance between any 2 sexually oriented businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. The distance between any sexually oriented business and any religious institution, public or private elementary or secondary school, boys' club, girls' club or similar existing youth organization, public park or public building, or any properties zoned for residential use or used for residential purposes shall

also be measured in a straight line, without regard to intervening structures or objects from the nearest portion of the building or structure used as part of the premises where the sexually oriented business is conducted, to the nearest property line of the premises of a religious institution, public or private elementary or secondary school, boys' club, girls' club or similar existing youth organization, public park or public building, or any properties zoned for residential use or used for residential purposes.

(Ord. 1998-8, passed 6-1-1998)

§ 118.05 LOCATION OF SEXUALLY ORIENTED BUSINESSES.

(A) The Town of Nashville and County of Brown's zoning ordinance shall designate those areas in which sexually oriented businesses are permitted and this chapter shall govern their location and land use.

(B) In addition, any sexually oriented business shall be subject to the following restrictions:

(1) A person commits an infraction if he or she operates or causes to be operated a sexually oriented business within 1,000 feet of:

- (a) Any religious institution;
- (b) Any school;
- (c) The boundary of any residential district;
- (d) A public park adjacent to any residential district;
- (e) Public building;
- (f) A property line of a lot devoted to residential use; or
- (g) A boys' club, girls' club or similar existing youth organization.

(2) A person commits an infraction if he or she operates or causes to be operated a sexually oriented business within 1,000 feet of another such business, which will include any adult arcade, adult book store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, massage parlor or any sexual encounter establishment.

(3) A person commits an infraction if he or she causes or permits the operation, establishment, or maintenance of more than 1 sexually oriented business within the same building or structure.

(Ord. 1998-8, passed 6-1-1998) Penalty, see § 10.99

§ 118.06 INJUNCTION.

A person who operates or causes to be operated a sexually oriented business in violation of this chapter's location restrictions is subject to a suit for injunction as well as prosecution for the criminal violation. This violation shall be punishable by a fine of \$1,000. If any injunction must be sought, attorneys' fees and costs will be assessed at the discretion of the Court against the sexually oriented business.

(Ord. 1998-8, passed 6-1-1998)

§ 118.07 INSPECTION.

(A) Any and all sexually oriented businesses as defined hereinabove shall permit representatives of law enforcement, the County Health Department, and the Fire Department to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.

(B) Any and all sexually oriented businesses shall be inspected to the same extent as all other businesses are inspected, and any record of the sexually oriented business shall be made available to the public the same as other businesses' records are made available to the public.

(C) It shall be unlawful, and a person who operates a sexually oriented business or his or her agent or employee commits an infraction if he or she refuses to permit the lawful inspection of the premises at any time that it is occupied or open for business. (Ord. 1998-8, passed 6-1-1998) Penalty, see § 10.99

§ 118.08 MINORS.

A person commits an infraction if he or she operates or causes to be operated a sexually oriented business and knowingly or with reasonable cause to know, permits, suffers or allows:

(A) Admittance of a person under 18 years of age to the business premises;

(B) A person under 18 years of age to remain at the business premises;

(C) A person under 18 years of age to purchase goods or services at the business premises; or

(D) A person who is under 18 years of age to work at the business premises as an employee. (Ord. 1998-8, passed 6-1-1998) Penalty, see § 10.99

§ 118.09 ADVERTISING REGULATIONS.

(A) It shall be unlawful and a person commits an infraction if he or she operates or causes to be operated a sexually oriented business, and specifically advertises the presentation of any activity prohibited by any applicable state statute or local ordinance.

(B) It shall be unlawful and a person commits an infraction if he or she operates or causes to be operated a sexually oriented business, and displays or otherwise exhibits the materials and/or performances at the sexually oriented business in any advertising which is visible outside the premises. This prohibition shall not extend to advertising of the existence or location of the sexually oriented business.

(C) The permittee shall not allow any adult entertainment to be visible outside the premises.

(D) All off-street parking areas and premises entries of the sexually oriented business shall be illuminated from dusk to dawn with a lighting system which provides an average maintained horizontal illumination of 1 foot-candle of light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises.

(E) Nothing contained in this section of the chapter shall relieve the operator(s) of a sexually oriented business from complying with the requirements of the town and county, commonly known as the Sexually Oriented Business Ordinance, as it may be amended from time to time, or any subsequently enacted town or county ordinance or regulations.

(Ord. 1998-8, passed 6-1-1998) Penalty, see § 10.99

§ 118.10 HOURS OF OPERATION.

(A) It shall be unlawful and a person commits an infraction if he or she operates or causes to be operated a sexually oriented business, and allows the business to remain open for business, or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service or solicit a service, between the hours of 12:00 midnight and 12:00 noon of any particular day, or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service or solicit a service except pursuant to Indiana laws pertaining to alcoholic beverages.

(B) It shall be unlawful and a person commits an infraction if, working as an employee of a sexually oriented business, the employee engages in a

performance, solicits a performance, makes a sale, solicits a sale, provides a service or solicits a service between the hours of 12:00 midnight and 12:00 noon of any particular day.

(Ord. 1998-8, passed 6-1-1998) Penalty, see § 10.99

§ 118.11 NUDITY PROHIBITED.

(A) The United States Supreme Court decision in Barnes v. Glen Theater Inc., 501 U.S. 111 S.Ct. 2456 (June 21, 1991), which upheld the rights of cities to prohibit live public exposure of a person's private parts, specifically applies to sexually oriented businesses, including those businesses where no alcoholic beverages are sold, served or consumed at the premises.

(B) Public nudity is prohibited within the town and county, including any sexually oriented business. Any sexually oriented business which is found in violation of this section may be enjoined from operation and shall be subject to the sanctions as provided in § 118.12.

(Ord. 1998-8, passed 6-1-1998)

§ 118.12 CIVIL PENALTIES; ADDITIONAL LEGAL, EQUITABLE AND INJUNCTIVE RELIEF.

(A) In addition to whatever penalties are applicable under the State of Indiana Penal Code, if any person willfully fails or refuses to obey or comply with or violates any of the provisions of this chapter, that person, upon a judicial determination of the offense, shall be punished by a fine not to exceed \$2,000, in the discretion of the Court. Each violation or noncompliance shall be considered a separate and distinct offense. Further, each day of continued violation or noncompliance shall be considered as a separate offense.

(B) Nothing herein contained shall prevent or restrict the town or the county from taking such other lawful action in any court of competent jurisdiction as

is necessary to prevent or remedy any violation or noncompliance. Other lawful actions shall include, but shall not be limited to an equitable action for injunctive relief or an action at law for damages.

(C) All remedies and penalties provided for in this section shall be cumulative and independently available to the town and county, and the town and county shall be authorized to pursue any and all remedies set forth in this section to the full extent allowed by law. This chapter may be enforced by the Town Council, the County Commissioners or the County Plan Department as well as by the Town Attorney, County Prosecutor, County Attorney, Plan Department Attorney or by such other attorney selected by the town, the county or the County Plan Commission.

(Ord. 1998-8, passed 6-1-1998)

§ 118.13 IMMUNITY FROM PROSECUTION.

The town, the county and their designees, the Town Marshal's Office and the Brown County Sheriff's Department, all other departments and agencies, and all other town and county officers, agents and employees charged with enforcement of state and local laws and codes shall be immune from prosecution, civil or criminal, for reasonable, good-faith trespass upon a sexually oriented business while acting within the scope of authority conferred by this chapter.

(Ord. 1998-8, passed 6-1-1998)

CHAPTER 119: NEWSRACKS AND NEWSSTANDS

Section

- 119.01 Definitions
- 119.02 Findings and purpose
- 119.03 Additional site locations
- 119.04 General prohibition
- 119.05 Notification process/time to cure
- 119.06 Injunction
- 119.07 Immunity from prosecution

§ 119.01 DEFINITIONS.

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

NEWSPAPERS AND OTHER PUBLICATIONS. Includes newspapers, periodicals, advertising circulars and all other printed materials which may be distributed through the use of newsracks.

NEWSRACK. Any unmanned, self-service or coin-operated box, container, storage unit or other dispenser located in or upon, or projecting onto, into or over any part of the public right-of-way, and which is installed, used or maintained for the display, sale or distribution of newspapers and other publications.

PUBLIC RIGHT-OF-WAY. That portion of the streets, alleyways, curbs and sidewalks owned by the town and generally traveled by the public at large.

PUBLIC WAY. That portion of sidewalks adjacent to the public right-of-way privately owned as well as all other privately owned property generally traveled by the public at large.
(Ord. 1999-3, passed 5-18-2000)

§ 119.02 FINDINGS AND PURPOSE.

(A) The Town Council hereby finds as follows:

(1) That both public rights-of-way of the town and public ways in the town are currently being used to circulate newspapers and other publications;

(2) The substantial growth and the number of newspapers and other publications has produced a significant increase in the number of individual newsracks located on the public rights-of-way;

(3) The welfare of Nashville is inextricably tied to its scenic, historical and architectural characteristics. In order to protect these characteristics and to ensure the safety of pedestrians and vehicular traffic, it is necessary to prohibit the placement of newsracks and newsstands on the public rights-of-way;

(4) The placement and maintenance of individual newsracks in the public rights-of-way interferes with the free and unimpeded use of the public rights-of-way and threatens the health, safety and welfare of persons who use the public rights-of-way, including pedestrians, children, the aged, persons entering and leaving vehicles and buildings, drivers, persons performing essential utility, traffic control and emergency services and persons with disabilities;

(5) The placement of individual newsracks or newsstands of various shapes and sizes in the public rights-of-way significantly detracts from the aesthetic character of surrounding areas; and

(6) That there is no shortage of public way in the town of or other private property where newsracks and newsstands may be placed.

(B) Consistent with these findings, it is the purpose of this chapter to promote the health and safety of users of the public rights-of-way and to enhance the aesthetics of the town in a manner so as to do the following:

(1) Provide for pedestrian and driving safety and convenience;

(2) Restrict unreasonable interference with the flow of pedestrian or vehicular traffic, including ingress into and egress from any residence or place of business, or from the street to the sidewalk by persons exiting or entering parked or standing vehicles;

(3) Provide for the safety of the public and property during windstorms and other inclement weather;

(4) Provide reasonable access for the use and maintenance of poles, posts, traffic signs or signals, hydrants, mailboxes and access to locations used for public transportation purposes;

(5) Maintain and protect the values of surrounding properties; and

(6) Reduce unnecessary exposure of the public to personal injury and property damage.

(C) It is also the purpose of this chapter to ensure a diversity of viewpoints consistent with the First Amendment to the United States Constitution and to treat all newspapers and other lawful publications equally, regardless of their content.

(Ord. 1999-3, passed 5-18-2000)

§ 119.03 ADDITIONAL SITE LOCATIONS.

Should any party desire to establish a newsrack on a new site after the passage of this chapter, the

vendor shall submit the location of that proposed site to the Town Manager. The Town Manager, within a reasonable time, generally not exceeding 72 hours, will give a written opinion as to whether the proposed site is on public right-of-way or public way and as to the appropriateness of that site location under this chapter. In making this determination, the Town Manager will consult with the office of the Brown County Surveyor and review the official records which delineate public right-of-way.

(Ord. 1999-3, passed 5-18-2000)

§ 119.04 GENERAL PROHIBITION.

It shall be unlawful for any person to place a newsrack or a newsstand on the public rights-of-way of the town. Any existing newsstand or newsrack currently on the town public rights-of-way shall be removed or relocated to public ways or other private property within 30 days from the date of the passage of this chapter.

(Ord. 1999-3, passed 5-18-2000) Penalty, see § 10.99

§ 119.05 NOTIFICATION PROCESS/TIME TO CURE.

Any newsrack alleged to be in violation of this chapter will result in the owner of that newsrack being given notification of the violation, the reason for the violation and 20 working days from the date of the receipt of notice in which to remedy the alleged violation before the town will take any enforcement action.

(Ord. 1999-3, passed 5-18-2000)

§ 119.06 INJUNCTION.

A person who places a newsrack or causes a newsrack to be installed as described heretofore in violation of this chapter, after being notified pursuant to the terms and conditions of § 119.04, is subject to a suit for injunction. This violation shall be

punishable by a fine of \$1,000. The Town Attorney is authorized to bring any enforcement action for injunctive relief through the Brown Circuit Court, and the town shall be entitled to recover attorneys' fees and costs as assessed at the discretion of the Court against the offending vendor.
(Ord. 1999-3, passed 5-18-2000)

§ 119.07 IMMUNITY FROM PROSECUTION.

The town and its designees, the Town Marshal and all other departments and agencies, and all other town officers, agents and employees charged with enforcement of state and local laws and codes shall be immune from prosecution, civil or criminal, for reasonable, good-faith enforcement of this chapter while acting within the scope of authority conferred by this chapter.
(Ord. 1999-3, passed 5-18-2000)

CHAPTER 120: BUSINESS USE OF LAND FOR PARKING

Section

Regulation of Parking Spaces Used by the Nashville Express

- 120.01 License required
- 120.02 Application for business use of town parking spaces
- 120.03 Public liability
- 120.04 Fees

Yard Parking

- 120.15 Permit required
- 120.16 Definition
- 120.17 Applications for yard parking operations
- 120.18 Operation of yard parking areas
- 120.19 Violation
- 120.20 Immunity from prosecution

REGULATION OF PARKING SPACES USED BY THE NASHVILLE EXPRESS

§ 120.01 LICENSE REQUIRED.

The Nashville Express is required to have a valid business license issued by the Clerk-Treasurer. The administrative fee referenced in § 120.04 will be paid in lieu of a separate business license fee. The Nashville Express is required to have a current Certificate of Public Convenience and Necessity issued by the Indiana Public Service Commission, proof of which will be filed with the Clerk-Treasurer at the beginning of each calendar year. (Ord. 1997-2, passed 4-17-1997)

§ 120.02 APPLICATION FOR BUSINESS USE OF TOWN PARKING SPACES.

(A) Application for use of town parking spaces for business purposes shall be made to the Clerk-Treasurer of the town on forms provided by that office. The application shall contain but not be limited to the following information:

(1) The name and business address of the applicant;

(2) The seating capacity, manufacturer, and photograph of the Nashville Express; and

(3) The application shall be verified under oath and include a written agreement by the applicant to operate the business, if licensed, strictly in accordance with the terms of this subchapter and to indemnify and hold harmless the town for all judgments, losses and expenses arising out of the use of the town parking spaces permitted by the license.

(B) The applicant shall submit proof of required operator licensing for all train drivers. In the event new train drivers are employed during the year, proof of licensing of the new driver(s) shall be submitted to the Clerk-Treasurer before they may operate the train. (Ord. 1997-2, passed 4-17-1997)

§ 120.03 PUBLIC LIABILITY.

(A) Before a license required by § 120.01 shall be issued or renewed, the applicant therefor shall post or maintain with the Clerk-Treasurer of the town either an indemnity bond or a policy of public liability

insurance, approved as to form by the Town Attorney, that the licensee will indemnify and hold harmless the town, its Council members, agents and employees, from any and all loss, costs, damages or expenses, by reason of any and all liability which may result from or arise out of the granting of the license for the operation of the Nashville Express for which a license is issued; and that the licensee will pay any and all loss or damage that may be sustained by any person resulting from or arising out of a legal or negligent operation or maintenance of the Nashville Express. The bond or policy of insurance shall be maintained in its original amount by the licensee at his or her expense at all times during the period for which the license is in effect. If a claim is paid during any period of coverage which causes the aggregate amount of available insurance to fall below \$300,000, the licensee shall enter the marketplace and purchase additional layers of insurance so that there is a minimum of \$300,000 of available insurance during the remainder of the policy period.

(B) The limit of liability upon any bond or policy posted pursuant to division (A) of this section shall in no case be less than \$500,000 for death or injury of 1 person; \$1,000,000 for total liability for death or personal injury arising out of any 1 event or casualty; and \$75,000 for property damage.

(C) Any bond posted pursuant to this section shall be accompanied by good and sufficient sureties approved by the Clerk-Treasurer.

(D) The Clerk-Treasurer shall notify the licensee under this subchapter of any claim of which the town has notice, where the claim arises from the operation or maintenance of the Nashville Express.

(E) The licensee under this subchapter shall notify the Clerk-Treasurer of any claim of which the licensee has notice, where the claim arises from the operation or maintenance of the Nashville Express. (Ord. 1997-2, passed 4-17-1997)

§ 120.04 FEES.

The annual fee for usage of town parking spaces under this chapter shall be as follows:

<i>Annual fee</i>	
Space fee: \$50	plus \$57
(rental per parking space)	(administrative)

(Ord. 1997-2, passed 4-17-1997)

YARD PARKING

§ 120.15 PERMIT REQUIRED.

Any person engaging in the practice of yard parking on his or her property shall first obtain a permit.

(Ord. 2001-05, passed 8-16-2001)

§ 120.16 DEFINITION.

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

YARD PARKING. The practice of allowing vehicles to be parked on residential property in the town for any form of compensation.

(Ord. 2001-05, passed 8-16-2001)

§ 120.17 APPLICATIONS FOR YARD PARKING OPERATIONS.

Applications for yard parking operations shall be made to the Town Manager on forms provided by that office. The application shall contain but not be limited to the following information:

(A) The name and address of the applicant;

(B) The name and physical address of property;

(C) Name and address of property owner if different than the applicant, and the owner’s consent to the use of the property for yard parking; and

(D) The application shall include a written agreement by the applicant to operate, if permitted, strictly in accordance with the terms of this subchapter and hold harmless the town for all judgments, losses and expenses arising out of the permitted operations. (Ord. 2001-05, passed 8-16-2001)

§ 120.18 OPERATION OF YARD PARKING AREAS.

Yard parking operations shall comply with the following guidelines:

(A) Yard parking operations shall not solicit patronage in a loud tone of voice or in any manner to annoy or obstruct the movement of persons or vehicles or follow any person or vehicles for the purpose of soliciting patronage.

(B) Any fees shall be prominently displayed at the entrance of the parking area so as to advise prospective clientele prior to entry to the premises.

(C) Signs shall comply with §§ 153.085 through 153.098 of the Nashville Code of Ordinances.

(D) No off-premises activity related to the operation shall be allowed. (Ord. 2001-05, passed 8-16-2001) Penalty, see § 10.99

§ 120.19 VIOLATION.

Any person found in violation of this subchapter shall be given a courtesy warning. Violations occurring after this warning shall be subject to a fine in the sum of \$35 for each violation. Additionally, any person who is in violation of this subchapter may

be subject to a suit for injunction. The Town Attorney is authorized to bring any enforcement action for injunctive relief through the Brown Circuit Court, and the town shall be entitled to recover attorney fees and costs as assessed at the discretion of the Court against the offending parties.

(Ord. 2001-05, passed 8-16-2001)

§ 120.20 IMMUNITY FROM PROSECUTION.

The town and its designees, the Town Marshal, and all other departments and agencies, and all other town officers, agents and employees charged with enforcement of state and local laws and codes shall be immune from prosecution, civil or criminal, for reasonable, good-faith enforcement of this chapter while acting within the scope of authority conferred by this chapter.

(Ord. 2001-05, passed 8-16-2001)

CHAPTER 121: PEDICAB TAXIS

Section

- 121.01 Preamble
- 121.02 Vehicular requirements
- 121.03 License application
- 121.04 Operation
- 121.05 Public liability
- 121.06 Suspension or revocation
- 121.07 Fees
- 121.08 Transfers

- 121.99 Penalty

(D) All pedicab taxis operated at night shall be equipped with lights visible for a distance of 500 feet from the front and rear of the vehicle and visible from the sides.

(E) Each pedicab taxi should be equipped with a slow moving vehicle sign approved by the Indiana Department of Transportation and mounted on the rear of the vehicle.

(F) No pedicab taxi should be larger in capacity than to transport the operator and three passengers. (Ord. 08-07, passed 9-18-2008)

§ 121.01 PREAMBLE.

The operation of any pedicab taxi vehicle upon the streets of the town for the purpose of transporting persons for hire or as a contractual service is a violation of this chapter unless operated in accordance with the terms set out herein and licensed by the town according to the licensing provisions of this chapter. (Ord. 08-07, passed 9-18-2008)

§ 121.02 VEHICULAR REQUIREMENTS.

(A) A pedicab taxi or "rickshaw" is any human-drawn or human-pedal powered vehicle carrying one or more passengers for hire or contract.

(B) Pedicab taxis shall have wheels with a rubber covering thick enough to protect the streets from damage and to keep noise to a minimum.

(C) All pedicab taxis should be equipped with brakes.

§ 121.03 LICENSE APPLICATION.

(A) Applications for a pedicab taxi business license shall be made to the Clerk-Treasurer on business license forms provided by that office. The application shall contain all information the Clerk-Treasurer deems necessary to identify the applicant but not less than the following information.

(1) The name and the business address of the applicant.

(2) The Social Security number or Federal Business ID number of the applicant.

(B) The application shall be verified by oath and include a written agreement by the applicant to operate the business if licensed, strictly in accordance with the terms of this chapter and to indemnify and hold harmless the town from any judgements, losses and

expenses arising out of the operation permitted by the license, and a bond or public liability insurance policy as required by § 121.05.

(C) Each application shall be accompanied by a route and operation schedule for the business which has been approved by the Town Marshall and a certification from the Town Marshall that the pedicab taxis used in the business conform with the requirements of this chapter.

(D) The town shall issue no more than 1 license per year with a maximum number of 2 pedicabs. The holder of the license may renew the license by applying with necessary fees between January 1 and April 1 of each year. If the holder fails to renew within said period, the Town Clerk-Treasurer may accept applications from any interested parties on the basis of time of applications, giving preference to the earliest filed.

(Ord. 08-07, passed 9-18-2008)

§ 121.04 OPERATION.

Pedicab taxi business shall be operated only in accordance with the following rules and regulations.

(A) A copy of the license shall be carried by the pedicab taxi driver or in the pedicab taxi.

(B) Each pedicab taxi shall be operated by the holder of a valid driver's license.

(C) When carrying persons for hire or by contract, the vehicle shall be operated only upon the routes and during hours approved by the Town Marshall.

(D) For the purpose of loading or unloading passengers, the pedicab taxis may park at the "loading zones" designated by the Town Council. The Town Council may relocate these loading zones from time to time as necessary to maintain smooth and safe traffic conditions and for other concerns for public safety.

(E) Pedicab taxis when in motion shall be operated only in the curb-most traffic lane of any public street and the driver shall obey all applicable state and local traffic laws, rules and regulations.

(F) No passengers shall be allowed to ride on the vehicle except in the designated seating area no person other than the licensee or an employee of the licensee shall be allowed to peddle or steer the vehicle.

(G) The pedicab taxi operator or driver shall not solicit patronage in a loud tone of voice or manner that annoys the public or obstructs the movement of vehicular or pedestrian traffic.

(Ord. 08-07, passed 9-18-2008)

§ 121.05 PUBLIC LIABILITY.

(A) Before a license shall be issued or renewed, the applicant shall post or maintain with the Clerk-Treasurer either an indemnity bond or a policy of liability insurance, by which the licensee will indemnify and hold harmless the town, its Council members, agents and employees from any and all loss, costs, damages or expenses, by reason of any and all liability which may result from or arise out of granting of the license for the operation of a pedicab taxi for which a license is issued, and that the licensee will pay any and all loss of damage that may be sustained by any person resulting from or arising out of the illegal or negligent operation or maintenance of a pedicab taxi. The bond or policy of insurance shall be maintained in its original amount by the licensee at his or her expense at all times during the period for which the license is in effect. In the event that two or more licenses are issued to one licensee, one such bond or policy of insurance may be furnished to cover two or more vehicles. If a claim is paid during any period of coverage which causes the aggregate amount of available insurance to fall below \$300,000, the licensee shall enter the marketplace and purchase additional layers of insurance so that there is a minimum of \$300,000 of available insurance during the remainder of the policy period.

(B) The limit of liability upon any bond or policy posted pursuant to division (A) above shall in no case be less than \$500,000 for death or injury of one person, \$1,000,000 for total liability for death or personal injury or property damage arising out of any one event or casualty.

(C) Any bond posted pursuant to this section shall be accompanied by good and sufficient sureties approved by the Clerk-Treasurer of the town.

(D) The Clerk-Treasurer shall notify the licensee under this chapter of any claim of which the town has notice where the claim arises from the operation or maintenance of any pedicab taxi.

(E) The licensee under this chapter shall notify the Clerk-Treasurer of any claim of which the licensee has notice where the claim arises from the operation or maintenance of any pedicab taxi.
(Ord. 08-07, passed 9-18-2008)

§ 121.06 SUSPENSION OR REVOCATION.

(A) Any violation of this chapter by the holder of a license issued hereunder shall be grounds for the suspension or revocation of the license by the Clerk-Treasurer.

(B) Any suspension, revocation, or denial of a license application shall be subject for review of the Town Council made upon timely request of the applicant.
(Ord. 08-07, passed 9-18-2008)

§ 121.07 FEES.

Pedicab taxi business license fee shall be \$100 plus an administrative fee of \$57.
(Ord. 08-07, passed 9-18-2008)

§ 121.08 TRANSFERS.

Any person or corporation holding a license pursuant to the provisions of this chapter who sells the business may assign the license to the purchaser provided the purchaser is continuing the same business according to the route, loading zones, and other restrictions and conditions by said license. Both the seller and the purchaser may sign a request for transfer which must be approved by the Clerk-Treasurer and a transfer fee of \$35 must be paid before the license can be transferred.
(Ord. 08-07, passed 9-18-2008)

§ 121.99 PENALTY.

Any person, corporation or other entity failing to comply with the provisions of this chapter shall be subject to a fine of not more than \$50 per day. Each day of violation shall be deemed a separate violation for the purpose of establishing the fine, in addition, the town may have any and all available remedies at law or equity to penalize or enjoin pedicab taxi operation in violation of this chapter.
(Ord. 08-07, passed 9-18-2008)

TITLE XIII: GENERAL OFFENSES

Chapter

130. OFFENSES AGAINST PROPERTY

131. OFFENSES AGAINST PUBLIC PEACE AND SAFETY

CHAPTER 130: OFFENSES AGAINST PROPERTY

Section

130.01	Damaging property	pipe, or tube with or to any part of the waterworks system operated by the town, without first receiving a permit from the Department of Waterworks so to do; or in any other manner to injure or interfere with the water supply of the town, or any apparatus pertaining thereto, or to leave the water supply running when not necessary.
130.02	No tampering with hydrants	(Ord. 4-6-70, passed 4-6-1970) Penalty, see § 130.99
130.03	No tampering with lights	
130.04	Throwing objects on athletic fields	
130.05	Injuring or obstructing public improvements	
130.06	Advertising matter	
130.07	Report of fire losses	
130.99	Penalty	

§ 130.01 DAMAGING PROPERTY.

(A) It shall be unlawful for any person to maliciously or mischievously damage, injure, cut, mar, deface, or destroy any public building, fountain, statue, tree, grass or shrubbery, sewer, water pipe, hydrant, sign, signal or other town property, whether real or personal; nor shall any person break, injure or destroy any street bulbs, lamps, posts or appendages.

(B) With respect to property owned by others, it shall be unlawful for any person to maliciously or mischievously injure or destroy any private building or other edifice, whether occupied or not, or any building or structure under construction, or any private shade or ornamental trees planted in any yard or public ground within the town; nor shall any person so injure or destroy any other real property or personal property whatsoever.
(Ord. 4-6-70, passed 4-6-1970) Penalty, see § 130.99

§ 130.02 NO TAMPERING WITH HYDRANTS.

It shall be unlawful for any person to tamper with or open or close any valve, or to connect any hose,

pipe, or tube with or to any part of the waterworks system operated by the town, without first receiving a permit from the Department of Waterworks so to do; or in any other manner to injure or interfere with the water supply of the town, or any apparatus pertaining thereto, or to leave the water supply running when not necessary.

(Ord. 4-6-70, passed 4-6-1970) Penalty, see § 130.99

§ 130.03 NO TAMPERING WITH LIGHTS.

It shall be unlawful for any person, without proper authority, to put out or extinguish any street light or to turn off the electricity supplying the same.
(Ord. 4-6-70, passed 4-6-1970) Penalty, see § 130.99

§ 130.04 THROWING OBJECTS ON ATHLETIC FIELDS.

No person shall throw, drop, or place upon any baseball park, athletic field, gymnasium, stadium or other place where games are played, any object or article which impedes or interferes with any game in progress or with the safety of players and officials engaged in the game.
(Ord. 4-6-70, passed 4-6-1970) Penalty, see § 130.99

§ 130.05 INJURING OR OBSTRUCTING PUBLIC IMPROVEMENTS.

It shall be unlawful for any person to hinder, obstruct, injure or tear up any pavement, sidewalk, crosswalk, drain, sewer or any other public improvement without first obtaining proper authority

from the Town Board or the person they designate to give that authority.

(Ord. 4-6-70, passed 4-6-1970) Penalty, see § 130.99

§ 130.06 ADVERTISING MATTER.

(A) It shall be unlawful for any person to distribute or cause to be distributed in the town, any printed or written commercial handbill or any printed or written commercial advertising matter, in any form, by placing or causing the same to be placed in or on any automobile, or in any yard, or on any porch or lawn, or in or next to any mailbox or on any door handle in the town, not in possession or under the control of the person distributing the same, unless express permission is granted to that person by the owner or occupant of any automobile, yard, porch, lawn, mailbox, hall or vestibule, or door; provided, however, that the provision of this section shall not be deemed to apply to the distribution of any newspaper, nor to any publication which prints news articles or stories of a general nature and has advertising space therein open to the public, and which publishes general advertising matter therein.

(B) It shall be unlawful for any person to circulate, distribute or scatter any advertising matter from the air over the town.

(Ord. 4-6-70, passed 4-6-1970) Penalty, see § 130.99

§ 130.07 REPORT OF FIRE LOSSES.

It shall be the duty of every person who is the owner, lessee, occupant or manager of any property to report all fire losses to the Fire Department, Marshal or other designated authority of the town within 48 hours after the loss occurs when the amount of the damage sustained exceeds \$50.

(Ord. 4-6-70, passed 4-6-1970) Penalty, see § 130.99

§ 130.99 PENALTY.

Any person violating any provision of this chapter shall, upon conviction thereof, be fined in any sum not more than \$100.

(Ord. 4-6-70, passed 4-6-1970)

CHAPTER 131: OFFENSES AGAINST PUBLIC PEACE AND SAFETY

Section

General Provisions

- 131.01 Disorderly conduct
- 131.02 Congregating in public places
- 131.03 Interference with officials
- 131.04 Abuse of police or Town Marshal
- 131.05 Unlawful acts concerning fires
- 131.06 Discharge of firearms; air and spring guns
- 131.07 Disturbing public libraries
- 131.08 Rag picking
- 131.09 Regulated uses of public streets, sidewalks and rights-of-way

Curfew

- 131.20 Purpose
- 131.21 Definitions
- 131.22 Offenses
- 131.23 Enforcement

- 131.99 Penalty

GENERAL PROVISIONS

§ 131.01 DISORDERLY CONDUCT.

(A) It is unlawful for any person or persons to disturb the peace and quiet of the town or of its inhabitants by loud talking or by the making of unusual noises, by the crying of any alarm without good cause, by threatening any person or challenging him or her to fight or menacing him or her with physical injury or pecuniary loss, or by accosting or

approaching any person of the opposite sex unknown to that person and by word, sign or gesture attempting to speak to or become acquainted with that person against his or her will except in the transaction of legitimate business.

(B) It shall be unlawful for any person or persons within the town by any loud or unnecessary talking or shouting or by any threatening, abusive, profane or obscene language or violent action, or by any other rude behavior, to interrupt, molest, annoy or disturb any group or meeting of persons met together for any lawful purpose.
(Ord. 5-4-70, passed 5-4-1970) Penalty, see § 131.99

§ 131.02 CONGREGATING IN PUBLIC PLACES.

It is unlawful for any person to congregate or cause to be congregated a crowd of 3 or more persons upon any public street, alley, sidewalk, parking lot, school or school grounds, building or any other public place within the town for the purpose of or so as the affect to obstruct the same or as to hinder or annoy passers-by or occupants of adjacent premises, or as to interfere with the activities normally carried on the premises.
(Ord. 5-4-70, passed 5-4-1970) Penalty, see § 131.99

§ 131.03 INTERFERENCE WITH OFFICIALS.

It shall be unlawful for any person or persons to intentionally impede or interfere, or attempt to impede or interfere with any police officer, firefighter or any other town official in the performance of his or her

duty or emergency functions as a firefighter, police officer or town official.

(Ord. 5-4-70, passed 5-4-1970) Penalty, see § 131.99

§ 131.04 ABUSE OF POLICE OR TOWN MARSHAL.

It shall be unlawful for any person or persons to abuse, interfere with or resist any police officer of the town while the police officer shall be in the discharge of his or her duties.

(Ord. 4-6-70, passed 4-6-1970) Penalty, see § 131.99

§ 131.05 UNLAWFUL ACTS CONCERNING FIRES.

It shall be unlawful for any person to do the following acts:

(A) To give or cause to be given any false alarm of fire involving any church, public building, theater, gymnasium, showroom or other place where people congregate, while the same is being occupied by any persons, by alarm system or otherwise;

(B) To delay or obstruct any fire engine, apparatus or equipment or any firefighter in the discharge of his or her duty so as to impede response to any bona fide emergency call;

(C) To take any lighted cigarette, cigar, pipe, fuse, candle, lantern or other lighted object into any building storage area or other place within the town where inflammable material is known to be, or where a sign is posted warning persons of possible danger from such lighted objects;

(D) To throw firebrands, fireballs or any other ignited substance;

(E) To make or cause to be made a bonfire on any public street or sidewalk within the town;

(F) To make or cause a fire to be made for the purpose of burning waste materials.

(Ord. 4-6-70, passed 4-6-1970; Am. Ord. 2012-17, passed 12-20-2012) Penalty, see § 131.99

§ 131.06 DISCHARGE OF FIREARMS; AIR AND SPRING GUNS.

(A) It shall be unlawful for any person to fire or discharge any gun, pistol, cannon or other firearm within the town, except within the confines of a duly approved shooting range.

(B) The restrictions of this section shall not apply to the use of or discharge of any gun loaded with blank cartridges when used in athletic contests.

(C) It shall be unlawful for any person to point, aim, or discharge at any person any toy firearm, air rifle, toy cannon or other gun that discharges projectiles either by air, spring, explosive or any other force.

(Ord. 4-6-70, passed 4-6-1970) Penalty, see § 131.99

§ 131.07 DISTURBING PUBLIC LIBRARIES.

No person shall talk in a loud or boisterous manner or make any unnecessary noise or disturb the quiet of any public library or similar buildings.

(Ord. 4-6-70, passed 4-6-1970) Penalty, see § 131.99

§ 131.08 RAG PICKING.

It shall be unlawful for any person to engage in the occupation of paper or rag picking or general junking by hand cart, automobile, or other vehicle before the hour of 8:00 a.m. or after the hour of 6:00 p.m.; provided, that no rag picking or junking as in this section provided shall be permitted at any time of the day or night on Sundays or legal holidays.
(Ord. 4-6-70, passed 4-6-1970) Penalty, see § 131.99

§ 131.09 REGULATED USES OF PUBLIC STREETS, SIDEWALKS AND RIGHTS-OF-WAY.

No person shall ride or otherwise operate a skateboard, roller skate, scooter or roller blade on the public streets, public sidewalks or public rights-of-way of the town in the areas shown on the attachment, labeled Exhibit 1, of Ordinance 2002-01.
(Ord. 2002-01, passed 4-18-2002) Penalty, see § 131.99

CURFEW

§ 131.20 PURPOSE.

The purpose of this subchapter is to promote the general welfare and protect the general public through the reduction of juvenile violence within the town; to protect both real and personal property within the town from continuing juvenile mischief activity; to promote the safety and well-being of the town's youngest citizens, persons under the age of 18, whose inexperience renders them particularly vulnerable to becoming participants in unlawful activities, particularly unlawful drug activities, and to being victimized by older perpetrators of crime; and to promote, foster and strengthen parental responsibility for children.
(Ord. 2000-8, passed 12-21-2000)

§ 131.21 DEFINITIONS.

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

CURFEW HOURS. The hours between 1:00 a.m. and 5:00 a.m. on Saturday or Sunday; after 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday; or before 5:00 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.

EMERGENCY. Unforeseen circumstances, or the status or condition resulting therefrom, which require immediate action to safeguard life, limb or property. The term includes, but is not limited to fires, natural disasters, automobile accidents or other similar circumstances.

ESTABLISHMENT. Any privately-owned place of business within the town operated for a profit, to which the public is invited, including, but not limited to any place of amusement or entertainment. With respect to such establishment, the term ***OPERATOR*** shall mean any person, and any firm, association, partnership (and the individual members or partners thereof) and/or any corporation (and the individual officers thereof) conducting or managing that establishment.

MINOR. Any person under 18 years of age who has not been emancipated by Court order pursuant to the law of the State of Indiana.

OFFICER. A police or other law enforcement officer charged with the duty of enforcing the laws of the state and/or the ordinances of the town.

PERSON. An individual, not an association, corporation or any other legal entity.

PUBLIC PLACE. Any place to which the public or a substantial group of the public has access, including, but not limited to streets, highways, roads, sidewalks, alleys, avenues, parks and/or the common areas of schools, hospitals, apartment houses, office buildings and shops.
(Ord. 2000-8, passed 12-21-2000)

§ 131.22 OFFENSES.

(A) It shall be unlawful for a minor, during curfew hours, to remain in or upon any public place within the town, to remain in any motor vehicle operating or parked therein or thereon, or to remain in or upon the premises of any establishment within the town, unless:

(1) The minor is accompanied by a parent or guardian;

(2) The minor is involved in an emergency;

(3) The minor is engaged in an employment activity, or is going to or returning home from that activity, without detour or stop;

(4) The minor is on the sidewalk directly abutting a place where he or she resides with a parent or guardian;

(5) The minor is attending any activity sponsored by a school, religious or civic organization or agency, or by another similar organization or entity, which activity is supervised by adults, and/or the minor is going to or returning home from the activity without detour or stop;

(6) The minor is on errand at the direction of a parent or guardian, and the minor has in his or her possession a writing signed by the parent or guardian containing the following information: the name, signature, address and telephone number of the parent or guardian authorizing the errand, the name of the minor, the minor's destination, and the date and time that the minor is authorized to be engaged in the errand;

(7) The minor is involved in interstate travel through, or beginning or terminating in the town; or

(8) The minor is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly.

(B) It shall be unlawful for a minor's natural parent, adoptive parent, foster parent or stepparent of another person, or a person to whom legal custody has been given by court order, to knowingly permit, allow or encourage a minor to violate this section.

(C) It shall be unlawful for a person who is the owner or operator of a motor vehicle to knowingly permit, allow or encourage a minor to violate this section.

(D) It shall be unlawful for the operator of an establishment, or any person who is an employee thereof, to knowingly permit, allow or encourage a minor to remain upon the premises of the establishment during curfew hours. It shall be a defense to prosecution of this section that the operator or employee of an establishment promptly notified the Police Department that a minor was present at the establishment after curfew hours and refused to leave.

(E) It shall be unlawful for any person (including a minor) to give false name, address or telephone number to any officer investigating a possible violation of this section.

(Ord. 2000-8, passed 12-21-2000) Penalty, see § 131.99

§ 131.23 ENFORCEMENT.

(A) Before taking any enforcement action hereunder, an officer shall make an immediate investigation for the purpose of ascertaining whether or not the presence of a minor in a public place, motor vehicle and/or establishment within the town during curfew hours is in violation of this subchapter.

(B) If investigation reveals that the presence of the minor is in violation, then the officer shall issue a written citation to the minor or offender, charging him or her with violation of this subchapter. The officer shall provide a copy of the same to the Town Attorney and the Town Attorney may consider further civil prosecution.

(C) Further, as soon as practicable, the officer shall advise the minor's parent or guardian of the alleged violation. If a parent or guardian is not immediately available, the officer shall issue a written advisement to be mailed by the Police Department. (Ord. 2000-8, passed 12-21-2000) Penalty, see § 131.99

§ 131.99 PENALTY.

(A) *General.* Any person violating any provision of this chapter or any order made by the Town Board in accordance with the terms of this chapter, unless otherwise specified, shall be punished by a fine of not more than \$100. (Ord. 4-6-70, passed 4-6-1970; Am. Ord. 5-4-70, passed 5-4-1970)

(B) *Violations of § 131.09.*

(1) *Warning; injunction.*

(a) Any person found in violation of § 131.09 shall be given a courtesy warning. Violations occurring after this warning shall be subject to a fine in the sum of \$35 for each violation.

(b) Additionally, any person who is in violation of this section may be subject to a suit for injunction. The Town Attorney is authorized to bring any enforcement action for injunctive relief through the Circuit Court, and the town shall be entitled to recover attorney fees and costs as assessed at the discretion of the Court against the offending parties.

(2) *Immunity from prosecution.* The town and its designees, the Town Marshal and all other departments and agencies, and all other town officers, agents and employees charged with enforcement of state and local laws and codes, shall be immune from prosecution, civil or criminal, for reasonable, good-faith enforcement of § 131.09 while acting within the scope of authority conferred by that section. (Ord. 2002-01, passed 4-18-2002)

(C) *Violations of §§ 131.20 through 131.23.*

(1) Anyone who violates any provisions of §§ 131.20 through 131.23 shall be fined not less than \$25 for the first offense, and \$50 for each violation of this subchapter which occurs within 90 days of any other admitted violation or conviction of a violation under this subchapter.

(2) Upon admission or conviction the matter and circumstances shall be referred by this town's Police Department to the appropriate juvenile authorities of the town for such additional attention as is warranted under applicable authority. (Ord. 2000-8, passed 12-21-2000)

TITLE XV: LAND USAGE

Chapter

- 150. BUILDING REGULATIONS**
- 151. FLOOD HAZARD AREAS**
- 152. SUBDIVISIONS**
- 153. ZONING CODE**
- 154. PLANNED UNIT DEVELOPMENTS**
- 155. STRUCTURE AND PROPERTY MAINTENANCE REGULATIONS**

CHAPTER 150: BUILDING REGULATIONS

Section

General Provisions

- 150.01 Title
- 150.02 Purpose
- 150.03 Authority
- 150.04 Scope
- 150.05 Adoption of rules by reference
- 150.06 Workmanship
- 150.07 Compliance required

Permits

- 150.15 Permit required
- 150.16 Application for permits
- 150.17 Compliance with other ordinances
- 150.18 Fees and required inspections
- 150.19 Review of application
- 150.20 Inspections
- 150.21 Inspection assistance

Administration and Enforcement

- 150.35 Building Commissioner designated
- 150.36 Right of entry
- 150.37 Stop order
- 150.38 Certificate of occupancy
- 150.39 Right of appeal
- 150.40 Remedies

- 150.99 Penalty

GENERAL PROVISIONS

§ 150.01 TITLE.

This chapter and all ordinances supplemental or amendatory hereto, shall be known as the “Building Code of the Board of Trustees of the Town of Nashville, Indiana,” may be cited as such, and will be referred to herein as “this chapter.”
(Ord. 1988-6, passed 6-7-1988)

§ 150.02 PURPOSE.

The purpose of this chapter is to provide minimum standards for the protection of life, health, environment, public safety and general welfare, and construction of buildings and structures.
(Ord. 1988-6, passed 6-7-1988)

§ 150.03 AUTHORITY.

The Building Commissioner is hereby authorized and directed to administer and enforce all of the provisions of this chapter. Whenever in this chapter 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 Board of Trustees, this shall be construed to give the officer only the discretion of determining whether this chapter has been complied with; and no such provision shall be construed as giving any officer discretionary powers as to what this chapter shall be, or power to

require conditions not prescribed by ordinances or to enforce this chapter in an arbitrary or discriminatory manner.

(Ord. 1988-6, passed 6-7-1988)

§ 150.04 SCOPE.

The provisions of this chapter apply to the construction, alteration, repair, use, occupancy, maintenance and additions to all buildings and structures, other than fences, in the town.

(Ord. 1988-6, passed 6-7-1988)

§ 150.05 ADOPTION OF RULES BY REFERENCE.

(A) Building rules of the State Fire Prevention and Building Safety Commission as set out in the following Articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this chapter and shall include later amendments to those Articles as the same are published in the State Register or the State Administrative Code with effective dates as fixed therein:

- (1) *Article 13: Building Codes.*
 - (a) Fire and Building Safety Standards.
 - (b) Indiana Building Code.
 - (c) Indiana Building Code Standards.
 - (d) Indiana Handicapped Accessibility Code.

(2) *Article 14: One- and Two-Family Dwelling Codes.*

(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.

(3) *Article 16: Plumbing Code.* Indiana Plumbing Code.

(4) *Article 17: Electrical Code.*

(a) Indiana Electrical Code.

(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 Code.

(b) Modification to the Model Energy Code.

(7) *Article 20: Swimming Pool Codes.* Indiana Swimming Pool Code.

(B) Copies of adopted building rules, codes and standards are on file in the office of the County Area Plan Commission.

(Ord. 1988-6, passed 6-7-1988)

§ 150.06 WORKMANSHIP.

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.

(Ord. 1988-6, passed 6-7-1988)

§ 150.07 COMPLIANCE REQUIRED.

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 chapter.
(Ord. 1988-6, passed 6-7-1988) Penalty, see § 150.99

PERMITS

§ 150.15 PERMIT REQUIRED.

(A) A permit shall be obtained before beginning construction, alteration or repair of any building or structure, the cost of which exceeds \$500, using forms furnished by the Building Commissioner.

(B) All fees required by this chapter shall be paid to the office of the Building Commissioner.
(Ord. 1988-6, passed 6-7-1988)

§ 150.16 APPLICATION FOR PERMITS.

(A) No building permit shall be issued for the foregoing purposes, unless the application for a permit is accompanied by a plat or sketch of the proposed location showing lot boundaries, and by plans and specifications showing the work to be done.

(B) In addition, a copy of a design release, issued by the State Building Commissioner and the State Fire Marshal pursuant to I.C. 22-15-3-1, shall be provided to the Building Commissioner before issuance of a permit for construction covered by the design release.

(C) (1) Any action that results in the removal of an historic building within the corporate limits of the town shall be required to obtain a demolition permit in accordance with the requirements of this division and any other applicable provisions of this code.

(2) In furtherance thereof, the Town Council hereby establishes the following procedures:

(a) That in situations involving the demolition of an historic building, no improvement location permit shall be issued by the Brown County Area Plan Commission prior to the issuance of a demolition permit by the Town Administration.

(b) The fee for a demolition permit shall be \$100.

(c) Any request for a demolition permit for a historic building as defined herein received by Town Administration shall be the subject of review by the Town Council for a period not to exceed 180 days from the date of the first regular meeting of the Town Council after the filing of the application and payment of the fee. The Town Council may in its discretion shorten the period of review based on the location, condition, and historical significance of the building. During the period of review, the Town Council may hold at least one public hearing to weigh the significance, location and condition of the building, as well as the economic value of the building to its owner or owners and to the community, and to consider alternatives to demolition that would allow the building to be preserved. A demolition permit may be issued by the Town Council at any time during the review period, and shall be issued upon the expiration of the review period.

(d) Notice of the request for a demolition permit involving an historic building(s) within the corporate limits of the town shall be posted in a conspicuous place on the property sought to be demolished for a period of not less than 15 days. The notice shall be prepared and posted by the Development Review Commission.

(e) An **HISTORIC BUILDING** or **HISTORIC STRUCTURE** is hereby defined for the purpose of this division as a building or structure erected at least 50 years prior to the passage of this division, or a building otherwise designated as a historic building under the provisions of this division.

(f) A property owner may petition the Development Review Commission to designate a structure not otherwise defined as an historic building or structure by filing a petition with the Town Council together with a fee of \$25. The Development Review Commission may in its discretion designate the building as an historic building or structure.

(g) The criteria to be considered by the Development Review Commission in designating as an historic building or structure under the provisions of division (f) above shall be the following:

1. The rating, if any, of the historical building in the 1995 Brown County Interim Report published as part of the Indiana Historic Sites and Structures Inventory;

2. The location of the building in location to the main thoroughfares of the town (Main Street, Van Buren Street, State Road 46 and State Road 135);

3. The condition of the building;

4. Its architectural uniqueness or lack thereof; and

5. The historical significance of the building's present or prior occupants.

(h) Any person or party aggrieved by the issuance or non-issuance of a demolition permit shall be entitled to a judicial review thereof in accordance with I.C. 4-22-1.

(i) This division may be enforced by the Town of Nashville, the Brown County Area Plan Commission by civil suit for injunction, for damages and/or for fines. The maximum fine per violation shall be \$2500. Each day of violation shall be considered a separate violation. In addition to the remedies set out

above, no improvement location permit shall be granted for the tract of real property where the violation occurred.

(Ord. 1988-6, passed 6-7-1988; Am. Ord. 2005-08, passed 3-16-2006; Am. Ord. 2019-07, passed 10-23-2019)

§ 150.17 COMPLIANCE WITH OTHER ORDINANCES.

All work done under any permit shall be in full compliance with all other ordinances pertaining thereto, and in addition to the fees for permits, there shall be paid the fees prescribed in the ordinances. Compliance with all ordinances and compliance with the terms of any certificate of appropriateness issued by the Development Review Commission shall be a condition of all permits issued under this section. Noncompliance shall render the permit void and revoked.

(Ord. 1988-6, passed 6-7-1988; Am. Ord. 2012-21, passed 12-20-2012)

§ 150.18 FEES AND REQUIRED INSPECTIONS.

Fees and required inspections shall be determined by the Board of Trustees of the town.

(Ord. 1988-6, passed 6-7-1988)

§ 150.19 REVIEW OF APPLICATION.

Prior to the issuance of any building permit, the Building Commissioner shall:

(A) Review all building permit applications to determine full compliance with the provisions of this chapter and all applicable ordinances.

(B) Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding.

(C) Review building permit applications for major repairs within any floodplain areas having special flood hazards to determine that the proposed repair:

(1) Uses construction materials and utility equipment that are resistant to flood damage; and

(2) Uses construction methods and practices that will minimize flood damage.

(D) Review building permit applications for new construction or substantial improvements within any floodplain areas having special flood hazards to assure that the proposed construction (including prefabricated and mobile homes):

(1) Is protected against flood damage;

(2) Is designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure, flood damage; and

(3) Uses construction methods and practices that will minimize flood damage.
(Ord. 1988-6, passed 6-7-1988)

§ 150.20 INSPECTIONS.

After the issuance of any building permit, the Building Commissioner shall make, or shall cause to be made, inspections of the work being done as are necessary to ensure full compliance with the provisions of this chapter and the terms of the permit. Reinspections of work found to be incomplete or not ready for inspection are subject to assessment of reinspection fees as prescribed in this chapter.
(Ord. 1988-6, passed 6-7-1988)

§ 150.21 INSPECTION ASSISTANCE.

The Chief of the Fire Department, or his or her designated representative, shall assist the Building Commissioner in the inspection of fire suppression,

detection and alarm systems and shall provide reports of the inspection to the Building Commissioner.
(Ord. 1988-6, passed 6-7-1988)

ADMINISTRATION AND ENFORCEMENT

§ 150.35 BUILDING COMMISSIONER DESIGNATED.

The Building Commissioner, for the purposes as contained in this chapter, shall be designated by the Board of Trustees of the town.
(Ord. 1988-6, passed 6-7-1988)

§ 150.36 RIGHT OF 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 chapter.
(Ord. 1988-6, passed 6-7-1988)

§ 150.37 STOP ORDER.

Whenever any work is being done contrary to the provisions of this chapter, the Building Commissioner may order the work stopped by notice in writing served on any persons engaged in the doing or causing of the work to be done, and any persons shall forthwith stop the work until authorized by the Building Commissioner to proceed with the work.
(Ord. 1988-6, passed 6-7-1988)

§ 150.38 CERTIFICATE OF OCCUPANCY.

No certificate of occupancy for any building or structure erected, altered or repaired after the adoption of this chapter shall be issued unless the building or structure was erected, altered or repaired in

compliance with the provisions of this chapter. It shall be unlawful to occupy any building or structure unless a full, partial or temporary certificate of occupancy has been issued by the Building Commissioner.

(Ord. 1988-6, passed 6-7-1988) Penalty, see § 150.99

§ 150.39 RIGHT OF APPEAL.

All persons shall have the right to appeal the Building Commissioner's decision, first to the town and then to the State Fire Prevention and Building Safety Commission in accordance with the provisions of I.C. 22-13-2-7 and I.C. 4-21.5-3-7.

(Ord. 1988-6, passed 6-7-1988)

§ 150.40 REMEDIES.

The Building Commissioner shall in the name of the town bring actions in the Circuit Court of the county 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 such action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this chapter.

(Ord. 1988-6, passed 6-7-1988)

§ 150.99 PENALTY.

If any person, firm or corporation shall violate any of the provisions of this chapter, or shall do any act prohibited herein, or shall fail to perform any duty lawfully enjoined, within 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 this chapter for each violation, failure or refusal, that person, firm or corporation shall be fined in any sum up to \$500 per day. Each day of such unlawful activity as is prohibited by the first sentence of this section shall constitute a separate offense.

(Ord. 1988-6, passed 6-7-1988)

CHAPTER 151: FLOOD HAZARD AREAS

Section

- 151.01 Statutory authorization, findings, purpose and objectives
- 151.02 Definitions
- 151.03 General provisions
- 151.04 Administration
- 151.05 Provisions for flood hazard reduction
- 151.06 Variance procedures

§ 151.01 STATUTORY AUTHORIZATION, FINDINGS, PURPOSE AND OBJECTIVES.

(A) *Statutory authorization.* The Indiana Legislature has in I.C. 36-7-4-601 and I.C. 14-28-3-3 granted the power to local government units to control land use within their jurisdictions. Therefore, the Town Council does hereby adopt the following floodplain management regulations.

(B) *Findings of fact.*

(1) The flood hazard areas of the town are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, inadequately flood-proofed, or otherwise unprotected from flood damages.

(C) *Statement of purpose.* It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.

(4) Control filling, grading, dredging, and other development which may increase erosion or flood damage.

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(6) Make federal flood insurance available for structures and their contents in the Town by fulfilling the requirements of the National Flood Insurance Program.

(D) *Objectives.* The objectives of this chapter are:

- (1) To protect human life and health.

(2) To minimize expenditure of public money for costly flood control projects.

(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

(4) To minimize prolonged business interruptions.

(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.

(6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas.

(Am. Ord. 2016-10, passed 11-17-2016)

§ 151.02 DEFINITIONS.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

A ZONE. Portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM. The definitions are presented below:

ZONE A. Areas subject to inundation by the 1% annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.

ZONE AE and AL-A30. Areas subject to inundation by the 1% annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A1-A30.)

ZONE AO. Areas subject to inundation by 1% annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between 1 and 3 feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

ZONE AH. Areas subject to inundation by 1% annual chance shallow flooding (usually areas of ponding) where average depths are between 1 and 3 feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

ZONE AR. Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.

ZONE A99. Areas subject to inundation by the 1% annual chance flood event, but which will ultimately be protected upon completion of an under-construction federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. **ZONE A99** may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

ACCESSORY STRUCTURE (APPURTENANT STRUCTURE). A structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. **ACCESSORY STRUCTURES** should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of **ACCESSORY STRUCTURES** are detached garages, carports, storage sheds, pole barns, and hay sheds.

ADDITION (TO AN EXISTING STRUCTURE). Any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any

walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

APPEAL. A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.

AREA OF SHALLOW FLOODING. A designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE). The elevation of the 1% annual chance flood.

BASEMENT. That portion of a structure having its floor sub-grade (below ground level) on all sides.

BOUNDARY RIVER. The part of the Ohio River that forms the boundary between Kentucky and Indiana.

BOUNDARY RIVER FLOODWAY. The floodway of a boundary river.

BUILDING. See **STRUCTURE**.

COMMUNITY. A political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

COMMUNITY RATING SYSTEM (CRS). A program developed by the Federal Insurance Administration to provide incentives for those communities in the regular program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

CRITICAL FACILITY. A facility for which even a slight chance of flooding might be too great. **CRITICAL FACILITIES** include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

D ZONE. Unstudied areas where flood hazards are undetermined, but flooding is possible. Flood insurance is available in participating communities but is not required by regulation in this zone.

DEVELOPMENT.

(1) Any man-made change to improved or unimproved real estate including but not limited to:

(a) Construction, reconstruction, or placement of a structure or any addition to a structure;

(b) Installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;

(c) Installing utilities, erection of walls and fences, construction of roads, or similar projects;

(d) Construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;

(e) Mining, dredging, filling, grading, excavation, or drilling operations;

(f) Construction and/or reconstruction of bridges or culverts;

(g) Storage of materials; or

(h) Any other activity that might change the direction, height, or velocity of flood or surface waters.

(2) **DEVELOPMENT** does not include activities such as the maintenance of existing structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

ELEVATED STRUCTURE. A non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

ELEVATION CERTIFICATE. A certified statement that verifies a structure's elevation information.

EMERGENCY PROGRAM. The first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA. The Federal Emergency Management Agency.

FLOOD. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM). An official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS). The official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

FLOOD PRONE AREA. Any land area acknowledged by a community as being susceptible to inundation by water from any source. (See **FLOOD**.)

FLOOD PROTECTION GRADE (FPG). The elevation of the regulatory flood plus 2 feet at any given location in the SFHA. (See **FREEBOARD**.)

FLOODPLAIN. The channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

FLOODPLAIN MANAGEMENT REGULATIONS. This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

FLOODPROOFING (DRY FLOODPROOFING). A method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

FLOODPROOFING CERTIFICATE. A form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a registered professional engineer or architect.

FLOODWAY. The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

FREEBOARD. A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

FRINGE. Those portions of the floodplain lying outside the floodway.

HARDSHIP (AS RELATED TO VARIANCES OF THIS CHAPTER). The exceptional hardship that would result from a failure to grant the requested variance. The Board of Zoning Appeals requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

HISTORIC STRUCTURES. Any structures individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

INCREASED COST OF COMPLIANCE (ICC). The cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

LETTER OF FINAL DETERMINATION (LFD). A letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the 6-month adoption period. The community must adopt or amend its floodplain management regulations during this 6-month period unless the community has previously incorporated an automatic adoption clause.

LETTER OF MAP CHANGE (LOMC). A general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F). The definitions are presented below:

LETTER OF MAP AMENDMENT (LOMA). An amendment by letter to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.

LETTER OF MAP REVISION (LOMR). An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

LETTER OF MAP REVISION BASED ON FILL (LOMR-F). An official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

LOWEST ADJACENT GRADE. The lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

LOWEST FLOOR. The lowest elevation described among the following:

- (1) The top of the lowest level of the structure.
- (2) The top of the basement floor.
- (3) The top of the garage floor, if the garage is the lowest level of the structure.
- (4) The top of the first floor of a structure elevated on pilings or pillars.

(5) The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:

(a) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of 2 openings (in addition to doorways and windows) in a minimum of 2 exterior walls; if a structure has more than 1 enclosed area, each shall have openings on exterior walls;

(b) The total net area of all openings shall be at least 1 square inch for every 1 square foot of enclosed area; the bottom of all such openings shall be no higher than 1 foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and

(c) Such enclosed space shall be usable solely for the parking of vehicles and building access.

MANUFACTURED HOME. A structure, transportable in 1 or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term **MANUFACTURED HOME** does not include a **RECREATIONAL VEHICLE**.

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into 2 or more manufactured home lots for rent or sale.

MARKET VALUE. The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. **MARKET VALUE** can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

MITIGATION. Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of **MITIGATION** is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.

NATIONAL FLOOD INSURANCE PROGRAM (NFIP). The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

NATIONAL GEODETIC VERTICAL DATUM (NGVD) of 1929. As corrected in 1929, it is a vertical control used as a reference for establishing varying elevations within the floodplain.

NEW CONSTRUCTION. Any structure for which the "start of construction" commenced after the effective date of the community's first floodplain ordinance.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.

NON-BOUNDARY RIVER FLOODWAY. The floodway of any river or stream other than a boundary river.

NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88). As adopted in 1993, it is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

OBSTRUCTION. Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in,

along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

ONE-PERCENT ANNUAL CHANCE FLOOD. The flood that has a 1% chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the 1% annual chance flood. See **REGULATORY FLOOD**.

PHYSICAL MAP REVISION (PMR). An official republication of a community's FEMA map to effect changes to base (1% annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

PUBLIC SAFETY AND NUISANCE. Anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

RECREATIONAL VEHICLE. A vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

REGULAR PROGRAM. The phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

REGULATORY FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in § 151.03(B) of this chapter. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

REPETITIVE LOSS. Flood-related damages sustained by a structure on 2 separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before the damage occurred.

SECTION 1316. That section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

SPECIAL FLOOD HAZARD AREA (SFHA). Those lands within the jurisdiction of the town subject to inundation by the regulatory flood. The SFHAs of the town are generally identified as such on the Brown County, Indiana and Incorporated Areas Flood Insurance Rate Map dated December 8, 2016 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

START OF CONSTRUCTION. Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. A structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "repetitive loss" or "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements.

SUSPENSION. The removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

VARIANCE. A grant of relief from the requirements of this chapter, which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.

VIOLATION. The failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation, other certification, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

WATERCOURSE. A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. **WATERCOURSE** includes specifically designated areas in which substantial flood damage may occur.

X ZONE. The area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2% chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2%.

ZONE. A geographical area shown on a FIRM that reflects the severity or type of flooding in the area.

ZONE A. (See definition for **A ZONE**.)

ZONE B, C, and X. Areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is

available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C.) (Am. Ord. 2016-10, passed 11-17-2016)

§ 151.03 GENERAL PROVISIONS.

(A) *Lands to which this chapter applies.* This chapter shall apply to all SFHAs and known flood prone areas within the jurisdiction of the town.

(B) *Basis for establishing regulatory flood data.* This chapter's protection standard is the regulatory flood. The best available regulatory flood data is listed below.

(1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the town shall be as delineated on the 1% annual chance flood profiles in the Flood Insurance Study of Brown County, Indiana and Incorporated Areas and the corresponding Flood Insurance Rate Map dated December 8, 2016 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.

(2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the town, delineated as an "A Zone" on the Brown County, Indiana and Incorporated Areas Flood Insurance Rate Map dated December 8, 2016 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than 1 square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.

(3) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than 1 square mile.

(4) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

(C) *Establishment of floodplain development permit.* A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities in areas of special flood hazard.

(D) *Compliance.* No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this chapter and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this chapter and other applicable regulations.

(E) *Abrogation and greater restrictions.* This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(F) *Discrepancy between mapped floodplain and actual ground elevations.*

(1) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.

(2) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.

(3) If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

(G) *Interpretation.* In the interpretation and application of this chapter all provisions shall be:

(1) Considered as minimum requirements.

(2) Liberally construed in favor of the governing body.

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(H) *Warning and disclaimer of liability.* The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this chapter does not create any liability on the part of the town, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this chapter or any administrative decision made lawfully thereunder.

(I) *Penalties for violation.* Failure to obtain a floodplain development permit in the SFHA or failure to comply with the requirements of a floodplain development permit or conditions of a variance shall be deemed to be a violation of this chapter. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the zoning code for the town. All violations shall be punishable by a fine not exceeding \$500.

(1) A separate offense shall be deemed to occur for each day the violation continues to exist.

(2) The Floodplain Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a standard flood insurance policy to be suspended.

(3) Nothing herein shall prevent the town from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible. (Am. Ord. 2016-10, passed 11-17-2016)

§ 151.04 ADMINISTRATION.

(A) *Designation of Administrator.* The Town Council of the town hereby appoints the Executive Director of the Brown County Area Plan Commission to administer and implement the provisions of this chapter and is herein referred to as the Floodplain Administrator.

(B) *Permit procedures.* Application for a floodplain development permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:

(1) *Application stage.*

(a) A description of the proposed development.

(b) Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.

(c) A legal description of the property site.

(d) A site development plan showing existing and proposed development locations and existing and proposed land grades.

(e) Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.

(f) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.

(g) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See § 151.04(C)(6) for additional information.)

(2) *Construction stage.* Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it shall be the duty of the applicant to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. The Floodplain Administrator shall review the lowest floor elevation survey data submitted. The applicant shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project. Any work undertaken prior to submission of the elevation certification shall be at the applicant's risk. Upon establishment of the floodproofed elevation of a floodproofed structure, it shall be the duty of the applicant to submit to the Floodplain Administrator a floodproofing certificate. Certification shall be prepared by or under the direct supervision of a registered professional engineer and certified by same. (The Floodplain Administrator shall review the floodproofing certification submitted.) The applicant shall correct any deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the floodproofing certification or failure to make correction required shall be cause to issue a stop-work order for the project.

(3) *Finished construction.* Upon completion of construction, an elevation certification (FEMA Elevation Certificate Form 81-31 or any future updates) which depicts the "as-built" lowest floor elevation is required to be submitted to the Floodplain

Administrator. If the project includes a floodproofing measure, floodproofing certification (FEMA Floodproofing Certificate Form 81-65 or any future updates) is required to be submitted by the applicant to the Floodplain Administrator.

(C) *Duties and Responsibilities of the Floodplain Administrator.* The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this chapter. The administrator is further authorized to render interpretations of this chapter, which are consistent with its spirit and purpose. Duties and responsibilities of the Floodplain Administrator shall include, but are not limited to:

(1) Review all floodplain development permits to assure that the permit requirements of this chapter have been satisfied.

(2) Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations.

(3) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to § 151.05(E) and (G)(1) of this chapter, and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).

(4) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit.

(5) Maintain and track permit records involving additions and improvements to residences located in the floodway.

(6) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.

(7) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this chapter.

(8) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.

(9) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(10) Review certified plans and specifications for compliance.

(11) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § 151.04(B).

(12) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with § 151.04(B).

(13) Perform a minimum of 3 inspections to ensure that all applicable ordinance and floodplain development requirements have been satisfied. The first upon the establishment of the Flood Protection Grade reference mark at the development site; the second upon the establishment of the structure's footprint/establishment of the lowest floor; and the final inspection upon completion and submission of the required finished construction elevation certificate. Authorized town or county officials shall have the right to enter and inspect properties located in the SFHA.

(14) *Stop work orders.*

(a) Upon notice from the Floodplain Administrator, work on any building, structure or premises that is being done contrary to the provisions of this chapter shall immediately cease.

(b) Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

(15) *Revocation of permits.*

(a) The Floodplain Administrator may revoke a permit or approval, issued under the provisions of this chapter, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

(b) The Floodplain Administrator may revoke a permit upon determination by the Floodplain Administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this chapter.

(Am. Ord. 2016-10, passed 11-17-2016)

§ 151.05 PROVISIONS FOR FLOOD HAZARD REDUCTION.

(A) *General standards.* In all SFHAs and known flood prone areas the following provisions are required:

(1) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.

(2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground

anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

(3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.

(4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.

(5) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.

(6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(9) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this chapter shall meet the requirements of "new construction" as contained in this chapter.

(10) Parking lots, driveways, and sidewalks within the SFHA shall be constructed with permeable materials.

(11) Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure.

(a) The excavation shall take place in the floodplain and in the same property in which the authorized fill or structure is located.

(b) Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory flood water, will not be subject to ponding when not inundated by flood water, and that it shall not be refilled.

(c) The excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by flood water.

(d) The fill or structure shall not obstruct a drainage way leading to the floodplain.

(e) The grading around the excavation shall be such that the excavated area is accessible to the regulatory flood water.

(f) The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement.

(g) Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this chapter.

(B) *Specific standards.* In all SFHAs, the following provisions are required:

(1) In addition to the requirements of § 151.05(A), all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

(a) Construction or placement of any structure having a floor area greater than 400 square feet.

(b) Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).

(c) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to it's before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.

(d) Installing a travel trailer or recreational vehicle on a site for more than 180 days.

(e) Installing a manufactured home on a new site or a new manufactured home on an existing site. This chapter does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.

(f) Reconstruction or repairs made to a repetitive loss structure.

(g) Addition or improvement made to any existing structure with a previous addition or improvement constructed since the community's first floodplain ordinance.

(2) *Residential structures.* New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (2 feet above the base flood elevation).

Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of § 151.05(B)(4).

(3) *Non-residential structures.* New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (2 feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of § 151.05(B)(4). Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:

(a) A registered professional engineer or architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the Floodplain Administrator as set forth in § 151.04(C)(12).

(b) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

(4) *Elevated structures.* New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG. Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:

(a) Provide a minimum of 2 openings located in a minimum of 2 exterior walls (having a total net area of not less than 1 square inch for every 1 square foot of enclosed area).

(b) The bottom of all openings shall be no more than 1 foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.

(c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(d) Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

(e) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

(f) The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.

(g) Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.

(h) Property owners shall be required to execute a flood openings/venting affidavit acknowledging that all openings will be maintained as flood vents, and that the elimination or alteration of the openings in any way will violate the requirements of § 151.05(B)(4). Periodic inspections will be conducted by the Floodplain Administrator to ensure compliance. The affidavit shall be recorded in the office of the Brown County Recorder.

(i) Property owners shall be required to execute and record with the structure's deed a non-conversion agreement declaring that the area below the lowest floor (where the interior height of the enclosure exceeds 6 feet) shall not be improved, finished or otherwise converted; the community will have the right to inspect the enclosed area. The non-conversion agreement shall be recorded in the office of the Brown County Recorder.

(5) *Structures constructed on fill.* A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:

(a) The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.

(b) The fill shall extend 10 feet beyond the foundation of the structure before sloping below the BFE.

(c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.

(d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

(e) The top of the lowest floor including basements shall be at or above the FPG.

(f) Fill shall be composed of clean granular or earthen material.

(6) Standards for manufactured homes and recreational vehicles. Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet 1 of the following requirements:

(a) These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood:

1. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

2. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in § 151.05(B)(4).

3. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

(b) These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:

1. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

2. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in § 151.05(B)(4).

3. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

(c) Recreational vehicles placed on a site shall either:

1. Be on site for less than 180 days;

2. Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

3. Meet the requirements for **MANUFACTURED HOMES** as stated earlier in this section.

(7) *Accessory structures.* Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:

(a) Shall not be used for human habitation.

(b) Shall be constructed of flood resistant materials.

(c) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.

(d) Shall be firmly anchored to prevent flotation.

(e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.

(f) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in § 151.05 (B)(4).

(8) *Above ground gas or liquid storage tanks.* All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

(C) *Standards for subdivision proposals.*

(1) All subdivision proposals shall be consistent with the need to minimize flood damage.

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of 50 lots or 5 acres.

(5) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.

(6) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

(D) *Critical facility.* Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

(E) *Standards for identified floodways.* Located within SFHAs, established in § 151.03(B), are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of I.C. 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (I.C. 14-28-1-26 allows construction of a non-substantial addition/ improvement to a residence in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.)

(1) No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained § 151.05 have been met. The floodplain development permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

(2) No development shall be allowed, which acting alone or in combination with existing or future development, that will adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse affect is defined as an increase in the elevation of the regulatory flood of at least 0.15 of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

(3) For all projects involving channel modifications or fill (including levees) the Town shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.

(F) *Standards for identified fringe.* If the site is located in an identified fringe, then the Floodplain Administrator may issue the local floodplain development permit provided the provisions contained in § 151.05 have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

(G) *Standards for SFHAs without established base flood elevation and/or floodways/fringes.*

(1) Drainage area upstream of the site is greater than 1 square mile: If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than 1 square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

(a) No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway (including letters of authorization) or a floodplain analysis/regulatory assessment citing the 1% annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

(b) Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a floodplain development permit may be issued provided the conditions of the floodplain development permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in § 151.05 have been met.

(2) Drainage area upstream of the site is less than 1 square mile: the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than 1 square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and 1% annual chance flood elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in § 151.05 have been met.

(3) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not increase the regulatory flood more than 0.14 of 1 foot and shall not increase flood damages or potential flood damages.

(H) *Standards for flood prone areas.* All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per § 151.05.

(Am. Ord. 2016-10, passed 11-17-2016)

§ 151.06 VARIANCE PROCEDURES.

(A) *Designation of Variance and Appeals Board.* The Board of Zoning Appeals shall hear and decide appeals and requests for variances from requirements of this chapter.

(B) *Duties of Variance and Appeals Board.* The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this chapter. Any person aggrieved by the decision of the board may appeal such decision to the Brown County Circuit Court.

(C) *Variance procedures.* Passing upon such applications, the board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and;

(1) The danger of life and property due to flooding or erosion damage.

(2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(3) The importance of the services provided by the proposed facility to the community.

(4) The necessity of the facility to a waterfront location, where applicable.

(5) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.

(6) The compatibility of the proposed use with existing and anticipated development.

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(9) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.

(10) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(D) *Conditions for variances.*

(1) Variances shall only be issued when there is:

(a) A showing of good and sufficient cause.

(b) A determination that failure to grant the variance would result in exceptional hardship.

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

(2) No variance for a residential use within a floodway subject to § 151.05 (E) or (G)(1) may be granted.

(3) Any variance granted in a floodway subject to § 151.05(E) or (G)(1) will require a permit from the Indiana Department of Natural Resources.

(4) Variances to the Provisions for Flood Hazard Reduction of § 151.05(B), may be granted only when a new structure is to be located on a lot of 1/2 acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

(5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(6) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

(7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the flood protection grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See § 151.06 (E)).

(8) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See §151.06(E)).

(E) *Variance notification.* Any applicant to whom a variance is granted that allows the lowest floor of a structure to be built below the flood protection grade shall be given written notice over the signature of a community official that:

(1) The issuance of a variance to construct a structure below the flood protection grade will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

(2) Such construction below the flood protection grade increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.

(F) *Historic structure.* Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.

(G) *Special conditions.* Upon the consideration of the factors listed in § 151.06, and the purposes of this chapter, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(Am. Ord. 2016-10, passed 11-17-2016)

CHAPTER 152: SUBDIVISIONS

Section

152.01 Regulations adopted by reference

§ 152.01 REGULATIONS ADOPTED BY REFERENCE.

The town's subdivision regulations are hereby adopted by reference and incorporated herein as if set out in full.

(Am. Ord. 1986-4, passed 11-3-1986)

CHAPTER 153: ZONING CODE

Section

General Provisions

- 153.001 Short title
- 153.002 Interpretation
- 153.003 Greater restrictions otherwise imposed
- 153.004 Definitions

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*GENERAL PROVISIONS***§ 153.001 SHORT TITLE.**

This chapter, and ordinances supplemental or amendatory thereto, shall be known, and may be cited hereafter as the "Zoning Code of Nashville, Indiana." (Ord. passed 7-26-1960)

§ 153.002 INTERPRETATION.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, morals, convenience and general welfare. (Ord. passed 7-26-1960)

§ 153.003 GREATER RESTRICTIONS OTHERWISE IMPOSED.

It is not intended by this chapter to interfere with, or abrogate or annul any easements, covenants or other agreements between parties, nor to interfere with, or abrogate or annul any ordinances, rules, regulations or permits previously adopted or issued, and not in conflict with any of the provisions of this chapter, or which shall be adopted or provided; except that where this chapter imposes a greater restriction upon the use of buildings or land, or upon the height of buildings, or requires larger open spaces or greater lot area per family than are required or imposed by the easements, covenants or agreements between parties or by the ordinances, rules, regulations or permits, the provisions of this chapter shall control. (Ord. passed 7-26-1960)

§ 153.004 DEFINITIONS.

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

ACCESSORY BUILDING AND USE. A building or use subordinate to another structure or use located on the same lot, which does not change or alter the character of the premises and which is not used for human occupancy; and public utility communication, electric distribution and secondary power lines, gas, water and sewer lines, their supports and poles, guy-wires, small transformers, wire or cable and incidental equipment and public telephone booths.

ADMINISTERING AUTHORITY. The designated unit of government given the authority to issue permits.

AGRICULTURAL LAND USE. Use of land for the production of animal and plant life, including forestry, pasturing or yarding livestock, and planting, growing, cultivating and harvesting crops for human or livestock consumption.

AGRICULTURE USE. Any portion of land used for agriculture, including horticulture, truck gardening, floriculture, trees, grain, forage crops or any use of the same general character, but not the raising of livestock.

ALLEY. A permanent public service way providing a secondary means of access to abutting lands.

BED AND BREAKFAST ESTABLISHMENT. An operator-occupied residence which provides up to 7 guest rooms to the public for a fee, and as part of the fee provides breakfast and sleeping accommodations on a temporary basis (such as no more than 30 consecutive days to a particular guest). The term does not include hotels, motels, boarding houses or food-services establishments.

BLOCK. Property having frontage on 1 side of a street and lying between the 2 nearest intersecting or intercepting streets, or nearest intersecting or intercepting street and railroad right-of-way, waterway or other barrier.

BOARD. The Board of Zoning Appeals.

BOARDING HOUSE. A building not open to transients, where lodging and/or meals are provided for 3 or more but not over 30 persons regularly; a lodging house.

BUILDING.

(1) A structure having a roof supported by columns or walls, for the shelter, support, enclosure or protection of persons, animals, chattels or property. When separated by party walls, each portion of such a building shall be considered a separate structure.

(2) **BUILDING** includes **STRUCTURE**.

BUILDING AREA. The maximum horizontal projected area of the principal and accessory buildings, excluding open steps or terraces, unenclosed porches not exceeding 1 story in height, or architectural appurtenances projecting not more than 2 feet.

BUILDING, DETACHED. A building having no structural connection with another building.

BUILDING, FRONT LINE OF. The line of the face of the building nearest the front lot line.

BUILDING, HEIGHT OF. The vertical distance measured from the lot ground level to the highest point of the roof for a flat roof; to the deck line of a mansard roof; and to the mean height between eaves and ridges for gable, hip and gambrel roofs.

BUILDING LINE, BUILDING SETBACK LINE. The line nearest the front of and across a lot, establishing the minimum open space to be provided between the front line of a building or structure and the front lot line.

BUILDING, PRINCIPAL. A building in which is conducted the main or principal use of the lot on which the building is situated. Where a substantial part of an accessory building is attached to the principal building in a substantial manner, as by a roof, the accessory building shall be counted as a part of the principal building.

BUILDING, TOURIST HOME. A building in which a tourist home is located.

BUSINESS. The engaging in the purchase, sale, barter or exchange of goods, wares, merchandise or services, the maintenance or operation of offices, or recreational and amusement enterprises for profit.

CAMP, PUBLIC. Any area or tract of land used or designed to accommodate 2 or more camping parties, including cabins, tents or other camping outfits.

CEMETERY. Land used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries, when operated in conjunction with and within the boundary of the cemetery.

CERTIFICATE OF OCCUPANCY. A certificate signed by the Planning Director stating that the occupancy and use of land or building or structure referred to therein complies with the provisions of this chapter.

CLINIC or MEDICAL HEALTH CENTER. An establishment where patients are admitted for special study and treatment by 2 or more licensed physicians or dentists, and their professional associates.

COMMISSION. The Town Plan Commission.

DEVELOPMENT PLAN. A drawing, including a legal or site description, of the real estate involved which shows the location and size of all existing and proposed buildings, structures and yards; location and dimension of building lines and easements; widths and lengths of all entrances and exits to and from the real estate; location of all adjacent or adjoining streets; all of which presents a unified and organized arrangement of buildings and service facilities and other improvements such as planting areas, which shall have a functional relationship to the real estate comprising the planned development and to the uses of properties immediately adjacent to the proposed development.

DISTRICT. A section of the town for which uniform regulations governing the use, height, area, size and intensity of use of buildings and land, and open spaces about buildings are herein established.

DWELLING. A building or portion thereof, used primarily as a place of abode for 1 or more human beings, but not including hotels or motels, lodging or boarding houses or tourist homes.

DWELLING UNIT. A dwelling or a portion of a dwelling used by 1 family for cooking, living and sleeping purposes.

EROSION. The detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.

EROSION CONTROL MEASURE. A practice or a combination of practices to control erosion and resulting sedimentation.

EROSION CONTROL PLAN. A written description of pertinent information concerning erosion control measures designed to meet the requirements of this chapter as submitted by the applicant for review and approval by the Town Manager.

FAMILY. One or more persons living as a single housekeeping unit, as distinguished from a group occupying a hotel, club, nurses' home, fraternity or sorority house.

FILLING STATION. Any establishment supplying and selling motor fuel or oil direct to motor vehicles.

FIXTURE. The assembly that holds the lamp (bulb) in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing and the attachment parts.

FLOOD or FLOODWATER. The water of any lake or watercourse which is above the banks and/or outside the channel and banks of the watercourse.

FLOOD HAZARD AREA. Those floodplains which have not been protected adequately from flooding by the regulatory flood by means of dikes, levees, reservoirs or other works approved by the Natural Resources Commission.

FLOOD PROTECTION GRADE. The elevation of the lowest floor of a building or structure. If a basement is included, the basement floor is considered the lowest floor. Exception: If a commercial or industrial building is floodproofed as defined, the term **FLOOD PROTECTION GRADE** applies to the water surface elevation for which the building is protected.

FLOODLIGHT. A luminaire or bulb that projects light in a specific direction in a wide beam, typically 100 degrees or more.

FLOODPLAIN. The area covered by floodwaters from the regulatory (100-year) flood.

FLOODPROOFED BUILDING. A commercial or industrial building designed to exclude floodwaters from the interior of that building. All floodproofing shall be adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regulatory flood.

FLOODWAY. The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream. Areas making up a floodway may be identified by formal action of the Natural Resources Commission or established by the Department of Natural Resources on a case-by-case basis.

FLOODWAY FRINGE. Those portions of the flood hazard areas lying outside the floodway.

FULL CUTOFF (FCO). A light fixture which cuts off all upward transmission of light.

FULLY SHIELDED. A fixture with housing or attachment thereto that prevents a line of sight to the bulb when viewed from another property, and that

prevents a line of sight to any part of the light source at or above a horizontal plane running through the lowest portion of the fixture.

GARAGE, PRIVATE. Any accessory building with capacity for not more than 3 motor vehicles per family, not more than 1 of which may be a commercial vehicle of not more than 3 tons GVW. A garage designed to house 2 motor vehicles for each family housed in a multi-family dwelling shall be classed as a **PRIVATE GARAGE**.

GARAGE, PUBLIC. Any building, except those defined herein as a private garage, used for the storage or care of motor vehicles, or where the vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

GLARE. Discomfort experienced by an observer with a direct line of sight to a light source which often results in annoyance, discomfort or loss of visual performance causing visual impairment.

GROUND FLOOR AREA. The square foot area of a dwelling within its largest outside dimensions computed on a horizontal plane at the ground floor level, exclusive of open porches, breezeways, terraces, garages and exterior stairways.

GUEST ROOM.

(1) Any room or rooms used or intended to be used by a guest for sleeping purposes.

(2) Any room in a tourist home or in a bed and breakfast establishment that is equipped and/or intended for use as a bedroom, including rooms equipped with sleeper sofas.

HOME OCCUPATION. Any use conducted entirely within a dwelling and participated in solely by members of the family; which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof, and in connection with which there is no commodity sold upon the premises except that which is produced thereon; and provided, however, in no event shall a

barber shop, beauty parlor, gift or antique shop, tea room or animal hospital be construed as a **HOME OCCUPATION**.

HORIZONTAL (OR VERTICAL) FOOT-CANDLES. The amount of light striking a vertical or horizontal plane.

HOTEL. A building in which lodging is provided and offered to the public for compensation and which is open to transient guests, in contradistinction to a boarding or lodging house.

IESNA. Illuminating Engineering Society of North America.

IMPROVEMENT LOCATION PERMIT. A permit signed by the Planning Director stating that a proposed improvement complies with the provisions of this chapter and other ordinances as may be applicable.

JUNK YARD. Any place at which personal property is or may be salvaged for reuse, resale or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled or assorted; including, but not limited to used or salvaged base metal or metals, their compounds or combinations, used or salvaged rope, bags, paper, rags, glass, rubber, lumber, millwork, brick and similar property except animal matter; and used motor vehicles, machinery or equipment which is used, owned or possessed for the purpose of wrecking or salvaging parts therefrom.

JURISDICTION. The jurisdiction of the Commission; described on a map entitled "Jurisdictional Area, Nashville, Indiana," and filed with the County Recorder.

KENNEL. Any lot on which 4 or more dogs or small animals, at least 4 months of age, are kept.

LIGHT SOURCE. The bulb and lens, diffuser or reflective enclosure.

LIGHT TRESPASS. Light projected onto a property from a fixture not located on that property.

LOADING AND UNLOADING BERTHS. The off-street area required for the receipt or distribution by vehicles of material or merchandise, which in this chapter is held to be a 12-foot by 45-foot loading space with a 14-foot height clearance, paved with a suitable dust preventive or hard surface.

LOCAL MANAGER. A person who is responsible for responding to any complaints regarding the property subject to the permit and/or approval, and whose primary place of business is within a reasonable 30-minute drive from the property subject to the permit and/or approval.

LOT. A parcel, tract or area of land accessible by means of a street or place. For residential uses as set forth in this chapter, the lot shall abut upon a street or place at least 50% of the lot width prescribed for the district in which the lot is located. It may be a single parcel separately described in a deed or plat which is recorded in the office of the County Recorder, or it may include parts of or a combination of parcels when adjacent to one another and used as 1. In determining lot area and boundary lines no part thereof within the limits of a street shall be included.

LOT, CORNER. A lot at the junction of and abutting 2 or more intersecting streets.

LOT COVERAGE. The percentage of the lot area covered by the building area.

LOT, DEPTH OF. The mean horizontal distance between the front lot line and the rear lot line, measured in the general direction of the side lot lines.

LOT GROUND LEVEL. For buildings having walls adjoining 1 street only, the elevation of the sidewalk at the center of the wall adjoining the street; for buildings having walls adjoining more than 1 street, the average of the elevation of the sidewalk at the center of all walls adjoining the streets; and for buildings having no wall adjoining the street, the average level of the ground adjacent to the exterior

walls of the building. Any wall approximately parallel to and not more than 5 feet from a street is to be considered as adjoining the street.

LOT, INTERIOR. A lot other than a corner lot or through lot.

LOT LINE, FRONT. In the case of an interior lot, a line separating the lot from the street or place; and in the case of a corner lot, a line separating the narrowest frontage or the lot from the street, except in cases where deed restrictions in effect specify another street right-of-way line as the front lot line.

LOT LINE, REAR. A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular-shaped lot, a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line.

LOT LINE, SIDE. Any lot boundary line not a front lot line or a rear lot line.

LOT, THROUGH. A lot having frontage on 2 parallel or approximately parallel streets.

LOT, WIDTH. The dimension of a lot, measured between side lot lines on the building line.

LUMENS. Measure of brightness of the illumination exiting bulb.

MASTER PLAN. The complete plan, or any of its parts, for the development of the town, prepared by the Commission and adopted in accordance with Chapter 174, Acts of 1947, General Assembly of Indiana, as amended, as is now or may hereafter be in effect.

MOBILE HOME. Any vehicle, including the equipment sold as a part of a vehicle, which is so constructed as to permit its being used as a conveyance upon streets by either self-propelled or nonself-propelled means, which is designed, constructed or reconstructed, or added to by means of an enclosed addition or room in such manner as will permit the occupancy thereof as a dwelling or sleeping

place for 1 or more persons, which is both used and occupied as a dwelling or sleeping place having no foundation other than wheels, jacks, skirting or other temporary supports.

MOBILE HOME PARK. An area of land upon which 2 or more mobile homes are harbored for the purpose of being occupied, either free of charge or for revenue purposes, and shall include any building, structure, vehicle or enclosure used or intended for use as a part of the equipment of the mobile home park.

MOBILE HOME TIE DOWNS: SCHEDULE A. Sufficient anchorage to resist flotation, collapse or lateral movement of any mobile home. At a minimum, the anchorage shall consist of:

(1) Over-the-top ties provided at each of the 4 corners of the mobile home, with 2 additional ties per side at intermediate locations, with mobile homes less than 50 feet long requiring only 1 additional tie per side;

(2) Frame ties provided at each corner of the home with 5 additional per side at intermediate points, and with mobile homes less than 50 feet long requiring only 4 additional ties per side;

(3) All components of the anchoring system capable of carrying a force of 4,800 pounds; and

(4) Any additions to the mobile home similarly anchored.

MOTEL. A building or a detached building, usually not more than 1 story in height, used as dwelling units containing bedroom, bathroom and closet space, and each unit has convenient access to a parking space for the use of the unit's occupants. The units, with the exception of the apartment of the manager or caretaker, are devoted to the use of automobile transients and no cooking facilities are offered. The site of the motel has direct and convenient access to a major thoroughfare.

NATURAL RESOURCES. The Indiana Natural Resources Commission.

OUTDOOR BUSINESS. Any business, either retail, service or wholesale, which has more than 5% of the square footage area for display outside of the building at any time of the year.

PARKING AREA, PUBLIC. An open area, other than a street or alley, designed for use or used for the temporary parking of more than 4 motor vehicles when available for public use, whether free or for compensation, or as an accommodation for clients or customers, paved with a suitable dust preventive or hard surface.

PARKING SPACE. A space other than on a street or alley designed for use or used for the temporary parking of a motor vehicle, and being not less than 9 feet wide and 20 feet long exclusive of passageways.

PERSON. A corporation, firm, partnership, association, organization or any other group acting as a unit, as well as a natural person or persons.

PLACE. An open, unoccupied, officially designated space other than a street or alley, permanently reserved for use as the principal means of access to abutting property.

PLAT. A map or chart indicating the subdivision or resubdivision of land, intended to be filed for record.

PRIVATE SCHOOL. Private preprimary, primary, grade, high or preparatory school or academy.

PROFESSIONAL OFFICE. Office of members of recognized professions, such as an architect, artist, attorney, dentist, engineer, physician, surgeon or other professional person.

REGULATORY FLOOD. That flood having a peak discharge which can be expected to be equaled or exceeded on the average 1 in a 100-year period, as calculated by a method and procedure which is acceptable to and approved by the State Natural

Resources Commission. This flood is equivalent to a flood having a probability of occurrence of 1% in any given year.

REGULATORY FLOOD PROFILE. A longitudinal profile along the thread of a stream showing the maximum water surface elevation attained by the regulatory flood.

SIGN. Any advertising sign, billboard, or board, device, structure or part thereof, or device attached thereto or painted or represented thereon, used for advertising, display or publicity purposes. Signs placed or erected by governmental agencies for the purpose of showing street names or traffic directions or regulations for other governmental purposes shall not be included.

SPOTLIGHT. A luminaire or bulb which projects light in a specific direction in a narrow beam, typically 45 degrees or less.

STREET. A right-of-way thoroughfare, other than an alley, dedicated or otherwise legally established to the public use, usually affording the principal means of access to abutting property.

STRUCTURAL ALTERATION. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the exterior walls or the roof.

STRUCTURE. Anything constructed or erected which requires location on the ground or attachment to something having a location on the ground. **STRUCTURE** includes **BUILDING**.

SUBSTANTIAL MODIFICATION. Any alternation, repair, enlargement or extension of an existing building. Substantial modification is considered to occur when the first alteration of any wall, ceiling, floor or other structural element of the building commences. This term does not, however, include either:

(1) Any project for improvement of a structure to comply with existing health, sanitary or safety code specifications; or

(2) Any alterations of a structure listed on the National Register of Historic Places or the State Survey of Historic, Architectural, Archaeological and Cultural Sites, Structures, Districts and Objects.

TOURIST HOME. A building in which 1 but not more than 5 guest rooms are used to provide or offer overnight accommodations to transient guests for compensation.

TOWN. The Town of Nashville, Indiana.

TOWN BOARD. The Town Board of Trustees.

TRADE OR BUSINESS SCHOOL. Secretarial or business school or college when not publicly owned or not owned or conducted by or under the sponsorship of a religious, charitable or nonprofit organization; or a school conducted as a commercial enterprise for teaching instrumental music, dancing, barbering or hair dressing, drafting or for teaching industrial or technical arts.

USE. The employment or occupation of a building, structure or land for a person's service, benefit or enjoyment.

USE, NONCONFORMING. A lawful existing use of land or building which fails to comply with the requirements set forth in this chapter applicable to the district in which the use is located.

USE, OPEN. The use of a lot without a building or including a building incidental to the open use with a ground floor area equal to 5% or less of the area of the lot.

VARIANCE. A modification of the specific requirements of this chapter granted by the Board in accordance with the terms of this chapter for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same vicinity and district.

VISION CLEARANCE ON CORNER LOTS. A triangular space at the street corner of a corner lot,

free from any kind of obstruction to vision between the heights of 3 and 12 feet above the established street grade. The street grade is measured at the intersection of the center lines of the intersecting street pavement, and the triangular space is determined by a diagonal line connecting 2 points measured 15 feet equidistant from the lot corner along each property line.

YARD. A space on the same lot with a principal building, open, unoccupied and unobstructed by structures, except as otherwise provided in this chapter.

YARD, FRONT. A yard extending across the full width of the lot, unoccupied other than by steps, walks, terraces, driveways, lamp posts and similar structures, the depth of which is the least distance between the front lot line and the building line.

YARD, REAR. A yard extending across the full width of the lot between the rear of the principal building and the rear lot line, unoccupied other than by accessory buildings which do not occupy more than 30% of the required space, and steps, walks, terraces, driveways, lamp posts and similar structures, the depth of which is the least distance between the rear lot line and the rear of the principal building.

YARD, SIDE. A yard between the principal building and the side lot line, extending from the front yard or from the front lot line where no front yard is required, to the rear yard. The width of the required side yard is measured horizontally, at 90 degrees with the side lot line, from the nearest part of the principal building.

ZONE MAP. A map entitled "Nashville, Indiana, Zone Map, Sheets 1 and 2 of 2," dated 1959, and any amendments thereto. (Ord. passed 7-26-1960; Am. Ord. 6679, passed 9-5-1978; Am. Ord. 1980-3, passed 1-7-1980; Am. Ord. 1993-3, passed 5-6-1993; Am. Ord. 1997-5, passed 11-20-1997; Am. Ord. 2003-04, passed 7-17-2003)

GENERAL REQUIREMENTS**§ 153.015 ESTABLISHMENT OF DISTRICTS, ZONE MAP AND DESCRIPTION OF DISTRICTS.**

(A) The town is hereby classified and divided into 10 districts designated as follows:

- (1) R1 - Residence District;
- (2) R2 - Residence District;
- (3) RB - Restricted Buffer District;
- (4) B1 - Business District;
- (5) B2 - Business District;
- (6) B3 - Business District;
- (7) I1 - Industrial District;
- (8) FP - Floodplain District;
- (9) FW - Floodway District; and
- (10) FF - Floodway Fringe District.

(B) The zone map and flood map are described as follows:

(1) The zone map, which accompanies and is hereby declared to be a part of this chapter, shows the boundaries of and the area covered by the districts. Notations, references, indications and other matters shown on the zone map are as much a part of this chapter as if they were fully described herein.

(2) The 1975 Flood Boundary and Floodway map for the town prepared by Johnson and Anderson and published by the Federal Insurance Administration (FIA) is hereby incorporated by reference into this chapter to designate floodway boundaries. The September 23, 1977 Flood Insurance Rate Map for the town published by the Federal

Insurance Administration is hereby incorporated by reference into this chapter to designate floodplain areas. The area enclosed by the flood boundaries shall be designated floodplain: it may contain floodway and floodway fringe areas. All future FIA flood boundary studies and maps for the town shall be incorporated by reference into this chapter. A floodplain district may stand alone or be combined with any other district.

(a) Large floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes such as ice or debris jams. This chapter does not imply that areas outside flood hazard districts, as defined herein, will be free of flooding or flood damage. This chapter does not create any liability on the part of the county, the Plan Commission, the Department of Natural Resources, the state, or any elected or appointed official or employee thereof for any flood damages that result from reliance on this chapter of any administrative decision lawfully made thereunder.

(b) All three districts, FP, FW and FF, are subject to flooding by the regulatory flood. The floodway and floodway fringe are always to be used together. The floodplain district is used by itself and does not overlap either of the other districts.

(c) If a high quality assessment of flood hazard areas has been made, the use of the floodway/floodway fringe combination can be used. Use of these 2 districts requires a definition of the area flooded by the 100-year flood, the breakdown of this area into the 2 districts and a profile of that flood. If flood-prone areas have been identified (with or without flood profiles) and floodway data is unavailable, the floodplain district should be used.

(C) The districts identified above are described as follows:

(1) *Residence districts.* Two districts, R1 and R2, are established for residential use in conformity with the types of neighborhoods which have occurred and are likely to develop in the areas so designated in the zone map. The districts differ

primarily with respect to requirements of lot size, ground floor area, and the number of families which may be housed in 1 building. The specific requirements for both residence districts are shown in Figure 1 of Appendix A and §§ 153.035 through 153.037. Certain nonresidential contingent uses are automatically permitted in these districts (see Figures 7 and 8 of Appendix A and § 153.110), and some special exceptions (see Figure 9 of Appendix A and § 153.111) may be permitted in them with the approval of the Board. The RB, residential buffer district, is a transitional zone between the R1 and R2 residential districts and the B1, B2 and B3 business districts. A brief description of each of the residence districts follows:

(a) *R1*. This district is established for single-family residential use in conformity with the types of neighborhoods which have occurred and are likely to develop in the areas as classified in the zone map. The specific requirements for this district are shown in Figure 1 of Appendix A. The minimum requirements for lot size, ground floor area of dwelling and lot width are the largest in this district.

(b) *R2*. This is a single-family- and 2-family-dwelling district. Requirements for minimum lot size and ground floor area of structures are considerably less stringent than the requirements for the R1 district.

(c) *RB*. This district is intended primarily as an institutional buffer zone which, because of its proximity to business uses, public uses and residential uses, is designed to serve as a transition function in land use planning.

(2) *Business districts*. Three districts, B1, B2 and B3, are established to meet the specific requirements for the several classes of business uses needed to give adequate service throughout the town as related to present and future development. Single-family, 2-family and multi-family dwellings are permitted in all of the business districts. The specific requirements for business uses in these districts are given in Figures 2, 3 and 4 of Appendix A, and §§ 153.050 through 153.053. For contingent uses

permitted in the business districts, see Figures 7 and 8 of Appendix A, and for special exceptions see Figure 9 of Appendix A and § 153.111. A brief description of the business districts follows:

(a) *B1*. This district is designed and located in neighborhoods to accommodate many of the shopping and service needs of the locality. Although limited in area occupied, B1 districts are important to the economic welfare of the community in placing “convenience” and “impulse” goods shops close to the consumer. The local business uses defined in §§ 153.050 to 153.053 are permitted in all business districts.

(b) *B2*. This is a general business district providing for many types of business and service uses.

(c) *B3*. This district is designed to permit all business and service uses as well as light industry. Storage facilities and warehouses are also permitted.

(3) *Industrial districts*. One district, the I1 district, is established to meet the present and future needs of the town for industrial development. Residential use is excluded from the I1 district; business uses will be permitted. The specific requirements for industrial uses in this district are given in Figures 5 and 6 of Appendix A and §§ 153.060 through 153.062. For contingent uses and special exceptions in the industrial districts see Figures 7, 8 and 9 of Appendix A.

(4) *Floodplain district*. Designed to guide development in areas where a potential for damage from floodwaters exists. The identification of these areas may be made by the State Department of Natural Resources, the Federal Insurance Administration, the Corps of Engineers, the U.S. Geological Survey or other reliable sources. The floodplain district may stand by itself or be combined with any other district.

(5) *Floodway district*. Designed to guide development in areas identified as a floodway. The

identification of these areas may be made by the State Department of Natural Resources, the Federal Insurance Administration, the Corps of Engineers, the U.S. Geological Survey or other reliable sources; provided, however, that all such identification shall be made in compliance with the current rules, procedures and policies of Natural Resources. Natural Resources exercises primary jurisdiction in the floodway district. Under the provisions of I.C. 1971, 13-2-22, however, the Commission may impose terms and conditions on any permit it issues in this district which are more restrictive than those imposed by Natural Resources. The floodway district may stand by itself or be combined with any other district.

(6) *Floodway fringe district.* Designed to guide development in areas subject to potential flood damage but outside an identified floodway district. The identification of these areas may be made by the State Department of Natural Resources, the Federal Insurance Administration, the Corps of Engineers, the U.S. Geological Survey or other reliable source.

(D) In the FF and FW districts established herein, the degree of flood protection established in this chapter is considered reasonable for regulatory purposes and is based on engineering and scientific considerations.

(Ord. passed 7-26-1960; Am. Ord. 6679, passed 9-5-1978; Am. Ord. 1980-2, passed 1-7-1980; Am. Ord. 2004-02, passed 2-19-2004)

§ 153.016 DETERMINATION AND INTERPRETATION OF DISTRICT BOUNDARIES.

(A) In determining the boundaries of districts, and establishing the regulations applicable to each district, due and careful consideration has been given to existing conditions, the character of buildings erected in each district, the most desirable use for which the land in each district may be adapted, and the conservation of property values throughout the town.

(B) When the exact boundaries of a district are uncertain, they shall be determined by use of the scale in the zone map or, in the case of floodplain, by the State Department of Natural Resources, the Corps of Engineers, the U.S. Geological Survey or other reliable source. In the case of further uncertainty concerning boundaries other than floodplain boundaries, the Board shall interpret the intent of the zone map as to the location of the boundary in question.

(Ord. passed 7-26-1960; Am. Ord. 6679, passed 9-5-1978)

§ 153.017 PROCEDURE RELATING TO ANNEXED OR VACATED AREAS.

(A) Territory which may hereafter be annexed to the town shall remain in the same district.

(B) Whenever any street, alley, public way, railroad right-of-way, waterway or other similar area is vacated by proper authority, the districts adjoining each side of the street, alley, public way, railroad right-of-way, or similar areas shall be extended automatically to the center of the vacation, and all area included in the vacation shall then and thenceforth be subject to all appropriate regulations of the extended districts. In the event of a partial vacation, the adjoining district or district nearest the portion vacated shall be extended automatically to include all of the vacated area.

(Ord. passed 7-26-1960)

§ 153.018 USE.

No building or land shall be used and no building shall be erected, reconstructed or structurally altered, which is arranged, intended or designed to be used for any purpose other than a use which is permitted and specified in a district in which the building or land is located.

(Ord. passed 7-26-1960) Penalty, see § 153.999

§ 153.019 HEIGHT.

No building shall be erected, reconstructed or structurally altered to exceed in height the limits established and specified for the use and the district in which the building is located.
(Ord. passed 7-26-1960) Penalty, see § 153.999

§ 153.020 YARD, LOT AREA AND SIZE OF BUILDING.

No building shall be erected, reconstructed or structurally altered in any manner which will encroach upon or reduce in any manner the yards, lot area per family, ground floor area of residential buildings or lot coverage regulations, established and specified for the use and the district in which the building is located.
(Ord. passed 7-26-1960) Penalty, see § 153.999

§ 153.021 LOTS.

Every building hereafter erected shall be located on a lot. In no case shall there be more than 1 principal building used for residential purposes, and its accessory buildings, located on 1 lot.
(Ord. passed 7-26-1960) Penalty, see § 153.999

§ 153.022 PARKING SPACES; LOADING AND UNLOADING BERTHS.

Every building hereafter erected shall provide parking space for motor vehicles and loading and unloading berths as specified hereinafter for the use to which the building is to be devoted.
(Ord. passed 7-26-1960) Penalty, see § 153.999

§ 153.023 DESIGN REVIEW.

(A) *Regulatory goals.* The Town Council declares that the following goals are to guide the evaluation of all construction and/or other design changes that are subject to design evaluation:

- (1) To preserve the natural beauty of Nashville, Indiana and protect the village character of the town;
- (2) To encourage originality, flexibility and innovation in site planning and development;
- (3) To discourage monotonous, drab, unsightly, dreary and inharmonious developments;
- (4) To protect and improve property values;
- (5) To foster community pride and spirit so as to improve the quality and quantity of citizen participation in local government and in community growth, change and improvement;
- (6) To sustain the comfort, health, tranquillity and contentment of residents by reason of the town's favorable built and natural environments; and
- (7) To preserve distinctive examples of existing architecture that have contributed to the historic development of Nashville, Indiana's unique village character.

(B) *Development Commission established.*

- (1) The Town Council hereby establishes a development review authority and delegates this function to a 9-person Development Review Commission. The Development Review Commission is to be formed by each Council member appointing an individual of his or her choice to serve on the committee for the length of term of the appointing Council member unless removed and replaced by the appointing Council member.
- (2) In addition to the appointments made by the Town Council, 1 appointment shall be made by each of the following groups: Brown County Chamber of Commerce, Brown County Visitors and Conventions Bureau, Office of the Town Clerk-Treasurer, and by the Brown County Economic Development Commission.

(3) That the Town Manager/Town Administration shall not be a voting member.

(C) *General design regulations.* In order to protect the unique qualities and characteristics of the business districts, all exterior changes to commercial properties located within the B1, B2, B3 and RB land use districts shall be subject to the following requirements:

(1) The modification shall respect and be compatible with the architectural character and scale of the existing structure;

(2) The modification shall complement the existing scale and design of the district;

(3) The modification shall not create visual clutter through an excessive number of uncomplimentary design elements; and

(4) The modification shall not incorporate colored materials, patterns, or other design elements that:

(a) Call attention to the store front;

(b) Create a form of advertising or sign;

(c) Would render the store front unusable by a subsequent business occupant without further remodeling; or

(d) Create a standardized identification with a particular business use.

(D) *Design evaluation.* Development review is an open and public, discretionary process used to review all projects required by this title including:

(1) All exterior site, building design, lighting, landscaping, color and material changes in all business districts;

(2) All site and building design changes as specified within designated specific plan areas;

(3) All exterior changes to buildings, lighting and landscaping in all business districts; and

(4) All fences, walls and other incidental improvements in all business districts.

(E) *Criteria and standards.* The following standards shall be utilized by the Commission in reviewing the plans, drawings, sketches, and other documents. These standards are intended to provide a frame of reference for the application in the development of site and building plans, as well as a method of review for the Commission:

(1) Preservation of landscape;

(2) Relation of proposed buildings to environment;

(3) Drives, parking and circulation;

(4) Lighting;

(5) Surface water drainage;

(6) Utility service;

(7) Advertising features; and

(8) Special features.

(F) *Required plans.* Drawings and plans shall be submitted in sufficient detail to illustrate clearly the design for which approval is sought. The plans shall show the following:

(1) Existing conditions, contours, public and private trees and natural features; all structures and uses, improvements, public streets, rights-of-way, public and private easements and restrictions; and the official grade of the adjacent public right-of-way;

(2) Site plan showing proposed structures, contours, site developments, landscaping and natural features retained; parking and loading facilities, trash storage areas, circulation, public rights-of-way, public and private easements; and public and private trees; that to be removed or to be retained and sufficient other information;

(3) Architectural elevations, colors, lighting, material to be used in or about the exterior of the structure; and

(4) Such other information as may be required by the Design Review Committee to permit reasonable consideration of the application.

(G) *Application for design approval.* Application for design review approval shall be submitted to the Town Manager on forms provided by the town for that purpose. The application shall be accompanied by the required fees as set forth by resolution of the Town Council.

(Ord. 2002-07, passed 5-16-2002; Am. Ord. 2003-04, passed 7-17-2003)

(H) *Fees.*

(1) The fees for the application for design are as follows:

(a) Landscaping that is approved in house will not require a fee; and

(b) All other applications: \$25

(2) A waiver of fees can be issued by the Town Manager.

(Res. 2003-05, passed 7-17-2003; Am. Ord. 2006-01, passed 3-16-2006; Am. Ord. 2006-07, passed 6-29-2006; Am. Ord. 2006-01, passed 3-16-2006; Am. Ord. 2006-07, passed 6-29-2006; Am. Ord. 2013-09, passed 9-19-2013; Am. Ord. 2015-18, passed 12-17-2015)

§ 153.024 DRIVEWAY PERMITS; ACCESS STANDARDS.

(A) *Applicability; purpose.*

(1) This section shall apply to all persons, firms, partnerships, associations, corporations, companies or organizations of any kind in the town limits, hereafter referred to as citizens.

(2) The purpose of this section is to regulate access to all streets, alleys and other public

rights-of-way in the town limits and to ensure proper traffic flow conformance with established standards and adequate drainage.

(B) *Private drive.*

(1) No private drive or other access way shall be made onto any town street without a specific permit.

(2) No entrance shall be more than 5 feet to the adjacent property line, and no approach shall be so constructed that any part of the same extends in front of property.

(3) All drainage pipes or tiles used in the construction of driveways and approaches shall be a minimum of 12 inches in diameter and as much larger as the Street Department shall deem necessary for proper drainage.

(4) All driveways and approaches shall be so constructed that they shall not interfere with drainage of or cause erosion to the street.

(5) All disturbed areas shall be fertilized and seeded or sodded to prevent erosion.

(6) The construction of driveways and approaches shall not interfere with any existing structure, utility or any town right-of-way without specific permission.

(7) All entrances and approaches shall be so located as to provide adequate sight distance in both directions.

(8) No entrance or approach shall be located or constructed so as to interfere with or prevent the proper location of necessary street signs.

(9) The permittee shall assume responsibility for all maintenance of the approaches from the right-of-way line to the edge of the traveled street.

(10) No entrance or approach shall be relocated or its dimensions altered.

(11) The permittee shall assume all responsibility for the injury or damage to persons or property resulting directly or indirectly from the construction of any approach or driveway.

(12) The permittee shall remove or relocate any entrance or approaches when requested to do so by the Town Superintendent, in interest of safety to town street traffic.

(13) The right-of-way adjacent to or between the approaches may be graded at the permittee's expense, subject to drainage requirements as determined by the Town Superintendent.

(14) All work shall be done in accordance with the approved plans and the latest issue of the Indiana State Highway Standard Specifications, and shall meet the approval of the Town Superintendent.

(15) No driveway or other vehicle access road onto a town street shall be less than 10 feet in width as measured along the private property line for a single-family residential access, or less than 24 feet as measured along the private property line for all other accesses.

(C) *Existing private drives.*

(1) The Town Superintendent may require the removal and replacement of existing private drives and/or the drainage pipe and tiles for existing private drives.

(2) The cost of all drainage pipes or tiles required by the Town Superintendent to be replaced shall be paid by the property owner.

(3) The Town Superintendent may furnish such assistance as may be necessary for the removal and replacement of existing drives and/or the drainage pipes and tiles.

(4) All work on existing drives shall be in accordance with the access standards set forth in division (C) of this section and shall be acceptable to and approved by the Town Superintendent.

(D) *Permit application; fees.*

(1) No person shall cut, dig, trench or otherwise interfere with the surface or subsurface, or any town street which is part of the town street system, or the easement adjacent to any street.

(2) A form shall be developed and used for the application by any person seeking a permit to construct a driveway onto any town street, or on the right-of-way adjacent thereto.

(3) The following schedule of fees shall be charged for driveway permits onto the town streets.

<i>Fees</i>	
Private drive	\$5
Commercial drive	\$50
Subdivision entrance	\$150

(Ord. 2003-04, passed 7-17-2003)

§ 153.025 LIGHTING TRESPASS.

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

FIXTURE. The assembly that holds the lamp (bulb) in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing and the attachment parts.

FLOODLIGHT. A luminaire or bulb which projects light in a specific direction in a wide beam, typically 100 degrees or more.

FULL CUTOFF (FCO). A light fixture which cuts off all upward transmission of light.

FULLY SHIELDED. A fixture with housing or attachment thereto which prevents a line of sight to the bulb when viewed from another property,

and which prevents a line of sight to any part of the light source at or above a horizontal plane running through the lowest portion of the fixture.

GLARE. Discomfort experienced by an observer with a direct line of sight to a light source which often results in annoyance, discomfort or loss of visual performance causing visual impairment.

HORIZONTAL (OR VERTICAL) FOOT-CANDLES. The amount of light striking a vertical or horizontal plane.

IESNA. Illuminating Engineering Society of North America.

LIGHT SOURCE. The bulb and lens, diffuser or reflective enclosure.

LIGHT TRESPASS. Light projected onto a property from a fixture not located on that property.

LUMENS. Measure of brightness of the illumination exiting a bulb.

SPOTLIGHT. A luminaire or bulb which projects light in a specific direction in a narrow beam, typically 45 degrees or less.

(B) *Regulation.*

(1) It is unlawful for any person, firm or corporation to install, erect or maintain any floodlight, searchlight, security light or other form or type of light source within the limits of the town in such manner that the light rays from this lighting fail to conform with the terms and conditions of this section, and that the light therefrom may distract the attention of any vehicle driver from the operation of a vehicle in a safe and prudent manner.

(2) On all properties except those zoned R1 and R2, the installation or replacement of any outdoor lighting fixtures shall require approval. Approval may not be issued unless the proposed installation is found by the Town Council to conform to all applicable provisions of this section.

(3) All properties within the town must comply with the terms of this section.

(C) *Light trespass.* The maximum illumination at 5 feet inside an adjacent residential parcel or public right-of-way, or beyond, from light emitted from an artificial light source, is 0.05 horizontal foot-candles and 0.05 vertical foot-candles. This illumination likewise measured inside an adjacent commercial or industrial parcel or on a public roadway, or beyond, shall not exceed 0.1 horizontal foot-candles or 0.1 vertical foot-candles. No line of sight to a glaring light source is permitted from 5 feet or more inside a residential or public right-of-way property line by an observer viewing from a position that is level with or higher than the ground below the fixture. Compliance is achieved with fixture shielding, directional control designed into the fixture, fixture location, fixture height, fixture aim or a combination of these factors.

(D) *General lighting design.*

(1) *General.*

(a) The bulbs in outdoor light fixtures emitting from 600 to 1,200 lumens shall be frosted glass or covered by frosted glass or other similarly translucent cover. An outdoor light fixture emitting more than 1,200 lumens except motion detector-activated lighting shall be full cutoff and fully shielded to an observer at the property line. This can be achieved with fixture location, mounting height, natural artificial barriers on the fixture owner's property, fixture shielding and other fixture design features.

(b) A spotlight of less than 1,800 lumens need not be full cutoff or covered by a translucent cover if its center beam is aimed at a point not beyond any property lines and no higher than 45 degrees below the horizontal, and is motion detector-activated and cycles off after 5 minutes.

(c) Generally, luminaires should not be located closer to the property line than a distance equal to 3 times the fixture's mounting height above grade at the property line.

(d) The use of search lights, laser lighting or lights that pulse, flash, rotate or simulate motion for advertising or promotions is prohibited.

(e) Emergency lighting and traffic control lighting is exempt.

(f) Tower lighting shall not be permitted unless required by the FAA. Required lighting shall be of the lowest allowed intensity and red unless specifically forbidden under FAA requirements.

(g) At the close of business, all lighting shall be reduced to a level not greater than those described in division (D)(5) below.

(h) With the exception of structures having exceptional symbolic significance such as churches and/or public buildings of historic significance in the community, exterior buildings and other vertical structures shall not be illuminated. When buildings and other structures having symbolic or historic significance are to be illuminated, the design for the illumination must be approved by the Town Council.

(2) *Buildings and other vertical structures.*

(a) The maximum illumination on any vertical surface or angular roof surface shall not exceed 5.0 foot-candles.

(b) Lighting fixtures shall be carefully located, aimed and shielded so that light is directed only onto the building surface. Lighting fixtures shall not be directed toward adjacent streets or roads.

(c) Lighting fixtures mounted on the building and designed to “wash” the building surface with light are preferred.

(d) To the extent practicable, lighting fixtures shall be directed below the horizontal rather than above the horizontal.

(3) *Landscaping.* When landscaping is to be illuminated, the Town Council shall first approve a landscape lighting plan that presents the purpose and objective of the lighting, shows the location of all lighting fixtures and what landscaping each is to illuminate, and demonstrates that the installation will not generate excessive light levels, cause glare or direct light beyond the landscaping into the night sky.

(4) *Externally illuminated signs.*

(a) The average level of illumination on the vertical surface of the sign shall not exceed 3.0 foot-candles, and the ratio of average to minimum illumination shall not exceed 2:1.

(b) Lighting fixtures illuminating signs shall be carefully located, aimed and shielded so that light is directed only onto the sign façade. Lighting fixtures shall not be aimed toward adjacent streets, roads or properties.

(c) Light fixtures illuminating signs shall be of a type such that the light source is not directly visible from adjacent streets, roads or properties.

(d) To the extent practicable, fixtures used to illuminate signs shall be top-mounted and directed below the horizontal.

(5) *Parking lot lighting.* Parking lot lighting shall be designed to provide the minimum lighting necessary to ensure adequate vision and comfort in parking areas, and to not cause glare or direct illumination onto adjacent properties or streets.

(a) All lighting fixtures serving parking lots shall be cut-off fixtures.

(b) Mounting heights of lighting fixtures shall not exceed 20 feet.

(c) The minimum illumination level shall be no more than 0.4 foot-candles. The ratio of the average illumination to the minimum illumination shall be 4:1.

(6) *Lighting levels on exterior display/sales areas.*

(a) Lighting levels on exterior display/sales areas shall be adequate to facilitate the activities taking place in these locations. Lighting of these areas shall not be used to attract attention to the businesses. Signs allowed under local ordinance are to be used for that purpose.

(b) The applicant shall designate areas to be considered display/sales areas and areas to be used as parking or passive vehicle storage areas. This designation must be approved by the Town Council.

1. Areas designated as parking or passive vehicle storage areas shall be illuminated in accordance with the requirements for parking areas suggested elsewhere in this section.

2. Areas designated as exterior display/sales areas shall be illuminated so that the average horizontal illuminance at grade level is no more than 5.0 foot-candles. The ratio of average to minimum illuminance shall be no greater than 4:1. The average and minimum shall be computed for only that area designated as exterior display/sales area.

3. Light fixtures shall be cutoff fixtures and shall be located, mounted, aimed and shielded so that direct light is not cast onto adjacent streets or properties.

4. Fixtures shall be mounted no more than 20 feet above grade, and mounting poles shall be located either inside the illuminated area or no more than 10 feet away from the outside edge of the illuminated area.

(Ord. 2003-04, passed 7-17-2003)

(7) *Lighting of walkways/bikeways and parks.* Where special lighting is to be provided for walkways, bikeways or parks, the following requirements shall apply:

(a) The walkway, pathway or ground area shall be illuminated to a level of no more than 0.5 foot-candles;

(b) The vertical illumination levels at a height of 5 feet above grade shall be no more than 0.5 foot-candles; and

(c) Lighting fixtures shall be designed to direct light downward, and light sources shall have an initial output of no more than 1,000 lumens.

(8) *Lighting of gasoline station/convenience store aprons and canopies.* Lighting levels on gasoline station/convenience store aprons and under canopies shall be adequate to facilitate the activities taking place in those locations. Lighting of these areas shall not be used to attract attention to the businesses. Signs allowed under local ordinance are to be used for that purpose.

(a) Areas on the apron away from the gasoline pump islands used for parking or vehicle storage shall be illuminated in accordance with the requirements for parking areas set forth elsewhere in this section. If no gasoline pumps are provided, the entire apron shall be treated as a parking area.

(b) Areas around the pump islands and under canopies shall be illuminated so that the minimum horizontal illuminance at grade level is no more than 5.5 foot-candles. The ratio of average to minimum illuminance shall be no greater than 4:1. This yields an average illumination level of no more than 22.0 foot-candles.

(c) Light fixtures mounted on canopies shall be recessed so that the lens cover is recessed or flush with the bottom surface of the canopy and/or shielded by the fixture or the edge of the canopy so that light is restrained to no more than 85 degrees beyond the vertical plane.

(d) As an alternative to recessed ceiling lights, indirect lighting may be used where light is beamed upward and then reflected down from the underside of the canopy. In this case light fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy.

(e) Lights shall not be mounted on the top or sides of the canopy, and the sides of the canopy shall not be illuminated.

(9) *Lighting of outdoor facilities.* Outdoor nighttime facilities (concerts, athletic contests and the like) have unique lighting needs. Illumination levels vary, depending on the nature of the activity. The regulations in this section are intended to allow adequate lighting for such events while minimizing skyglow, reducing glare and unwanted illumination of surrounding streets and properties and reducing energy consumption. The design plan shall include a discussion of the lighting requirements of various areas and how those requirements will be met.

(E) *Site plans.*

(1) (a) Outdoor lighting installations involving the installation or replacement of 2 or fewer lighting fixtures may be approved by the Town Manager, provided that no single lamp exceeds 150 watts, and that the total wattage of all bulbs in all fixtures does not exceed 300 watts. All other installations must be approved by the Town Council.

(b) The applicant shall submit to the town sufficient information, in the form of an overall exterior lighting plan, to enable the town to determine that the applicable provisions will be satisfied.

(2) The lighting plan shall include at least the following items:

(a) A site plan, drawn to a scale of 1 inch equaling no more than 20 feet, showing buildings, landscaping, parking areas and all proposed exterior lighting fixtures;

(b) Specifications for all proposed lighting fixtures including photometric data, designation as cutoff fixtures and other descriptive information on the fixtures;

(c) Proposed mounting height of all exterior lighting fixtures;

(d) Analyses and illuminance level diagrams showing that the proposed installation conforms to the lighting level standards in this section; and

(e) Drawings of all relevant building elevations showing the fixtures, the portions of the walls to be illuminated, the illuminance levels of the walls and the aiming points for any remote light fixtures.

(3) (a) Wherever practicable, lighting installations shall include timers, dimmers and/or sensors to reduce overall energy consumption and eliminate unneeded lighting.

(b) When an outdoor lighting installation is being modified, extended, expanded or added to, the entire outdoor lighting installation shall be subject to the requirements of this section.

(c) Expansions, additions or replacements to outdoor lighting installations shall be designed to avoid harsh contrasts in color and/or lighting levels.

(d) Electrical service to outdoor lighting fixtures shall be underground, unless the fixtures are mounted directly on utility poles.

(e) Proposed lighting installations that are not covered by the special provisions in this section may be approved only if the Town Council finds that they are designed to minimize glare, do not direct light beyond the boundaries of the area being illuminated or onto adjacent properties or streets, and do not result in excessive lighting levels. In general IESNA standards shall be used to determine the appropriate lighting design.

(f) For the purposes of these regulations, the mounting height of a lighting fixture shall be defined as the vertical distance from the grade elevation of the surface being illuminated to the bottom of the lighting fixture.

(g) The Town Council may modify the requirements of this section if it determines that, in so doing, it will not jeopardize achievement of the intent of these regulations.

(F) *Exemptions.*

(1) The temporary use of low wattage or low voltage lighting for public festivals, celebrations and the observance of holidays is exempt from this section except where they create a hazard or nuisance from glare. However, consideration to light trespass requirements shall be demonstrated prior to commencing the use of the temporary lighting. Commercial activities exempt under this provision of the section shall only be able to use this exemption for 1 occurrence per year. All activities exempt under this provision shall be exempt for a period not to exceed 10 consecutive days, and whenever possible lighting should be FCO.

(2) All other lighting existing or installed on the date of this section which does not conform with this section shall be exempt under the following conditions:

(a) The exemption shall expire 7 years after the adoption date of this section;

(b) Lighting found by a governmental agency to create a public hazard can be ordered removed or altered at any time;

(c) On the effective date of the section, any light installation which provides for re-aiming of the fixture shall be brought in compliance with the terms of this section without delay;

(d) Upon repair or replacement of any component of any luminaire, or relocation of any

luminaire, that luminaire shall be brought in compliance with the terms of this section at the completion of the repair or replacement;

(e) Upon installation of any new luminaire, this section shall fully apply. An inventory of existing lighting submitted by the applicant will be required when the application for installing new luminaire(s) is made;

(f) Upon the transfer of ownership of an existing business or property, the exemption shall expire and all terms of this section shall apply; and

(g) At the close of business all lighting shall be reduced to a level not greater than those described in division (D)(5) of this section.

(G) *Street lighting.*

(1) Street lighting owned, operated, maintained or leased by the town shall be exempt, understanding that a good-faith effort shall be made to comply with the following conditions:

(a) All new, repaired or replaced shall be full cutoff fixtures and that IESNA guidelines shall be considered. However, the design for an area may suggest the use of street light fixtures of a particular period or architectural style as an alternative if the following items are considered:

1. The maximum initial lumens generated by each fixture does not exceed 2,000;

2. The mounting height of the alternative fixture does not exceed 15 feet; and

3. That alternative lighting be approved in a public hearing in accordance with I.C. 5-3-1. Public comment regarding the alternative lighting standard will be considered at that time.

(b) Street lights shall be located in the public right-of-way or on easements acquired for that purpose.

(c) If the street has a sidewalk along 1 side, the street lights will generally be limited to the sidewalk side of the street.

(2) (a) Street lighting which causes light to trespass onto or into a neighboring parcel and causes an annoyance or disturbs the person(s) who own the neighboring parcel shall seek relief through the Town Council.

(b) The Town Council shall hold a hearing on the matter in a meeting published in accordance with I.C. 5-3-1. The complaint and possible solution will be considered at that time.

(H) *Injunction.* A person who installs or causes to be installed various forms and types of lights as described heretofore in violation of this section is subject to a suit for injunction. This violation shall be punishable by a maximum fine of \$1,000. The Town Attorney is authorized to bring any enforcement action for injunctive relief through the Brown Circuit Court, and the town shall be entitled to recover attorneys' fees and costs as assessed at the discretion of the Court against the offending business. (Am. Ord. 2003-04, passed 7-17-2003)

(I) *Immunity for prosecution.* The town and its designees, the Town Marshal and all other departments and agencies, and all other town officers, agents and employees, charged with enforcement of state and local laws and code shall be immune from prosecution, civil or criminal, for reasonable, good-faith enforcement of this section while acting within the scope of authority conferred by this section. (Ord. 2000-01, passed 6-15-2000)
Penalty, see § 153.999

§ 153.026 COLORED LIGHTING.

(A) *Purpose.*

(1) The welfare of Nashville is inextricably tied to its scenic, historical and architectural characteristics. In order to protect these characteristics and to ensure the safety of pedestrians

and vehicular traffic, it is necessary to establish public regulations of neon, argon, xenon, helium, fluorescent and any and all other types of colored lighting visible from the streets and public ways of the town.

(2) Therefore, it is the intent of this section to:

(a) Control the prominence of lighting in as fair and as impartial a way as possible; and

(b) Prohibit lighting which may cause confusion for or block or impair the vision of pedestrians, which may pose distraction to pedestrian or vehicular traffic on roads or the intersections of streets and roadways.

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

COLORED LIGHTING. Any lighting inside a window display area of a business which is visible to pedestrian and vehicular traffic or which is on the outside of any business or outbuilding, which is any color other than white, clear or natural light such as neon, argon, xenon, helium or fluorescent lighting which is used in and of itself as a lighting mechanism, or in combination with any coloring process which produced colored lighting, including but not limited to painted tubing or plastic sheathing or any type which would produce colored lighting. However, this shall not include any official court or public lighting of the flag, emblem insignia of a government or otherwise when displayed for official purposes. Additionally, this section shall not apply to seasonal lighting between September 15 and January 15.

(C) *Injunction.* A person who installs or causes to be installed the colored lighting as described heretofore in violation of this section is subject to a suit for injunction. This violation shall be punishable by a maximum fine of \$1,000. The Town Attorney is authorized to bring any enforcement action for injunctive relief through the Brown Circuit Court, and the town shall be entitled to recover attorneys' fees

and costs as assessed at the discretion of the Court against the offending business.

(D) *Immunity for prosecution.* The town and its designees, the Town Marshal and all other departments and agencies, and all other town officers, agents and employees, charged with enforcement of state and local laws and code shall be immune from prosecution, civil or criminal, for reasonable, good-faith enforcement of this section while acting within the scope of authority conferred by this section. (Ord. 1999-1, passed 5-13-1999; Am. Ord. 2006-09, passed 9-7-2006)

RESIDENTIAL DISTRICTS

§ 153.035 RESIDENTIAL USES.

The residential uses defined below, including accessory buildings and uses, are permitted in the districts indicated in Figure 1 of Appendix A when complying with the requirements listed therein, subject to the provisions of §§ 153.036 and 153.111.

SINGLE-FAMILY DWELLING. A detached building designed for or occupied by 1 family exclusively.

2-FAMILY DWELLING. A detached building designed for or occupied by 2 families.

MULTI-FAMILY DWELLING. A building designed for or occupied by 3 or more families, exclusively for dwelling purposes. (Ord. passed 7-26-1960; Am. Ord. 6679, passed 9-5-1978) Penalty, see § 153.999

§ 153.036 ADDITIONAL PROVISIONS.

(A) *Area and width.* A single-family dwelling may be located on any lot in any district in which single-family dwellings are permitted, if the lot was in single ownership or included in a subdivision which

was of record in the office of the County Recorder at the time of passage of this chapter, even though the lot does not have the minimum lot width or the minimum lot area specified for the district.

(B) *Rear yard.* One-half of an alley abutting the rear of the lot may be included in the required rear yard.

(C) *Accessory buildings and uses.*

(1) Accessory buildings are permitted in all districts, but not prior to the erection of the principal building.

(2) No accessory building shall be located closer to a side lot line than 4 feet nor exceed 18 feet in height and, if detached from the principal building, shall be set back at least to the rear line of the principal building.

(3) Accessory uses such as public utility installations, walks, driveways, curbs, retaining walls, mail boxes, name plates, lamp posts, birdbaths and structures of a like nature are permitted in any required front, side or rear yard. Fences, latticework, screens, hedges or walls, not more than 7 feet in height, and private swimming pools surrounded by a fence of at least 5 feet high, may be located in the required side or rear yard, and a hedge or attractive fence, maintained so as not to exceed 3 feet in height, may be located in any front yard; provided, however, that nothing contained in this chapter shall be deemed to prohibit the construction or maintenance of a fence of any height in connection with an agriculture use. Trees, shrubs, flowers or plants shall be permitted in any required front, side or rear yard, except that vision clearance on corner lots shall be provided when required.

(D) *Front yard.*

(1) Where 25% or more of the lots in the block are occupied by buildings, the average setback of the buildings determines the dimension of the front yard in the block.

(2) Building lines or building setback lines established in a recorded subdivision shall establish the dimension of front yards in the subdivisions, except when the building setback lines may be less restrictive as provided in § 153.003.

(3) On through lots a front yard is required on each street.

(E) *Tapered yard.* Where a reversed interior lot abuts a corner lot, or an alley separating the lots, an accessory building located on the rear lot line of a corner lot shall be set back from the side street as far as the dwelling on the reversed interior lot. For each foot that the accessory building is placed from the rear lot line toward the front lot line of the corner lot, the accessory building may be set 4 inches closer to the side street line, but in no case closer than 5 feet.

(F) *Floodway fringe or floodplain district.* In a floodway fringe or floodplain district, the following requirements shall be met in addition to other provisions of this chapter:

(1) All residential buildings or additions to existing residential buildings shall have flood protection grades at least 2 feet above the regulatory flood profile;

(2) All mobile homes must have pads (either concrete or stands of compacted fill) at or above the elevation of the regulatory flood. Further, all mobile homes shall be provided with ground anchors meeting Mobile Home Tie Downs, Schedule A;

(3) On-site waste disposal systems must be located so as to avoid impairment of them or contamination from them during the occurrence of the regulatory flood; and

(4) All structures shall be built so as to minimize obstructions to the flow of floodwater.

(G) *Floodway district.* In a floodway district, the following requirements shall be met in addition to the other provisions of this chapter:

(1) No residential buildings shall be permitted;

(2) Floodproofing of nonresidential structures is permitted but must conform to the definition of a floodproofed building as set forth in this chapter and must be so certified by a professional engineer or registered architect licensed to practice in the state; and

(3) Any structure permitted in a floodway shall be constructed on the site so as to minimize obstruction to the flow of floodwater.

(Ord. passed 7-26-1960; Am. Ord. passed 9-9-1963; Am. Ord. 6679, passed 9-5-1978) Penalty, see § 153.999

§ 153.037 RESTRICTED BUFFER DISTRICT.

(A) This district is intended primarily as an institutional buffer zone which, because of its proximity to business uses, public uses and residential uses, is designed to serve as a transition function in land use planning. This district is not intended to be commercial in character and is deemed to include uses of compatible characteristics.

(B) The conduct of the permitted uses in this district shall be within completely enclosed buildings except for accessory offstreet parking and loading facilities as set forth below.

(1) *Permitted uses.* The following uses are permitted, provided they are conducted within a structure, residential in character, and that the residential character is maintained:

(a) Multi-family dwellings;

(b) Group housing, including rooming and boarding houses, elderly housing and nursing homes;

(c) Children's homes, day care nurseries and kindergartens;

(d) Educational institutions, special schools, vocational schools and music and art studios;

(e) General business office uses, including medical and dental clinics, provided that no retail activity is carried on with the general public and no stock of goods is maintained for sale;

(f) Public and semi-public uses, including but not limited to museums, libraries, parks, churches, community centers, exhibition and halls, convention centers, galleries and facilities for the production of live theater;

(g) Accessory uses which are incidental to, maintained on the same lot and commonly associated with the operation of a permitted use;

(h) Home occupations, as defined in this chapter; and

(i) Beauty and barber shops that have no more than 2 barbers, stylists, beauticians or other operators.
(Ord. 2000-6, passed 11-16-2000)

(2) *Uses permitted by special exception.*
The following special uses shall be permitted by special exception in the RB district upon approval of the Board of Zoning Appeals;

(a) All the uses provided in § 153.035, in a structure not residential in character;

(b) Mortuaries and funeral parlors;

(c) Hospitals and sanitariums, provided the uses not be primarily for mental, drug or liquor patients;

(d) Institutional uses, including philanthropic and charitable uses, offstreet parking reservoir facilities and similar institutional uses;

(e) Buildings in excess of 30 feet in height, provided that additional front, side and rear setback distances shall be provided to the minimum extent of 2 feet for each 5 feet in height over the 30feet; provided further, the building height shall not exceed 50 feet;

(Ord. 1980-2, passed 1-7-1980; Am. Ord. 1980-6, passed 3-3-1980)

(f) Beauty and barber shops that have more than 2 barbers, stylists, beauticians or other operators; and

(g) Tourist Homes Source Town Ordinance 97-5 which amended the restricted buffer area to permit tourist homes as a special exception use in the RB district.

(Ord. 2000-6, passed 11-16-2000) Penalty, see § 153.999

VILLAGE DISTRICT

§ 153.040 ESTABLISHING THE VILLAGE DISTRICT.

(A) The Village District has been traditionally characterized by tourist-oriented gift shops and food service accommodations, the prosperity of which is linked directly to the prosperity of the town. It is therefore hereby ordained that the following areas be established as the Village District:

(1) Starting at the intersection of Mound Street and Bittersweet Lane, proceed southward on Bittersweet Lane to the intersection of Bittersweet Lane and Washington Street.

(2) Then proceed eastward on Washington Street to the intersection of Washington Street and School House Lane.

(3) Then proceed northward on School House Lane to the intersection of School House Lane and Main Street.

(4) Then proceed westward on Main Street to the southwestern-most corner of Lot Number Four (4) of the "one hundred commercial" plat, then proceed northward to the northern-most west corner of Lot Number Five (5) of the "one hundred commercial" plat (commonly known as the Lincoln Bank Property).

(5) Then proceed northward to the east end of Gould Street. Then proceed westward on Gould Street to the intersection of Gould Street and Locust Lane.

(6) Then proceed northward on Locust Lane to the intersection of Locust Lane and Mound Street.

(7) Then proceed westward on Mound Street to the intersection of Mound Street and Bittersweet Lane.

(8) Excluding the area described in exhibit A (Bus Lot Description, Job #4235) attached to Ordinance 2006-05, passed 9-21-06.

(B) The Village District shall not be a separate "zone" but shall be treated as an "overlay" for the purpose of guidance to builders, land owners, developers, and businesses located therein and for guidance to the Development Review Commission (DRC) for the fair administration of its guidelines and standards. Businesses within the Village District shall be exempted from the parking requirements of Figure 3, Parking Spaces Required for Uses, of Appendix A, Land Uses and Requirements, of the Nashville Zoning Code.

(C) Pursuant to Ordinance 2010-09, the following area shall be included in the Village District: the area on the east side of Van Buren Street, bordered on the north by Washington Street, and on the south and east by School Way Drive. Businesses within this enlarged district shall be exempted from the parking requirements of Figure 3 of Appendix A referenced above in division (B).

(D) Pursuant to Ordinance 2016-03, the following area shall be included in the Village District: the area on the north side of Pat Reilly Drive, from its intersection with South Jefferson Street to its intersection with South Van Buren Street.

(Ord. 2006-05, passed 9-21-2006; Am. Ord. 2010-09, passed 12-16-2010; Am. Ord. 2016-03, passed 6-16-2016)

BUSINESS DISTRICTS

§ 153.050 BUSINESS USES.

(A) The business uses defined below are permitted in the districts indicated in Figure 2 of Appendix A, when complying with the requirements specified in Figures 2, 3 and 4 of Appendix A, subject to the provisions of § 153.052 and § 153.111.

(B) A local business use is one which is primarily of a retail or service nature and is classified in the following categories:

(1) Food service:

- (a) Restaurant; or
- (b) Delicatessen.

(2) Personal service:

- (a) Photographic studio;
- (b) Artist studio; or
- (c) Beauty and barber shops that have no more than 2 barbers, stylists, beauticians or other operators.
(Ord. 2000-6, passed 11-16-2000)

(3) Retail service, retail stores generally. Including but not limited to the following:

- (a) Drug store;
- (b) Stationer;
- (c) Newsdealer;
- (d) Show room, for articles to be sold at retail;
- (e) Nursery or garden plant sales shop;

(f) Apparel shop;

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- (g) Flower shop;
- (h) Sales of gifts, crafts, paintings and antiques; or
- (i) Sale of food or drinks.

(4) Business recreational uses: Indoor theater;

(5) Private club or lodge;

(6) Office building;

(7) Art gallery;

(8) Sign;

(9) Accessory building or use customarily incidental to the above uses:

(a) Any building used primarily for accessory purposes may not have more than 40% of its total floor area devoted to storage purposes incidental to the primary use, and provided that no more than 5 persons are employed at 1 time or on any 1 shift in connection with the incidental use.

(b) Local business uses shall be conducted within buildings so constructed that no noise of any kind produced therein shall be audible beyond the confines of the building.

(Ord. passed 7-26-1960; Am. Ord. 6679, passed 9-5-1978; Am. Ord. 1980-3, passed 1-7-1980; Am. Ord. 1986-1, passed 1-6-1986)

(10) Tourist home.

(Am. Ord. 1997-5, passed 11-20-1997) Penalty, see § 153.999

- (A) Local business uses;
- (B) Bank;
- (C) Office building;
- (D) Postal station;
- (E) Telegraph office;
- (F) Utility company business office;
- (G) Hotel or motel;
- (H) Newspaper publishing;
- (I) Motor bus or railroad passenger station;
- (J) Radio and television studios;
- (K) Bowling alley;
- (L) Billiard room;
- (M) Dancing academy;
- (N) Department store;
- (O) Commercial parking lot;

§ 153.051 GENERAL BUSINESS USE.

A general business use is one which includes retail and service uses, and accessory buildings and uses, specifically stated or implied, as follows:

- (P) Laundry agency; and storage uses within the confines of the buildings, and accessory buildings and uses, specifically stated or implied, as follows:
- (Q) Self-service laundry;
- (R) Dry cleaning establishment; (A) General business uses;
- (S) Dressmaking; (B) Commercial parking structure;
- (T) Millinery; (C) Automobile or mobile sales room or lot;
- (U) Tailor and pressing shop; (D) Drive-in restaurants;
- (V) Shoe repair shop; (E) Automobile or truck repair;
- (W) Radio or television shop; (F) Wholesale establishment;
- (X) Electric appliance shop; (G) Storage warehouse;
- (Y) Record shop; (H) Kennel or veterinary hospital for small animals;
- (Z) Grocery; (I) Filling station;
- (AA) Meat market; (J) Any business use, not specifically stated or implied, elsewhere in this chapter; or (Ord. passed 7-26-1960)
- (BB) Supermarket;
- (CC) Cold storage lockers, for individual use;
- (DD) Bakery; (K) Tourist home. (Am. Ord. 1997-5, passed 11-20-1997) Penalty, see § 153.999
- (EE) Barber shop;
- (FF) Reducing salon;
- (GG) Hardware store; or (Ord. passed 7-26-1960)
- (HH) Tourist home. (Am. Ord. 1997-5, passed 11-20-1997) Penalty, see § 153.999

§ 153.052 SERVICE AND WAREHOUSE BUSINESS USE.

A service and warehouse business use is one which permits retail uses and includes all service uses

§ 153.053 ADDITIONAL REQUIREMENTS.

- (A) Parking spaces shall be provided on the lot, as indicated in Figure 3 of Appendix A, or within 300 feet thereof on a site approved by the Board.
- (B) Loading and unloading berths shall be provided on the lot as indicated in Figure 4 of Appendix A.
- (C) Groups of uses requiring parking spaces may join in establishing group parking areas with capacity aggregating that required for each participating use.

(D) Public parking area and loading and unloading berths shall be paved with a dustproof or hard surface.

(E) One-half of an alley abutting the rear of a lot may be included in the rear yard, but the alley shall not be included for loading and unloading berths.

(F) Where 25% or more of the lots in a block are occupied by buildings, the setback of the buildings shall determine the dimension of the front yard in the block.

(G) Loading and unloading berths shall not be required for business uses which demonstrably do not receive or transmit goods or wares in quantity by truck delivery.

(H) Parking and accessory uses are permitted in the required front yard in the B2 and B3 districts.

(I) Buildings remodeled or constructed within the B1 district must present substantially their original appearance or conform generally to the appearance of neighboring buildings with the intent of preserving the rustic county appearance. Authority to determine the appropriate design within this district is vested in the Board.

(J) The maximum building height requirement in Figure 2 of Appendix A may be increased if buildings are set back, from front and rear property lines, 1 foot for each 2 feet of additional height above the maximum building height requirement.

(K) Chimneys, cooling towers, elevator bulkheads, fire towers, penthouses, stacks, tanks, water towers, transmission towers or essential mechanical appurtenances may be erected to any height not prohibited by other laws or ordinances.

(L) (1) No business operation or activity shall discharge or cause to be discharged liquid or solid wastes into public waters unless in conformance with the provisions of the Stream Pollution Control Law of the state (Chapter 214, Acts of 1943, as amended) and the regulations promulgated thereunder.

(2) Plans and specifications for proposed sewage and other waste treatment and disposal facilities shall be submitted to an approval obtained from the Stream Pollution Control Board of the state.

(M) In all business districts, it is permissible to erect more than 1 principal building on a lot.

(N) In a floodway fringe or floodplain district, the following requirements shall be met in addition to other provisions of this chapter:

(1) Commercial buildings or additions to existing buildings shall have flood protection grades at least 2 feet above the regulatory flood profile, or they may be floodproofed to an elevation of 2 feet above the regulatory flood if the plans and specifications are properly certified by a registered professional engineer or architect and conform to the definition of floodproofed as set forth in this chapter;

(2) (a) All mobile homes must have pads (either concrete or stands of compacted fill) at or above the elevation of the regulatory flood;

(b) Further, all mobile homes shall be provided with ground anchors meeting Mobile Home Tie Downs, Schedule A;

(3) On-site waste disposal systems must be located so as to avoid impairment of them or contamination from them during the occurrence of the regulatory flood; and

(4) All structures shall be built so as to minimize obstructions to the flow of floodwater. (Ord. passed 7-26-1960; Am. Ord. 6679, passed 9-5-1978; Am. Ord. 2000-3, passed 4-27-2000) Penalty, see § 153.999

INDUSTRIAL DISTRICTS**§ 153.060 INDUSTRIAL USES AND REQUIREMENTS.**

The industrial uses defined below, including accessory buildings and uses, are permitted in the district indicated in Figure 5 of Appendix A in accordance with the requirements of this section and § 153.111.

INDUSTRIAL USE. One which requires both buildings and open area for manufacturing, fabricating, processing, extraction, heavy repairing, dismantling, storage or disposal of equipment, raw materials or manufactured products or wastes; which is not injurious to health or safety of humans or animals, or injurious to vegetation; and which has not been declared a nuisance by any Court of Record.

LIGHT INDUSTRIAL USE. One which creates a minimum amount of nuisance outside the plant; is conducted entirely within enclosed buildings, does not use the open area around the buildings for storage of raw material or manufactured products or for any other industrial purpose other than transporting goods between buildings; provides for enclosed loading and unloading berths; and which is not noxious or offensive, by reason of the emission of smoke, dust, gas, fumes, odors, noise or vibrations beyond the confines of the buildings.

(Ord. passed 7-26-1960; Am. Ord. 6679, passed 9-5-1978) Penalty, see § 153.999

§ 153.061 ADDITIONAL REQUIREMENTS.

(A) Each use shall provide parking space for each 3 employees thereof located on the same lot as the use, or within 300 feet on a site approved by the Board.

(B) Each industrial use shall provide loading and unloading berths located on the same lot as the use, as specified in Figure 6 of Appendix A.

(C) Groups of uses requiring parking space may join in establishing group public or employee parking areas with capacity aggregating that required for each participating use.

(D) One-half of an alley abutting the rear of a lot may be included in the rear yard, but the alley space shall not be included for loading and unloading berths.

(E) The building height requirement in Figure 5 of Appendix A may be increased if the buildings are set back, from front and rear property lines, 1 foot for each 2 feet of additional height above the maximum building height requirements.

(F) Chimneys, cooling towers, elevator bulkheads, fire towers, penthouses, tanks, water towers, transmission towers or essential mechanical appurtenances may be erected to any height not prohibited by other laws or ordinances.

(G) In the industrial district, it is permissible to erect more than 1 principal building on a lot.

(H) In a flood district, the following requirements shall be met in addition to other provisions of this chapter:

(1) No residential buildings shall be permitted;

(2) Floodproofing of nonresidential structures is permitted but must conform to the definition of a floodproofed building as set forth in this chapter and must be certified by a professional engineer or registered architect licensed to practice in the state; and

(3) Any structure permitted in a floodway shall be constructed on the site so as to minimize obstruction to the flow of floodwater.

(Ord. passed 7-26-1960; Am. Ord. 6679, passed 9-5-1978; Am. Ord. 2000-3, passed 4-27-2000) Penalty, see § 153.999

§ 153.062 STORAGE OF EXPLOSIVES PROHIBITED.

No activity involving the storage, utilization or manufacture of materials or products which decompose by detonation shall be permitted unless specifically licensed by the Town Board, and then only in the I1 district. The activity shall be conducted in accordance with the rules promulgated by the State Fire Marshal and the State Administrative Building Council. Such materials shall include, but are not limited to all primary explosives such as lead azide, lead styphnate, fulminates, and tetracene; all high explosives such as TNT, RDX, HMX, PETN and picric acid; propellants and components thereof, such as nitrocellulose, black powder, boron hydrides, hydrazine chlorate and potassium nitrate; blasting explosives such as dynamite and nitroglycerine; unstable organic compounds such as acetylides, telrazoles and ozonides; strong oxidizing agents such as liquid oxygen, perchloric acid, perchlorates, chlorates and hydrogen peroxide in concentrations greater than 35%; and nuclear fuels, fissionable materials and products and reactor elements such as Uranium 235 and Plutonium 239.
(Ord. passed 7-26-1960) Penalty, see § 153.999

FLOODPLAIN, FLOODWAY AND FLOODWAY FRINGE DISTRICTS

§ 153.070 FLOODWAYS AND FLOODPLAINS.

In floodway (FW) districts and floodplain (FP) districts, the following uses are authorized, provided they do not involve the erection of any structure or obstruction, the opening of any excavation or the disposition of any material or substance, and comply with other provisions of this chapter:

(A) Agriculture uses such as the production of crops, pastures, orchards, plant nurseries, vineyards and general farming;

(B) Forestry, wildlife areas and nature preserves; and

(C) Parks and recreational uses, such as golf courses, driving ranges and play areas.
(Ord. 6679, passed 9-5-1978)

§ 153.071 FLOODWAY FRINGES.

In the floodway fringe (FF) district, all facilities, structures, uses and buildings consistent with other provisions of this subchapter may be constructed in this district, provided that the flood protection grade for all buildings shall be at least 2 feet above the regulatory flood profile; and any filling with dirt or other material shall not damage or cause flooding of surrounding property.
(Ord. 6679, passed 9-5-1978)

§ 153.072 FLOODPLAIN AND FLOODWAY USE BY SPECIAL EXCEPTION.

(A) In floodplain (FP) districts, the following uses may be permitted by special exception, but only after a proper permit or letter of recommendations for same has been granted by Natural Resources. All terms and conditions imposed by Natural Resources shall be incorporated in any permit issued by the Planning Coordinator. However, the Board of Zoning Appeals may impose greater restrictions than those issued by Natural Resources. All buildings or additions to existing buildings shall have flood protection grades at least 2 feet above the regulatory flood profile.

(1) Water management and use facilities, such as dams, docks, dolphins, channel improvements, dikes, jetties, groins, marinas, piers, wharves, levees, seawalls, floodwalls, weirs and irrigation facilities;

(2) Transportation facilities such as streets, bridges, roadways, fords, airports, pipe lines, railroads and utility transmission facilities;

(3) Water-related urban areas, such as wastewater treatment facilities, storm sewers, electrical generating and transmission facilities and water treatment facilities;

(4) Other flood-tolerant or open space urban uses, such as floodproofed park buildings, outdoor theaters, tennis courts, fills, radio or T.V. towers and parking lots; and

(5) Residential structures (only if shown to be in a floodway fringe area).

(B) In floodway (FW) districts, the following special exception uses may be permitted only after a permit for construction in a floodway has been granted by Natural Resources. All terms and conditions imposed by Natural Resources shall be incorporated in any permit issued by the Planning Coordinator. However, the Board of Zoning Appeals may impose greater restrictions than those issued by Natural Resources. All buildings or additions to buildings shall have flood protection grades at least 2 feet above the regulatory flood profile.

(Am. Ord. 1997-1, passed 2-20-1997)

(1) Water management and use facilities, such as dams, docks, dolphins, channel improvements, dikes, jetties, groins, marinas, piers, wharves, levees, seawalls, floodwalls, weirs and irrigation facilities;

(2) Transportation facilities, such as streets, bridges, roadways, fords, airports, pipe lines, railroads and utility transmission facilities;

(3) Water-related urban areas, such as wastewater treatment facilities, storm sewers, electrical generating and transmission facilities and water treatment facilities; and

(4) Other flood-tolerant or open space urban uses, such as floodproofed park buildings, outdoor theaters, tennis courts, fills, radio or T.V. towers, and parking lots.

(C) In floodway fringe districts, the special exceptions listed in Figure 9 of Appendix A may be permitted by the Board, in the districts listed therein, providing that all structures are raised 2 feet above the regulatory flood profile.

(Ord. 6679, passed 9-5-1978)

SIGNS, PERMANENT, AND TEMPORARY

§ 153.085 PURPOSE.

(A) The welfare of the town is inextricably tied to its unique scenic and architectural characteristics. In order to protect these characteristics and to ensure the safety of pedestrian and vehicular traffic, it is necessary to establish public regulations of permanent signs and temporary signs within the town.

(B) Therefore, it is the intent of this subchapter to:

(1) Control the prominence of signs in as fair and impartial a way as possible;

(2) Prohibit signs which cause confusion for or block or impair the vision of pedestrians or vehicular traffic on roads, or the intersections of streets and roadways;

(3) Limit signs to only those districts in which they are permitted by this subchapter; and

(4) Ensure that all signs have approval from the office of the County Area Plan Commission. (Ord. 2018-11, passed 9-20-2018)

§ 153.086 DEFINITIONS.

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

AREA OF A SIGN. All surfaces of a sign which are clearly visible to the street and pedestrian traffic excluding supportive structure. The **AREA OF A SIGN** composed of characters or words attached directly to a building surface shall be considered to be that of the smallest rectangle or triangle which encloses the whole group.

COMMISSION. The County Area Plan Commission.

FRONTAGE. The linear measure of the property line(s) fronting on the public way, or the linear measure of the outside wall of a business establishment containing a main public access, whichever is greater.

HEIGHT ABOVE GROUND. The vertical measurement from the ground to the top of the sign. The height of all signs shall be measured from the established grade line to the highest point of the sign or its frame/support.

PLANNED UNIT DEVELOPMENT. In accordance with the Planned Unit Development Amendment to the zoning code.

PLANNING DIRECTOR. The Executive Director of the County Area Plan Commission.

PREMISES. A building or planned development together with the lot or tract of land on which they are built.

SIGN. Any object, device, display, or structure, or part thereof, situated outdoors or indoors, that is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. For purposes of this ordinance, the following sign types are defined:

(1) **ANIMATED SIGN.** Any sign that uses movement or change of artificial and natural lighting or noise to depict action or create a special effect or

scene. This includes any directly or indirectly illuminated sign that exhibits changing natural or artificial light or color effects by any means whatsoever. Different from an **ELECTRONIC SIGN**, an animated sign produces the illusion of movement by means of electronic, electrical, or electromechanical input and/or illumination capable of simulating movement through using the characteristics of 1 or both of the following classifications:

(a) Flashing, animated, or animated portions of a sign where the cyclical period between on-off phases of illumination is less than four (4) seconds;

(b) Patterned illusionary movement in which animated signs or portions of signs whose illumination is characterized by simulated movement.

(2) **AWNING SIGN.** A sign that is attached to an awning, canopy, or other fabric that serves as a structural protective cover over a door, entrance, window, or outdoor service area.

(3) **BANNER.** A non-rigid cloth, plastic, paper, flag, or canvas sign. Banners also include streamers or ribbon-shaped or cord-like rope which may have pennants and/or banners attached and which is stretched or hung between 2 or more points of support intended to attract attention.

(4) **BENCH SIGN.** Any sign painted on, located on, or attached to any part of the surface of a bench, seat, or chair placed on or adjacent to a public street.

(5) **BILLBOARD.** A freestanding structure along the roadside with a large flat surface (panel, wall, or fence) on which signs are posted.

(6) **CHANGEABLE COPY.** A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged by mechanical, electronic or manual means without altering the face or surface of the sign.

(7) **ELECTRONIC SIGN.** Any sign or portion of a sign that uses changing lights to form a sign message or messages in text or picture form, wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

(8) **FLAG.** A piece of cloth or similar material, typically oblong or square, attachable by one edge to a pole or rope.

(9) **FLASHING SIGN.** Illumination which is intermittently on and off so as to flash or blink or the intensity varies so as to appear to flash or blink.

(10) **FREESTANDING SIGN.** A sign not connected to a building or structure, other than a structure used exclusively for sign support.

(11) **PORTABLE SIGN.** A freestanding advertising device which is designed to be moved from 1 location to another and is not permanently affixed to the ground or to a structure, or is only affixed by means of tie down straps or stakes.

(12) **PROJECTING SIGN.** A sign that is wholly or partly dependent upon a structure for support or suspended from a pole attached to a structure. Such signs must be perpendicular to the structure face upon which they are attached.

(13) **ROOF SIGN.** Any sign partially or fully erected on or above the roof line of a structure.

(14) **SCORE BOARD.** A n electronically-controlled changeable copy sign used to display scoring information for sporting events. Such signs are located on or along sports fields.

(15) **SIDEWALK SIGN.** A temporary, A-frame, freestanding sign used outside of businesses for advertisement during business hours on the sidewalk.

(16) **UNIFIED DEVELOPMENT SIGN.** A sign for a shopping center, office park, industrial park, or other development that contains 3 or more

uses within a single development. A **UNIFIED DEVELOPMENT SIGN** is allowed in addition to the permitted signs of the individual tenants.

(17) **VEHICLE SIGN.** A sign that is permanently affixed to the body of, an integral part of, or a fixture of a motor vehicle that is parked or left standing so that it is visible from a public street for a period of more than 72 continuous hours for the intent of being used as advertisement. For the purpose of this definition, **PERMANENTLY AFFIXED** shall mean any of the following:

(a) Painted directly on the body of a vehicle; applied as a decal on the body of a vehicle; and/or

(b) Placed in a location on the body of the vehicle that was specifically designed by a vehicle manufacturer.

(18) **WALL SIGN.** A sign attached to a building or structure other than a structure used exclusively for sign support.

(19) **WAY FINDING SIGN.** A municipal sign that is part of a city-sponsored and coordinated program for the purpose of facilitating vehicular and pedestrian tourist routes to local tourist destinations as designated.

(20) **WINDOW SIGN.** A sign displayed in a window, or graphics applied directly to the window. Such signs must be professionally painted or constructed of vinyl with adhesive backing.

SIGN, ABANDONED. A sign that is:

(1) Associated with an abandoned use;

(2) Remains after the termination of the business; and/or

(3) On its immediate premises but not adequately maintained or repaired.

SIGN, LEGAL NON-CONFORMING. A pre-existing, legally permitted sign, or portion thereof, which was designed, erected, or structurally altered such that it does not conform to the regulations of the zoning district in which it is located.

SIGN, PERMANENT. A sign attached to a structure or the ground in a manner that enables the sign to resist environmental loads, such as wind, and precludes ready removal or movement of the sign. The use of anchor bolts, ropes, stakes, chains, glue, or similar anchoring are not methods recognized by this ordinance as a permanent foundation.

SIGN, TEMPORARY. A sign or advertising display constructed of cloth, canvas, fabric, plywood, or other light material and designed or intended to be displayed for a short period of time.

TEMPORARY SIGN. A sign that is displayed for 14 days or less.

VARIANCE. A modification of the specific requirements of this subchapter granted by the Board of Zoning Appeals in accordance with the terms of the subchapter for the purpose of adapting the requirements of the subchapter to the needs of unique circumstances.

(Ord. 2018-11, passed 9-20-2018)

§ 153.087 PROCEDURE FOR OBTAINING IMPROVEMENT LOCATION PERMIT FOR SIGNS.

(A) Signs not expressly permitted in this ordinance are considered prohibited.

(B) Parties desiring to erect a sign, except for those provided in § 153.088(A), (D), or (F), must first apply for an improvement location permit at the office of the County Area Plan Commission.

(C) The following operations shall not be considered as creating a sign and, therefore, shall not require a sign permit:

(1) *Replacing copy.* The changing of the advertising copy or message on an approved painted or printed sign on theater marquees and similar approved signs which are specifically designed for use of replaceable copy;

(2) *Maintenance.* Painting, repainting, cleaning and other normal maintenance and repair of an approved sign or sign structure, unless a structural change is made; or

(3) *Relocation of business.* Signs approved for use in 1 location must be reapproved for use should the business move to a different location.

(D) The Planning Director shall provide each applicant with written instructions detailing the procedure and information required to obtain a permit or a variance.

(E) The Planning Director shall approve/disapprove applications within 10 days of receiving them.

(F) Any decision of the Planning Director regarding an application may be appealed to the Board of Zoning Appeals. An application for such an appeal must be made within 10 days of the date of the Planning Director's decision. A decision by the Board of Zoning Appeals shall be available at the office of the Board of Zoning Appeals by the next regular working day following the meeting.

(G) An application for a variance must be submitted at least 3 weeks prior to the next meeting of the Board of Appeals. A decision by the Board of Zoning Appeals shall be available at the Office of the Board of Zoning Appeals by the next regular working day following that meeting.

(H) The Planning Director shall issue a permit if the application meets all requirements of this subchapter.

(Ord. 2018-11, passed 9-20-2018)

§ 153.088 REQUIREMENTS FOR SIGNS IN RESIDENTIAL DISTRICTS.

(A) Single-family dwelling units may have 1 sign, not to exceed 2 square feet in area. Permitted sign types include: awning signs, wall signs, and window signs.

(B) Multi-family dwellings and offices may have 1 sign not exceeding 10 square feet in area. Permitted sign types include: awning signs, wall signs, and window signs.

(C) Entrances to subdivision, cemeteries and other such areas may be marked by 1 sign at each entrance which does not exceed 10 square feet in area. Permitted sign types include: freestanding signs and wall signs.

(D) Lots may have no more than 2 temporary signs not exceeding 10 square feet in area, or 5 square feet on each side, or closer than 15 feet from the adjoining property lines. Permitted sign types include: banners, flags, and freestanding signs.

(E) Parking areas may have 1 sign not to exceed 10 square feet in area. Permitted sign types include: freestanding signs and wall signs.

(F) Churches may have 1 sign not exceeding 32 square feet in area. Permitted sign types include: awning signs, changeable copy signs, freestanding signs, projecting signs, wall signs, and window signs.

(G) Signs in residential area shall not project into public right-of-way, and sign height above ground for any free-standing sign shall not exceed 5 feet; and at an intersection of roads, no sign shall impair the sight distance of oncoming vehicles.

(H) Neon, internally illuminated, edge-lighted, revolving and flashing signs and other action signs are expressly prohibited.

(I) The light from any externally illuminated sign shall be so shaded, shielded or directed that the

glare therefrom will not impair the visibility of passing motorists.

(Ord. 2018-11, passed 9-20-2018)

§ 153.089 BUSINESS SIGN DISTRICT S1.

(A) Business sign district S1 includes all businesses not included in Business Sign District S2.

(B) The total area of all signs provided for in this section for any business establishment shall not exceed 1 square foot of sign surface for each 30 square feet of interior retail or business space, excluding storage areas, up to a maximum sign surface of 75 square feet. However, any business shall be allowed at least 12 square feet of sign surface. No business shall be permitted more than 2 signs unless required by law to post additional signs for safety or informational purposes. Permitted sign types include: awning signs, changeable copy signs, freestanding signs, projecting signs, roof signs, vehicle signs, wall signs, and window signs.

(C) The sign height above ground may not be greater than the peak of the roof of the building to which it is attached and in no case shall the top of a free-standing sign or a roof sign on a single-story building be higher than 20 feet above ground level, nor shall the bottom of a sign in or over a sidewalk be lower than 8 feet.

(D) The size, structure, location or illumination of signs shall not impair the vision or safety of pedestrian or vehicular traffic or provide adverse effects on residences, parks or other businesses.

(E) The light from any externally illuminated sign shall be so shaded, shielded or directed that the glare therefrom will not impair the visibility of passing motorists.

(F) Neon, internally illuminated, edge-lighted, revolving and flashing signs, and other action signs are expressly prohibited.

(G) Lots may have no more than 2 temporary wall signs or temporary freestanding signs not exceeding 32 square feet in area.

(H) *Vehicle signs.*

(1) Vehicle signs shall be parked a minimum distance of 10 feet from any intersecting street right-of-way and shall be located so as to not create an obstruction or hazard to the traveling public. Trucks and/or trailers may be used as temporary signs for a maximum period of 4 days.

(2) Trucks and/or trailers may be used as temporary signs for a maximum period of 4 days. (Ord. 2018-11, passed 9-20-2018)

§ 153.090 BUSINESS SIGN DISTRICT S2.

(A) Business sign district S2 includes businesses located on property abutting State Road 46.

(B) The requirements for signs in business sign district S2 are identical to those in § 153.089, except that the maximum sign area shall be 300 square feet. No business shall be permitted more than 2 signs unless required by law to post additional signs for safety or informational purposes. (Ord. 2018-11, passed 9-20-2018)

§ 153.091 RESTRICTED BUFFER SIGN DISTRICT.

(A) Restricted buffer sign district is congruent with the area defined by § 153.037 regarding restricted buffer zone.

(B) The requirements for signs in the restricted buffer sign district are identical to those in § 153.089, except that the maximum sign area shall be 10 square feet. No business in a restricted buffer sign district shall be permitted more than 2 signs unless required by law to post additional signs for safety or informational purposes. (Ord. 2018-11, passed 9-20-2018)

§ 153.092 PROHIBITED SIGN LOCATIONS.

The following prohibitions apply to signs in all districts, unless otherwise stated:

(A) No sign shall be placed or maintained in any form, or at any location, where it may obstruct or in any way interfere with the view, or be confused with, any approved traffic control sign or device, or where it may obstruct or in any way interfere with the minimum sight-distance necessary to promote traffic safety.

(B) No sign shall be placed in any location or position that endangers pedestrian, bicycle, or vehicular traffic.

(C) No sign shall be placed in any public right-of-way except: publicly owned traffic control, information, or transit signs; utility signs; and, sandwich board signs on sidewalks within the Village District placed by the owner of the immediately adjacent property.

(D) All signs shall be placed and their supporting structures shall maintain clearance and noninterference with all surface and underground lines, equipment, or facilities, associated with utilities, communications, or storm water control. (Ord. 2018-11, passed 9-20-2018)

§ 153.093 PLANNED UNIT DEVELOPMENT SIGNS.

(A) Planned unit developments in district S1 may have 1 unified development sign in addition to the signs provided for in § 153.089. The area, size, height and design of the additional sign shall be approved by the County Area Plan Commission as a part of the planned unit development.

(B) Planned unit developments in district S2 may have, in addition to signs provided for in § 153.090(B), 1 unified development sign. The area, size, height and design of the unified development

sign shall be approved by the County Area Plan Commission as a part of the planned unit development.

(C) Signs provided for in § 153.091(A) and (B) will be the only types of signs permitted at the roadside under this section.
(Ord. 2018-11, passed 9-20-2018)

§ 153.094 MESSAGE SUBSTITUTION.

In accordance with I.C. 36-7-4-1109(h), the owner of any sign that is otherwise allowed by this regulation may substitute noncommercial copy in place of any other commercial or noncommercial copy. This substitution of copy may be made without the issuance of any additional permit by the Town of Nashville or any of its board or commissions. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or the favoring of any particular noncommercial message over any other noncommercial message. This provision prevails over any more specific provision in this subchapter to the contrary.
(Ord. 2018-11, passed 9-20-2018)

§ 153.095 TEMPORARY SIGNS.

(A) Permitted temporary sign types include: banners, flags, freestanding signs, portable signs, sidewalk signs, and window signs.

(B) Neon, internally illuminated, edge-lighted, revolving and flashing signs and other action signs are expressly prohibited.

(C) All temporary signs to be displayed for more than 4 days in a calendar year shall be approved by the Planning Director by writing on them the date of display and date for removal.

(D) Temporary signs on public property are permitted, only then with approval of the Planning Director and with approval of the government agency that controls the public property.

(E) A temporary sign that is displayed for 4 days or less in a calendar year does not require approval of the Planning Director. All other temporary signs must have the approval of the Planning Director.
(Ord. 2018-11, passed 9-20-2018)

§ 153.096 AMORTIZATION.

Any sign existing or installed on the date of this subchapter which does not conform with this subchapter shall be removed or altered so as to comply with this subchapter within 15 years of the date of passage.
(Ord. 2018-11, passed 9-20-2018)

§ 153.097 REMEDIES.

(A) Signs which are in violation of this subchapter shall be removed by the owner within 14 days after the mailing of a certified letter requesting removal of the sign, complete with a return receipt, sent by the Executive Director of the County Area Plan Commission.

(B) In the event that the violation is not corrected within the time specified, then the County Area Plan Commission may proceed with enforcement remedies as provided in this chapter.
(Ord. 2018-11, passed 9-20-2018)

***ADDITIONAL REQUIREMENTS
AND REGULATIONS***

§ 153.110 CONTINGENT USES AND REQUIREMENTS.

Contingent uses defined below, including accessory buildings and uses, are permitted in the districts indicated in Figure 7 of Appendix A, subject to the provisions of this section and § 153.111.

(A) A contingent use is one which is likely or liable, but not certain, to occur, and which is not inappropriate to the principal use of the district in which it may be located. When so located it shall conform to the requirements of the district in which the contingent use is permitted, except that the number of parking spaces to be provided shall conform to the requirements of Figure 7 of Appendix A. The required number of parking spaces shall be provided on the same lot with the use, or within 300 feet thereof on a site approved by the Board.

(B) The building height for contingent uses shall be as provided in Figure 8 of Appendix A.

(C) Other provisions and exceptions for contingent uses are as follows:

(1) The building height requirement in Figure 8 of Appendix A may be increased if buildings are set back from front and rear property lines, 1 foot for each 2 feet of additional height above the building height requirement.

(2) In all districts, spires, church steeples, chimneys, cooling towers, elevator bulkheads, fire towers, scenery lofts and essential mechanical appurtenances may be erected to any height not prohibited by other laws or ordinances.

(3) A church or temple requiring parking area at times when nearby uses do not need their parking facilities, may, by agreement approved by the Board, utilize those facilities in lieu of providing their own parking facilities.

(4) Public parking area shall be paved with a dustproof or hard surface.

(D) An existing use which is listed herein as a contingent use, and which is located in a district in which the contingent use may be permitted is a conforming use. Any expansion of the contingent use involving the enlargement of the buildings, structures and land area devoted to the use shall be subject to the procedure described in this section.

(Ord. passed 7-26-1960)

§ 153.111 SPECIAL EXCEPTIONS, REQUIREMENTS AND PROCEDURE.

(A) The special exceptions listed in Figure 9 of Appendix A and § 153.112 and their accessory buildings may be permitted by the Board in the districts indicated therein, in accordance with the procedure set forth in this section and the requirements listed in § 153.112 and Figure 9.

(B) Procedure of receiving application for permit.

(1) Upon receipt of an application for an improvement location permit for a special exception by the Planning Director, it shall be referred to the

Commission for investigation as to the manner in which the proposed location and character of the special exception will affect the Master Plan. The Commission shall report the results of its study to the Board within 45 days following receipt of the application. If no such report has been filed with the Board within this time period, the Board may proceed to process the application.

(2) The Board shall then proceed with a hearing on the application in the manner prescribed in § 153.126. Following the hearing, and upon an affirmative finding by the Board that:

(a) The proposed special exception is to be located in a district wherein the use may be permitted;

(b) The requirements set forth in this section and Figure 9 of Appendix A for special exceptions will be met; and

(c) The special exception is consistent with the spirit, purpose and intent of this chapter, will not substantially and permanently injure the appropriate use of neighboring property, and will serve the public convenience and welfare.

(3) The Board shall order the Planning Director to issue an improvement location permit for the special exception.

(C) An existing use which is listed herein as a special exception, and which is located in a district in which the special exception may be permitted, is a conforming use. Any expansion of the special exception involving the enlargement of the buildings, structures and land area devoted to the use shall be subject to the procedure described in this section.

(D) Construction of improvements shall begin within 1 year of the date of approval and be completed within 1 year of the date construction begins. However, the Commission may extend the completion date for 1 year, provided the petitioner has made timely application to the Board for an extension and that good cause is shown why it should be granted.

(E) Upon abandonment of a development authorized (abandonment shall be deemed to have occurred when no improvements have been made pursuant to the terms of the special exception approval for 12 consecutive months) or upon the expiration of an extension granted by the Board, the development shall be deemed withdrawn and of no force or effect whatever.

(Ord. passed 7-26-1960; Am. Ord. 6679, passed 9-5-1978; Am. Ord. 1981-3, passed 3-2-1981)

§ 153.112 NONCONFORMING USE SPECIFICATIONS.

The lawful use of a building or premises, existing at the time of passage of this chapter, may be continued although the use does not conform to all the provisions of this chapter, except as hereinafter provided.

(A) A nonconforming use may be extended throughout a building, provided no structural alterations are made therein, except those required by law.

(B) A nonconforming use may be changed to another nonconforming use of the same or greater restrictions, provided no structural alterations are made in the building. Whenever a nonconforming use has been changed to a conforming use or to a use permitted in a district of greater restrictions, it shall not thereafter be changed to a nonconforming use of a less restricted one.

(C) No building shall be erected upon any premises devoted to a nonconforming use, except in conformance with regulations of this chapter.

(D) The Planning Director may authorize, by written permit, in any district located outside the town limits for a period of not more than 1 year from the date of the permit, a temporary building incidental to the residential construction; provided that the person making the application has met with all other requirements of this chapter, including, but not limited to the site plans as required by this chapter.

(E) Nothing herein contained shall require any change in the plans, construction or designated use of a building for which a building permit or improvement location permit has been heretofore issued, and the construction of which has been diligently prosecuted within 90 days of the date of the permit, and which entire building shall be completed according to plans filed within 3 years from the passage of this chapter.

(F) In the event that a nonconforming use of any building or premises is discontinued for a period of 6 months, the use of the same shall thereafter conform to the uses permitted in the district in which it is located.

(G) Nothing in this chapter shall prevent the restoration of a building or structure destroyed less than 50% of its assessed valuation at the time of the destruction (exclusive of the value of the lot) by explosion, fire, flood, earthquake, windstorm, act of God, riot or act of the public enemy, subsequent to the passage of this chapter; or shall prevent the continuance of the use of the building, structure or part thereof, as the use existed at the time of the impairment of the building, structure or part thereof. The extent of the damage to the structure shall be determined by the Board of Appeals and its decision shall be final, subject only to judicial review in the event of an arbitrary abuse of discretion of the Board.

(H) These provisions apply in the same manner to a use which may become a nonconforming use due to a later amendment to this chapter.

(I) Where a residential use is nonconforming solely due to the minimum ground floor area in square feet, as required by Figure 1 of Appendix A, structural alterations may be made in the nonconforming residential building where the alterations will increase the ground floor area in square feet, notwithstanding that the alterations will be

insufficient to meet the minimum ground floor square feet requirement of Figure 1 of Appendix A. (Ord. passed 7-26-1960; Am. Ord. passed 9-9-1963; Am. Ord. 1980-3, passed 1-7-1980; Am. Ord. 2001-07, passed 12-20-2001)

ADMINISTRATION AND ENFORCEMENT

§ 153.125 [RESERVED].

§ 153.126 BOARD OF ZONING APPEALS.

(A) A Board of Zoning Appeals is hereby established with membership and appointment provided in accordance with Sections 66 to 69 inclusive of Chapter 174 of the Acts of Indiana General Assembly of 1947 and all acts now or hereafter amendatory thereto.

(B) At the first meeting of each year, the Board shall elect a chairperson and a vice-chairperson from among its members, and it may appoint and fix the compensation of a secretary and those employees as are necessary for the discharge of its duties, all in conformity to and compliance with salaries and compensation theretofore fixed by the Town Board.

(C) The Board shall adopt rules and regulations as it may deem necessary to effectuate the provisions of this chapter.

(D) All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, keep records of all examinations and other official actions, prepare findings and record the vote of each member voting upon each question. All minutes and records shall be filed in the office of the Board and shall be of public record.

(E) Any decision of the Planning Director in the enforcement of this chapter may be appealed to the Board by any person claiming to be adversely affected by the decision.

(F) The Board shall have the following powers and it shall be its duty to:

(1) Hear and determine appeals from and review any order, requirement, decision or

determination made by the Planning Director in the enforcement of this chapter;

(2) Hear and decide on permits for special exceptions or other uses upon which the Board is required to act under this chapter; and

(3) Authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest, where owing to special conditions, fully demonstrated on the basis of the facts presented, a literal enforcement of the provisions of this chapter will result in unnecessary hardship and so that the spirit of this chapter shall be observed and substantial justice done.

(G) In exercising its powers, the Board may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from as in its opinion ought to be done in the premises, and to that end shall have all the powers of the Building Inspector from whom the appeal is taken.

(H) Every decision of the Board shall be subject to review by certiorari.

(I) No variance in the application of the provisions of this chapter shall be made by the Board relating to buildings, land or premises now existing or to be constructed, unless after a public hearing the Board shall find:

(1) That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to the other property of class of use in the same vicinity and district;

(2) That the granting of the variance will not materially change the character of that district and vicinity, materially lower the market value of adjacent property, increase flood height, create additional

threats to public safety, cause additional public expense or conflict with existing laws or ordinances;

(3) That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and district in which the property is located; or

(4) That the granting of the variance will not alter the land use characteristics of the vicinity and district, diminish the marketable value of adjacent land and improvements or increase the congestion in the streets.

(J) Any construction made possible by the granting of the variance must be completed within 1 year of the date of the approval. However, the Board may extend the completion date for 1 year, provided the petitioner has made timely application to the Board for an extension and that good cause is shown why it should be granted. The approval of the variance by the Board for any construction which has not been completed within 1 year (2 years if an extension is granted) shall be deemed withdrawn and of no force or effect whatever.

(K) Variances issued for floodway (FW), flood fringe (FF) or floodplain (FP) districts shall be subject to the following additional restrictions:

(1) No variance for a residential use in a floodway (FW) district shall be granted;

(2) No variance for a floodway (FW) district shall be granted until a permit has been obtained from Natural Resources;

(3) Variances to the flood protection grade requirements in a floodway fringe (FF) district may be granted only when a new structure is to be located on a lot of ½ acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection elevation;

(4) No variance for a floodplain (FP) district shall be granted until a permit or letter of recommendation is issued by Natural Resources. If a letter of recommendation is issued by Natural Resources, the Board may apply the standards in division (K)(3) of this section;

(5) A variance may be granted for the reconstruction or restoration of any structure listed on the National Register of Historic Places or the State Survey of Historic, Architectural, Archaeological and Cultural Sites, Structures, Districts and Objects;

(6) Variances shall give only the minimum relief necessary and only upon a showing of good and sufficient cause by the applicant; and

(7) The Board shall issue a notice to the recipient that the proposed land use change may be subject to increased risk of property loss and could require exceedingly high flood insurance premiums.

(L) Placement of mobile homes in a floodway is prohibited except in the case of existing mobile home park or subdivision.

(M) Notice of appeal:

(1) Prior to the determination of an appeal or a decision on a permit for a special exception, the Board shall fix a reasonable time for the hearing, public notice shall be given at least 10 days prior to the date set for the hearing by publishing a notice thereof in a newspaper of general circulation published in the county, setting forth the time and place of the hearing any be giving due notice to the interested parties in accordance with the rules of the Board.

(2) The Board shall require the party taking the appeal to assume the cost of public notice and due notice to the interested parties.

(Ord. passed 7-26-1960; Am. Ord. 6679, passed 9-5-1978; Am. Ord. 1980-4, passed 1-7-1980; Am. Ord. 1981-3, passed 3-2-1981)

§ 153.127 PERMITS AND CERTIFICATES.

(A) Any person who shall make application for an improvement location permit shall, at the time of making the application, furnish the Building Commissioner with a site plan or development plan of the real estate upon which the application for an improvement location permit is made at least 5 days prior to the issuance of the improvement location permit, which 5-day period may be waived by the Planning Director. The site plan shall be drawn to scale showing the following items:

- (1) Legal or site description of the real estate involved;
- (2) Location and size of all buildings and structures;
- (3) Width and length of all entrances and exits to and from the real estate; and
- (4) All adjacent and adjoining roads or highways.

(B) Site plans so furnished to the Planning Director shall be filed by the Planning Director and shall become a permanent record.

(C) The Planning Director shall issue an improvement location permit for a special exception only following receipt of notice from the Board that the application therefor has been approved by the Board.

(D) No land shall be occupied or used and no building hereafter erected or used, in whole or in part, for any purpose whatsoever, until a certificate of occupancy shall have been issued by the Planning Director stating that the building and use comply with all of the provisions of this chapter applicable to the building or premises or the use in the district in which it is to be located. Upon substantial completion of the improvement covered by the improvement location permit, the Planning Director shall inspect the premises and, if his or her inspection shall reveal that the improvement has been completed in substantial conformity with the site plan, submitted pursuant to

divisions (A) and (C) above, and any approved amendments thereto, shall issue a certificate of occupancy.

(E) No change shall be made in the use of land (except agricultural) or in the use of any building or part thereof, now or hereafter erected, reconstructed or structurally altered, without a certificate of occupancy having been issued by the Planning Director, and no such permit shall be issued to make a change unless it is in conformity with the provisions of this chapter.

(F) A certificate of occupancy shall be applied for coincidentally with the application for an improvement location permit and shall be issued within 10 days after the lawful erection, reconstruction or structural alteration of the building or other improvement of the land shall have been completed.

(G) A record of all certificates of occupancy shall be kept on file in the office of the Planning Director and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land affected.

(H) No improvement location permit shall be issued for excavation of or for the erection, reconstruction of structural alteration, of any building, before application has been made for a certificate of occupancy.

(I) Temporary structures, which the Planning Director deems to be exempt from the permitting process, shall remain subject to all requirements of the zoning code as set out herein and if commercial in use and located B1, B2, B3, or RB Districts shall be subject to development review procedure as set out in § 153.023 *et seq.*

(Ord. passed 7-26-1960; Am. Ord. passed 9-9-1963; Am. Ord. 2014-05, passed 8-21-2014)

§ 153.128 IMPROVEMENT LOCATION PERMIT.

(A) *Permit required.* Within the corporate boundaries of the town, no structure, improvement, or

use of land may be altered, changed, placed, erected or located on platted or unplatted lands, unless the structure, improvement or use and its location conform with the Master Plan and the zoning code. It is hereby declared that the intent of the permit requirements of this chapter shall not prevail with respect to a structure including a dwelling which is clearly incidental to agricultural operations.

(B) *Permits issued.*

(1) The Plan Director shall issue an improvement location permit, upon written application, when the proposed structure, improvement or use and its location conform in all respects to the requirements of this chapter.

(2) The County Area Plan Commission will ensure that all necessary permits have been received from those governmental agencies as required under federal and/or state law, including section f404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334.

(C) *Application.*

(1) *Documentation.*

(a) Every application for an improvement location permit shall be accompanied by:

1. A site plan, drawn to scale, showing the location of the structure or improvement to be altered, changed, placed, erected or located;
2. The dimensions of the lot to be improved; and
3. The size of yards and open spaces, existing and proposed streets and alleys adjoining or within the lot, and the manner in which the location is to be improved.

(b) Applications must also be accompanied by proof of compliance by the applicant with the requirements of the following sections:

1. § 153.023, Design review;

2. § 153.024, Driveway permit;
3. § 153.025, Lighting trespass;
4. § 153.180, Stormwater drainage; and
5. § 153.181, Erosion control.

(c) Compliance with these sections may be established by the submission of a letter or report form the Town Manager obtained pursuant to the terms of the respective section.

(d) No improvement location permit shall be granted without this proof.
(Am. Ord. 2003-04, passed 7-17-2003)

(2) *Review.* An appropriate official shall review all applications for improvement location permits for new construction or additions to existing construction to determine whether the proposed construction or additions lies in a flood hazard area (as defined in § 153.004) and is reasonably free from flooding. If the proposed construction or addition is located in such an area, modifications to the design and materials may be required of the structure and minimize potential future flood damage.

(3) *Records.* The Plan Commission shall keep and maintain all records, including all first floor elevations, flood-proofing levels, certificates, plans and other materials associated with any permit or variance issued in a floodway (FW), flood fringe (FF), or floodplain (FP) district.

(4) *Notification.* All neighboring communities, Natural Resources and the Federal Insurance Administration shall be notified prior to alteration or relocation of a watercourse in the county. No alteration shall be made which diminishes the flood-carrying capacity of the waterway.

(D) *Hearing.*

(1) Within 45 days following receipt of a complete application for an improvement location permit for a special exception, the Planning Director

shall schedule the application for hearing and determination by the Board.

(Ord. 1997-1, passed 2-20-1997; Am. Ord. 1997-5, passed 11-20-1997)

(2) The Board shall then proceed with a hearing on the application in the manner prescribed in Section 24 of the zoning code. The Board shall determine whether:

(a) The proposed special exception is to be located in a district wherein the use may be permitted;

(b) The requirements set forth in Figure 9 of Appendix A for the special exception will be met; and

(c) The special exception is consistent with the spirit, purpose and intent of this section; will not substantially and permanently injure the appropriate use of neighboring property; and will serve the public convenience and welfare.

(3) Following the hearing, and upon an affirmative finding by the Board, the Board shall order the Planning Director to issue an improvement location permit for the special exception.

(4) In order to inform the public and to promote consistency and fairness, the Board may adopt standard guidelines and conditions for its use in determining whether the special exception is consistent with the spirit, purpose and intent of this section; will not substantially and permanently injure the appropriate use of neighboring property; and will serve the public convenience and welfare. A violation of a condition of special exception approval shall constitute a violation of the section, which may be remedied in any manner authorized by this section or by statute.

(Ord. 1997-5, passed 11-20-1997)

(E) *Appeals.*

(1) Any decision of the Planning Director of the town concerning the issuance of an improvement location permit may be appealed to the

Board of Zoning Appeals, when the decision in question involves a requirement of the zoning code, or to the Plan Commission, when the decision in question involves the requirements of other parts of the Master Plan, by any person claiming to be adversely affected by the decision.

(2) A decision of the Plan Commission may be reviewed by certiorari procedures as provided for the appeal of zoning cases from the Board of Zoning Appeals.

(Ord. passed - -1959; Am. Ord. 6679, passed 9-5-1978)

Penalty, see § 153.999

§ 153.129 AMENDMENTS.

All amendments to this chapter shall be in conformance with Sections 64 and 37 to 42 inclusive of Chapter 174 of the Acts of the Indiana General Assembly of 1947.

(Ord. passed 7-26-1960)

§ 153.130 FILING FEES.

Applications and petitions filed pursuant to the provisions of this chapter shall be accompanied by the filing fees hereinafter specified.

(A) *Permits.* The filing fees for permits shall be according to the following schedule:

<i>Description</i>	<i>Filing Fee</i>
Residences, duplexes, garages, additions, residential remodeling (up to 750 square feet)	\$75
Residences, duplexes, garages, additions, residential remodeling (over 750 square feet)	\$75 and \$0.04 per additional square foot over 750 sq. ft. (fees rounded to nearest dollar)

<i>Description</i>	<i>Filing Fee</i>
Accessory structures including agricultural	\$25
Remodel permits for public buildings	\$100
Swimming pools	\$50
Upgrading electrical service	\$25
Commercial structure	\$100 plus \$2 per \$1,000 of construction cost
<p>NOTES: If more than 5 inspections are required for a residential use, there will be an additional fee of \$25 per additional inspection.</p> <p>All permit fees will be doubled if construction is begun before obtaining a building permit.</p>	

(B) *Hearings.*

- (1) The filing fee for an application for variance shall be \$50.
- (2) The filing fee for an application for special exception shall be \$50.
- (3) The filing fee for an appeal of a decision shall be \$50.
- (4) The filing fee for an application for subdivision or planned unit development shall be according to the following schedules:

<i>Description</i>		<i>Filing Fee</i>
Major subdivision	Primary hearing	\$50 plus \$2 per lot
	Secondary hearing	\$50 plus \$2 per lot

<i>Description</i>		<i>Filing Fee</i>
Minor subdivision		\$50
Planned unit development	Primary	\$100
	Secondary	\$50
Vacation of plat		\$50

(5) The filing fee for the application to amend the zoning districts or any other section of this chapter shall be \$100.

(C) *Signs.*

- (1) The filing fee for a sign permit shall be \$25.
- (2) There shall be a \$15 inspection fee, due no later than January 31 of each year.

(D) *Unrefundable.* No part of any filing fee paid pursuant to this section shall be returnable to the applicant or petitioner.
 (Ord. passed 7-26-1960; Am. Ord. 1988-2, passed 3-17-1988; Am. Ord. 1989-5, passed 6-15-1989; Am. Ord. 1990-7, passed 12-20-1990)

§ 153.131 REMEDIES.

(A) The Commission, the Board, the Planning Director, or any designated enforcement official, or any person jointly or severely aggrieved may institute a suit for injunction in the Circuit Court of the county to restrain an individual or a governmental unit from violating the provisions of this chapter.

(B) The Commission or the Board may also institute a suit for mandatory injunction directing any person or a governmental unit to remove a structure erected in violation of the provisions of this chapter.

(C) Any building, erected, raised or converted, or land or premises used in violation of any provisions of this chapter or the requirements thereof, is hereby declared to be a common nuisance and as such may be abated in such manner as nuisances are now or may hereafter be abated under existing law.

(D) The erection, construction, enlargement, conversion, moving or maintenance of any building or structure and the use of any land or building which is continued, operated or maintained contrary to any of the provisions of this chapter shall be a violation of this chapter. The Town Attorney or the Plan Commission Attorney shall immediately upon any violation having been called to his or her attention by the Plan Coordinator, institute injunction, abatement or any other appropriate action in his or her discretion to prevent, enjoin, abate or remove the violation. Civil suit against any violator of this chapter may also be instituted by any property owner who may be especially damaged by any violation of this chapter.

(Ord. passed 7-26-1960; Am. Ord. 1984-7, passed 8-6-1984)

AREA PLAN COMMISSION

§ 153.150 PURPOSE; ESTABLISHMENT.

(A) *Purpose.* The purpose of this subchapter is to improve the health, safety, convenience, and welfare of the citizens of Brown County, and the participating municipalities within Brown County, and to plan for the future of Brown County, and the participating municipalities within Brown County, to the end that:

(1) Residential areas provide healthful surroundings for family life in keeping with the Brown County rural tradition of preservation of its quiet country atmosphere and scenic beauty;

(2) New communities grow only with adequate public ways, utilities, health, educational and

recreational facilities in keeping with the Brown County rural tradition of preservation of its quiet country atmosphere and scenic beauty;

(3) The needs of residents, agriculture, industry and business be recognized in future growth;

(4) The growth of the county and of the participating municipalities is carefully controlled and managed and is commensurate with and promotive of the efficient and economical use of public funds; and

(5) Highway systems within Brown County, and the participating municipalities within Brown County, be carefully planned.

(B) *Establishment.* The Brown County Area Plan Commission (“Plan Commission”) is hereby reestablished in accordance with the area planning law set forth in I.C. 36-7-4.

(Ord. 1995-5, passed 6-20-1995)

§ 153.151 MEMBERSHIP.

(A) *Membership.* The Plan Commission shall consist of 7 members, as follows:

(1) Two members, appointed by the Board of County Commissioners, who may be members of the Board of County Commissioners;

(2) One member, appointed by the County Council, who may be a member of the County Council;

(3) One member appointed by the Town Council, who may be a member of the Town Council;

(4) One member appointed by the Brown County School Board, who shall be the Superintendent of Schools, the Assistant Superintendent of Schools, an administrative official of the School Corporation or a member of the Brown County School Board;

(5) The Brown County Surveyor or an individual appointed by the Brown County Surveyor; and

(6) The County Agricultural Extension Educator.

(B) *Qualifications of members.* Each member shall be appointed because of the following: the member's knowledge and experience in community affairs in Brown County or elsewhere; the member's awareness of the social, economic, agricultural and industrial problems of the area; and the member's interest in the stewardship of the area. A member may not hold other elective or appointive office in municipal, county or state government except in the case of a membership on the school board, the Park Board, the Board of Zoning Appeals, the board of directors for public utilities, or the board of trustees for utilities created under I.C. 8-1-11.1, or as otherwise authorized by law (such as I.C. 36-7-4-208). Excepting the members established by §§ 153.151(A)(4) and (A)(6) above, a member must be a resident of Brown County, Indiana. A member shall be knowledgeable in the area from which the member is appointed.

(Ord. 1995-5, passed 6-20-1995; Am. Ord. 2007-01, passed 4-19-2007)

§ 153.152 TERMS OF OFFICE.

(A) The term of the member appointed pursuant to § 153.151(A)(1) shall expire on January 1, 1998. The term of the member appointed pursuant to § 153.151(A)(2) shall expire on January 1, 1995. The term of the member appointed pursuant to § 153.151(A)(3) shall expire on January 1, 1996.

(B) All subsequent appointments made pursuant to § 153.151(A)(1), (2) and (3) shall be for a term of 4 years which term expires on the first Monday of January of the fourth year following the member's appointment.

(C) The member appointed pursuant to § 153.151(A)(4) shall serve until removed by the Brown County School Corporation. However, the School Corporation may adopt a term limitation for its appointee of not less than 4 years.

(D) The term of the member appointed pursuant to § 153.151(A)(5) shall be coextensive with the appointee's status as the County Agricultural Extension Educator.

(E) The member appointed pursuant to § 153.151(A)(6) shall be coextensive with the appointing Surveyor's term of office.

(F) A member serves until his or her successor is appointed and qualified. A member may be reappointed.

(Ord. 1995-5, passed 6-20-1995)

§ 153.153 REMOVAL OF MEMBER.

The appointing authority may remove a member from the Plan Commission for cause. The appointing authority must mail notice of the removal along with written reasons for the removal to the member at his or her residence address. A member who is removed may, within 30 days after receiving notice of the removal, appeal the removal to the Brown Circuit Court. The Circuit Court may, pending the outcome of the appeal, order the removal or stay the removal of the member.

(Ord. 1995-5, passed 6-20-1995)

§ 153.154 VACATED MEMBERSHIP.

If a vacancy occurs among the Plan Commission membership, then the appointing authority shall appoint a member for the unexpired term of the vacating member.

(Ord. 1995-5, passed 6-20-1995)

§ 153.155 EXPENSES AND COMPENSATION.

(A) If the Plan Commission determines that it is necessary or desirable for members or employees to join a professional organization or to attend a conference or interview dealing with planning or related problems, the Plan Commission may pay the applicable membership fees and all actual expenses of

the members or employees, subject to County Council appropriation of funds.

(B) I.C. 36-2-7-2 notwithstanding, all members of the Plan Commission are entitled to receive the following: a sum for mileage, for each mile necessarily traveled while performing the member's duties, in an amount that is equal to the amount paid to state employees for mileage, and a sum for compensation for services as a Plan Commission member in an amount that the County Council may determine for attendance at Plan Commission meetings.

(Ord. 1995-5, passed 6-20-1995)

§ 153.156 CONFLICT OF INTEREST.

A Plan Commission member may not participate as a Plan Commission member in a hearing or decision of the Plan Commission concerning a matter in which the member has a direct or indirect financial interest. The Plan Commission shall enter in its records the fact that its member has such a disqualification. A Plan Commission member shall not directly or personally represent another person in a hearing before the Plan Commission, the Board of Commissioners, the Town Council or the legislative body of any other participating municipality concerning a zoning matter or any other matter related to zoning including, but not limited to annexation. A Plan Commission member may not receive mileage or compensation under § 153.155 for attendance at a meeting at which the member is disqualified from participation, during any part of the meeting, for having a direct or indirect financial interest in a matter before the Plan Commission.

(Ord. 1995-5, passed 6-20-1995) Penalty, see § 153.999

§ 153.157 OFFICIAL ACTION.

An action of the Plan Commission is not official unless it is authorized, at a regular or special meeting,

by a majority of the entire Plan Commission membership or by a majority of the Executive Committee pursuant to § 153.163.

(Ord. 1995-5, passed 6-20-1995)

§ 153.158 OFFICERS.

(A) At its first regular meeting in each year, the Plan Commission shall elect from its membership a president and a vice-president. The vice-president may act as president of the Plan Commission during the absence, disability or recusal of the president.

(B) The Plan Commission may appoint and fix the duties of a secretary, who is not required to be a member of the Plan Commission.

(Ord. 1995-5, passed 6-20-1995)

§ 153.159 MEETINGS AND RECORDS.

(A) The Plan Commission shall fix the time for holding regular meetings each month or as necessary. Special meetings of the Plan Commission may be called by the president or by 2 members of the Plan Commission upon written request to the secretary. The secretary shall send to all members, at least 3 days before the special meeting, a written notice fixing the time and place of the meeting. Written notice of a special meeting is not required if the date, time, and place of a special meeting are fixed in a regular meeting, and if all members of the Plan Commission are present at that regular meeting. All regular and special meetings of the Plan Commission shall be open to the public, except that the Plan Commission may schedule executive session meetings pursuant to I.C. 5-14-1.5-1 *et seq.*

(B) The Plan Commission shall keep minutes of its proceedings, keep records of its examinations and other official actions; prepare written findings of fact in support of each of its decisions; and record the vote, disqualification, abstention or failure to vote of each member upon each question. All Plan

Commission minutes and records shall be filed in the office of the Plan Commission and shall be public records to the extent required by I.C. 5-14-3-1 *et seq.* (Ord. 1995-5, passed 6-20-1995)

§ 153.160 STAFF AND SERVICES.

(A) When there is a vacancy in the position of Executive Director of the Planning Department, the Plan Commission shall recommend to the County Commissioners a candidate for the position.

(B) The Plan Commission shall prescribe the qualifications of, appoint, remove and, with the consent of the Executive Director, fix the compensation of the employees of the Plan Commission, which compensation must conform to the salaries and compensations fixed before that time by the County Council. The salaries and compensation shall be consistent with the Brown County salary study. The Plan Commission shall delegate authority to its employees to perform ministerial acts in all cases except where final action of the Commission is necessary.

(C) The Plan Commission may contract for special or temporary services and any professional counsel.

(D) The Plan Commission may designate a hearing examiner or a committee of the Plan Commission to conduct any public hearing required to be held by the Plan Commission. Such a hearing must be held upon the same notice and under the same rules as a hearing before the entire Plan Commission. The examiner or committee shall report findings of fact and recommendations for decision to the Plan Commission. The Plan Commission shall, by rule, provide reasonable opportunity for interested persons to file exceptions to the findings and recommendations, and if any exception is filed in accordance with those rules (or is filed, in any event, if the Plan Commission has not promulgated rules), the Plan Commission may render its decision without further hearing.

(Ord. 1995-5, passed 6-20-1995)

§ 153.161 POWERS AND DUTIES.

The Plan Commission shall:

(A) Supervise and make rules for the administration of the affairs of the Plan Commission;

(B) Prescribe uniform rules pertaining to investigations and hearings;

(C) Record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the Plan Commission;

(D) Prepare, publish, and distribute reports, ordinances and other material relating to the activities authorized under this subchapter;

(E) Adopt a seal;

(F) Certify to all official acts;

(G) Supervise the fiscal affairs of the Plan Commission;

(H) Prepare and submit an annual budget in the same manner as other county departments and be limited in all expenditures to the provisions made for the expenditures by the County Council;

(I) Sue and be sued collectively by its legal name, "Brown County Area Plan Commission," with service of process on the President of the Plan Commission;

(J) Make recommendations to the Board of Commissioners or to the legislative body of any participating municipality concerning:

(1) The adoption of the comprehensive plan, ordinance and amendments; and

(2) Any other matter, within the jurisdiction of the Plan Commission, authorized by the area planning law.

(K) Render decisions concerning and approve:

- (1) Plats or replats of subdivisions;
- (2) Development plans for residential, commercial and industrial uses; and
- (3) Waivers of subdivision standards.

(L) Assign street numbers to lots and structures and renumber lots and structures, and notify the Circuit Court Clerk or Board of Registration, the administrator of the county’s enhanced emergency telephone system, and the United States Postal Service of the numbering or renumbering no later than the last day of the month following the month in which the action is taken;

(M) Make recommendations to the Board of Commissioners or the legislative body of any participating municipality, as appropriate, concerning the naming and renaming of streets and roads, in accordance with guidelines set forth in § 153.168 of this subchapter, and notify the Circuit Court Clerk or Board of Registration, the administrator of the county’s enhanced emergency telephone system, and the United States Postal Service of the naming or renaming no later than the last day of the month following the month in which the Commissioners’ or Council’s action is taken; and

(N) Establish a schedule of reasonable fees to defray the administrative costs connected with processing and hearing administrative appeals and petitions for rezoning, special exceptions, conditional uses, temporary uses and variances; issuing permits; and other official actions taken under the zoning code. (Ord. 1995-5, passed 6-20-1995)

§ 153.162 CITIZEN COMMITTEES.

(A) By resolution, the Plan Commission may establish advisory committees of citizens interested in problems of planning and zoning. In its resolution establishing a committee, the Plan Commission shall

specify the terms of its members, its purposes, and whether the committee is of perpetual or limited duration.

(B) Each advisory committee shall:

(1) Study the subject and problems specified by the Plan Commission and make recommendations to the Commission regarding the subject and problems specified and recommend additional problems in need of study;

(2) Advise the Plan Commission concerning how the subject and problems relate particularly to different areas and groups in the community; and

(3) If invited by the Plan Commission to do so, sit with and participate, without the right to vote, in the deliberations of the Commission, when subjects of mutual concern are discussed.

(C) A citizen committee shall report only to the Plan Commission and shall make inquiries and reports only on the subject and problems specified by the Plan Commission’s resolution establishing the committee. (Ord. 1995-5, passed 6-20-1995)

§ 153.163 EXECUTIVE COMMITTEE.

(A) The Plan Commission may establish an executive committee of not less than 3 nor more than 6 persons appointed by the Plan Commission from its membership. The establishment of the executive committee, the naming of its individual members, and the adoption of rules governing its operation requires a 2/3 majority vote of the entire membership of the Plan Commission.

(B) A majority of the executive committee may act in the name of the Plan Commission; but if there are any dissenting votes, a person voting in the minority may appeal the decision of the executive committee to the Plan Commission. (Ord. 1995-5, passed 6-20-1995)

§ 153.164 GIFTS AND GRANTS.

The Plan Commission as a whole may accept gifts, donations, and grants from private or governmental sources for advisory planning purposes. Any money so accepted shall be deposited with the Brown County Treasurer, in a special nonreverting Plan Commission fund to be available for expenditures by the Plan Commission for the purposes designated by the source. The Brown County Auditor shall draw warrants against the special nonreverting fund only on vouchers signed by the president and secretary of the Plan Commission.

(Ord. 1995-5, passed 6-20-1995)

§ 153.165 ALTERNATE PROCEDURE.

(A) The Plan Commission may appoint a Hearing Officer and may establish an alternate procedure under which the Hearing Officer may approve or deny variances from the design standards of the zoning code, special uses, conditional uses and special exceptions from the terms of the zoning code. With respect to these matters, the Hearing Officer shall have the power of the Board of Zoning Appeals. The Hearing Officer may be a Board of Zoning Appeals member, a Plan Commission staff member or any other person. The Plan Commission may appoint more than 1 Hearing Officer. A Hearing Officer serves at the pleasure of the Plan Commission and may be removed by the Plan Commission at any time, without cause.

(B) With respect to an alternate procedure, the Plan Commission may adopt rules:

(1) Limiting the kinds of variance, special use, contingent use, conditional use or special exception petitions that may be filed under the alternate procedure;

(2) Permitting the Hearing Officer, in appropriate circumstances, to transfer a petition filed under the alternate procedure to the Board of Zoning Appeals;

(3) Requiring the creation of minutes and records of the proceedings before the Hearing Officer and the filing of the minutes and records as public records; and

(4) Regulating conflicts of interest and communications with the Hearing Officer, so as to require the same level of conduct required of the Board of Zoning Appeals in the conduct of its business.

(C) The Plan Commission staff may file a written objection to a petition for a variance, exception or use if:

(1) It would be injurious to the public health, safety, morals and general welfare of the community; or

(2) The use or value of the area adjacent to the property included would be affected in a substantially adverse manner.

(D) If a written objection is filed by the Plan Commission staff, the petition shall:

(1) Be considered withdrawn; or

(2) Be transferred to the Board of Zoning Appeals if requested by the petitioner.

(E) The Plan Commission staff may indicate that it does not object to the approval of the petition if specified conditions are attached. If the applicant does not accept these conditions, the petition shall:

(1) Be considered withdrawn; or

(2) Be transferred to the Board of Zoning Appeals if requested by the petitioner.

(F) The Hearing Officer may impose conditions and may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel, in the same manner that the Board of Zoning Appeals may impose conditions or require written commitments. If the

applicant for the variance, exception or use does not accept these conditions or make the commitment, the petition shall:

(1) Be considered withdrawn; or

(2) Be transferred to the Board of Zoning Appeals if requested by the petitioner.

(G) The Hearing Officer may not modify or terminate any commitment made to the Hearing Officer or to the Board of Zoning Appeals.

(H) A decision of a Hearing Officer under the alternate procedure may not be a basis for judicial review, but it may be appealed to the Board of Zoning Appeals. An interested person who wishes to appeal a decision of a Hearing Officer under the alternate procedure must file the appeal with the Board of Zoning Appeals within 14 days after the decision is made.

(Ord. 1995-5, passed 6-20-1995)

§ 153.166 REVIEW OF ZONING CODE.

The Plan Commission shall periodically review both the text of the zoning code and the zoning maps. The review shall be performed on a regular schedule established by the Plan Commission, but not less frequently than once every 2 years. Upon review of the text and maps, the Plan Commission shall recommend all appropriate changes to the County Commissioners or to the legislative body of any participating municipality as proposed amendments to the zoning code.

(Ord. 1995-5, passed 6-20-1995)

§ 153.167 PLAT COMMITTEE.

The Plan Commission may appoint a plat committee to hold hearings on and approve plats and replats, on behalf of the Plan Commission, under the circumstances prescribed in the subdivision control ordinance. The plat committee shall consist of 3 or 5 persons, with at least 1 of the members being a

member of the Plan Commission. Each appointment of a member of the plat committee is for a term of 1 year, but the Plan Commission may remove a member from the plat committee at any time, with or without cause. The Plan Commission must mail notice of the removal, along with written reasons, if any, for the removal, to the member at his or her residence address. A member who is removed may not appeal the removal to a court or otherwise. The plat committee may take action only by a majority vote.

(Ord. 1995-5, passed 6-20-1995)

§ 153.168 NAMING AND RENAMING STREETS.

(A) In making proposals to the Board of Commissioners or the legislative body of any participating municipality regarding the naming and renaming of streets, the Plan Commission shall be guided by the policies listed in division (B) below.

(B) (1) Duplicate street names and names that sound alike shall not be allowed.

(2) Directional or relative names should not be used (such as North Drive, Spearsville Road).

(3) A continuous street should not change names when the direction of the street changes.

(4) Predominately north-south streets shall have an "N" prefix if north of the center line and an "S" prefix if south of the center line.

(5) Predominately east-west streets shall have an "E" prefix if east of the center line and a "W" prefix if west of the center line.

(6) Dead-end streets or courts that have no possibility of extension to another road should have a name that is based on the name of the street they connect to (such as E. Poplar Grove Lane, N. Poplar Grove Court, N. Poplar Grove Circle).

(7) The Postmaster who serves the area in which the named or renamed street will be or is

located should be given the opportunity to review and comment on proposed names before the Plan Commission approves a proposal.

(8) The Brown County Highway Superintendent or the official responsible for street or road maintenance for a participating municipality, as appropriate, must be given the opportunity to review and comment on proposed names before the Plan Commission approves a proposal.
(Ord. 1995-5, passed 6-20-1995)

§ 153.169 NUMBERING SYSTEM FOR HOUSES AND STRUCTURES.

(A) *Uniform numbering system.* A plan for the orderly and systematic numbering of houses and structures located within the jurisdiction of the town is hereby enacted (hereinafter “Uniform Numbering System”). Any and all ordinances previously adopted by the Town Council regarding the numbering of houses and structures are hereby repealed and superseded by this section.

(B) *Relation to health and welfare.* The numbering of houses and other structures in an orderly and systematic manner will make locating those houses and structures more expeditious in the case of fire emergencies, in situations that involve an immediate need for medical attention for occupants of the house or structure, and in situations in which police protection or other emergency services are required. An orderly and systematic house numbering process will also enhance the delivery of goods and services, as well as increase the efficiency of operations such as postal delivery.

(C) *Conformity.* From the effective date of this section, the numbering of all houses and other structures located on lots or parcels of land abutting public streets or roads within the jurisdictional area of the town shall be accomplished in conformity within the Uniform Numbering System as herein described. At the time of issuance of any permit for construction of a house or structure, a number shall be assigned to the house or structure by the Brown County Area Plan

Commission office as set forth below. The number shall be included on the permit, and no permit authorizing the occupancy of a house or structure shall be issued and no final inspection of a building performed for the purpose of permitting its occupancy shall be deemed complete unless the house or structure displays, at the time of inspection, the officially assigned number in full compliance with the standards of this section.

(D) *Base lines and sequences.*

(1) The general rule shall be 1,000 addresses per mile, except in certain areas where the irregular direction of the roadways makes variations necessary. Even numbers shall be used on the North and West sides of roads and odd numbers shall be used on the South and East sides of roads.

(2) The grid system to be used is to be constructed on a North, South, East and West basis using the existing base roads in the Brown County Highway System, with each mile portion of roadway becoming a “block” for uniform numbering purposes.

(E) *Administrative Office.*

(1) The Brown County Area Plan Commission shall act as the Administrative Office (hereinafter the “Administrative Office”) in charge of issuing numbers to houses or structures in compliance with the provisions of this section. The Administrative Office shall issue numbers to allow new houses or structures, renumber houses and structures whenever it becomes necessary to do so in the implementation of the Uniform Numbering System, and cause the numbering of all existing homes or structures that are not numbered to be numbered in accordance with the provisions of this section. Barns, sheds and outbuildings not used for a habitation or business shall not be numbered unless there is a specific reason or need for doing so.

(2) The Administrative Office may establish written guidelines to use in implementing this section and may amend the guidelines from time to time, subject to the prior approval of the Town Council.

(F) *Numbers other than on public streets and roads.* The Administrative Office may, if it deems it proper and necessary for the implementation of the Uniform Numbering System, assign numbers to houses and structures that are situated on private streets or roads within the jurisdiction of the town.

(G) *Standards for the posting of house numbers.*

(1) The owner or occupant of a house or structure located within the jurisdiction of the town shall post officially assigned numbers in English, using Arabic (not Roman) numerals at a minimum of 3 inches in height and made of durable, weatherproof material, of a color that stands out in high contrast against the background. The official number shall be placed on the house or business structure where it may easily be seen when approaching the house or business. It shall also be placed on both sides and the front of a mailbox, if a mailbox is used (sized and positioned according to postal regulations), or on a post adjacent to the roadway if the house or structure is not visible from a road or if the house or building is more than 200 feet from the road. If mailboxes are placed closely side by side in such a way that numbers on the sides of the mail boxes cannot be seen, the numbers need to be placed only on the front of each mailbox, and the individual houses or other structures should be identified using house numbers or appropriately placed road posts.

(2) Houses or structures that were numbered prior to the effective date of this section shall be renumbered if necessary to comply with the Uniform Numbering System and so that numerical harmony throughout an area or areas is achieved. The Administrative Office shall authorize these changes.

(H) *Notification of local agencies.* The Administrative Office shall provide a uniform system of notification of the issuance of numbers or the renumbering of houses and structures. When possible, notification shall be made reasonably ahead of impending changes so as to allow interested groups and agencies to plan and to prepare for the proposed changes. The Administrative Office shall keep accurate records and shall, from time to time, prepare and make available to the Town Council a report of

the status of the implementation of the uniform numbering system. In the assignment of house numbers, the Administrative Office shall use its best judgment and shall carefully consider and evaluate all contingencies and shall, with due regard to the sensitive nature of the job assigned to it, be considerate of the citizens of Nashville, Indiana.

(I) *Enforcement.* The Town Council may institute a suit for injunction to restrain any person, firm or corporation who takes down, alters, defaces, destroys or conceals any number assigned to or placed upon any building in compliance with this section, or who places or substitutes or permits to be placed or substituted upon any building an erroneous or improper number not in compliance with this section, or who allows to be retained upon any building an erroneous or improper number not in compliance with this section. The Town Council may institute a suit for mandatory injunction directing a person, firm or corporation to correct any violation of the provisions of this section or to bring about compliance with the provisions of this section.

(Ord. 1997-4, passed 7-17-1997)

EROSION AND STORMWATER MANAGEMENT

§ 153.180 STORMWATER DRAINAGE.

(A) All new developments, any redevelopment and/or new construction in the town must control the release of stormwater runoff.

(1) The release rate of stormwater from developed lands does not exceed the release rate from the land in its present land use; or

(2) The release rate of stormwater from developed land does not create a harmful condition to adjacent or downstream property.

(B) The developer must submit to the Town Council detailed computations and plans detailing site condition runoff rates before and after development,

redevelopment or new construction, demonstrating that storm runoff will be controlled.

(C) Preliminary and final drainage plans shall be submitted to the Town Council no less than 45 days prior to its regularly scheduled meeting. (Res. 2001-2, passed 2-15-2001; Am. Ord. 2003-04, passed 7-17-2003)

§ 153.181 EROSION CONTROL.

(A) *Applicability.* This section applies to nonagricultural land-disturbing activities on land within the boundaries and jurisdiction of the town.

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

ADMINISTERING AUTHORITY. The designated unit of government given the authority to issue permits.

AGRICULTURAL LAND USE. Use of land for the production of animal or plant life, including forestry, pasturing or yarding livestock, and planting, growing, cultivating and harvesting crops for human or livestock consumption.

EROSION. The detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.

EROSION CONTROL MEASURE. A practice or a combination of practices to control erosion and resulting sedimentation.

EROSION CONTROL PLAN. A written description of pertinent information concerning erosion control measures designed to meet the requirements of this section as submitted by the applicant for review and approval by the Town Manager.

LAND-DISTURBING ACTIVITY. Any man-made change of the land surface, including removing vegetative cover, excavating, filling, transporting and grading. In the context of this section, it includes only nonagricultural land-disturbing activities on sites which also require a local improvement location permit or an approved subdivision plat.

NONAGRICULTURAL LAND USE. Commercial use of land for the manufacturing and wholesale or retail sale of goods or services, residential or institutional use of land intended primarily to shelter people, highway use of land including lanes, alleys and streets, and other land uses not included under **AGRICULTURAL LAND USE**.

PERSON. Any entity, including any individual, corporation or public body, holding title to or having an interest in land, operating, leasing, renting, or having made other arrangements with the title holder by which the title holder authorizes use of his or her land.

RUNOFF. The portion of precipitation from such sources as rainfall, snowmelt or irrigation water that flows over the ground surface.

SITE. The entire area included in the legal description of the land on which land-disturbing activity has been proposed in the permit application.

(C) *Design criteria, standards, and specifications for erosion control measures.* All erosion control measures including, but not limited to those required to comply with this section shall meet the design criteria, standards and specifications for erosion control measures similar to or the same as those outlined in the *Field Office Technical Guide* of the USDA Soil Conservation Service.

(D) *Control of erosion and sediment during land-disturbing activities.* Control of erosion and sediment is the responsibility of an applicant. Applicability and requirements are defined as follows:

(1) *Applicability.* This section applies to the following sites with land-disturbing activities:

(a) Those requiring a subdivision plat approval or local improvement location permit for the construction of commercial, residential or institutional buildings on lots of approved subdivision plats;

(b) Those involving grading, removal of protective groundcover or vegetation, excavation, land filling, or other land-disturbing activity affecting a surface area of 2,500 square feet or more;

(c) Those involving excavation, filling, or a combination of excavation and filling affecting 100 cubic yards or more of soil, sand, gravel, stone or other material;

(d) Those involving street, highway, road or bridge construction, enlargement, relocation or reconstruction; and

(e) Those involving the laying, repairing, replacing or enlarging of an underground pipe or utility for a distance of 50 feet or more.

(2) *Erosion and other sediment control requirements.* The following requirements shall be met on all sites:

(a) *Site dewatering.* Sediment-laden water flowing from the site shall be detained by temporary sediment basins. Also, water shall not be discharged in a manner that causes erosion in the receiving channel;

(b) *Waste and material disposal.* Waste or unused building materials, including but not limited to garbage, debris, cleaning wastes, wastewater, toxic materials and hazardous substances, shall not be carried by runoff from a site. Proper disposal of all wastes and unused building materials, in line with the nature of the waste or material, is required;

(c) *Tracking.* Sediment being tracked from a site onto public or private roadways shall be

minimized. This can be accomplished initially by a well-planned layout of roads, access drives and parking areas of sufficient width and length. However, protective covering also may be necessary;

(d) *Sediment removal.* Public or private roadways shall be kept cleared of accumulated sediment. If appreciable sedimentation occurs after a storm event, the sediment shall be deposited on the parcels of land, if in the site, from where it likely originated;

(e) *Drain inlet protection.* All storm drain inlets shall be protected against sedimentation with straw bales, filter fabric or equivalent barriers meeting accepted design criteria, standards and specifications; and

(f) *Site erosion control.* The following items apply only to the time period when land-disturbing activities are taking place:

1. Runoff passing through a site from adjacent areas shall be controlled by diverting it around disturbed areas. Alternatively, the existing channel may be improved to prevent erosion or sedimentation from occurring;

2. Runoff from a disturbed area shall be controlled by 1 of the following measures:

a. Barring unforeseeable weather conditions, all disturbed ground left inactive for 7 or more days shall be stabilized prior to October 15 by seeding, sodding, mulching, covering or by other equivalent erosion control measures;

b. With disturbed areas within a site of 10 acres or more, where drainage is in the same direction or where runoff will result in loss of soil, an abatement or recovery program is required. Where feasible, 1 or more sediment basins shall be constructed; or

c. With disturbed areas within a site of less than 10 acres, filter fences, straw bales or other erosion control measures shall be required.

3. Erosion from all soil storage piles shall be controlled as before mentioned. Adjacent storm drain inlets shall be protected. Soil storage piles shall be stabilized in the same manner as before mentioned, if remaining in existence for more than 7 days.

(E) *Maintenance of erosion control measures.* During the period of land disturbance at a site, all sediment basins and other erosion control measures necessary to meet the requirements of this section shall be applied by the applicant or landowner.

(F) *Permit application, erosion control plan, and permit issuance.* No person shall begin a land-disturbing activity subject to this section without receiving approval of an erosion control plan. An application should be made at the time of the preliminary plat submittal or local improvement location permit application to minimize the time delay before a project can begin. By submitting an application, the applicant is implying that the town has been given permission to enter the site to obtain information required for review of the erosion control plan.

(1) *Content of erosion control plan for land-disturbing activities covering more than 1 acre in a given site.*

(a) *Existing site map.* Conditions on a minimum scale of 1 inch equals 100 feet adequate to show the site and adjacent areas, including:

1. Site boundaries and adjacent lands which accurately identify the site location;
2. Lakes, streams, wetlands, channels, ditches and other watercourses on and adjacent to the site;
3. One hundred-year floodplains, floodway fringes and floodways;
4. Location of the predominant soil types;

5. Vegetative cover such as grass, weeds and trees;

6. Location and dimensions of stormwater drainage systems and natural drainage patterns on and adjacent to the site;

7. Locations and dimensions of utilities, structures, roads, highways and paving; and

8. Site topography.

(b) *Plan of final site conditions.*

(c) *Site construction plan.*

1. Locations and dimensions of all proposed land-disturbing activities;

2. Locations and dimensions of all temporary soil stockpiles;

3. Locations and dimensions of all erosion control measures;

4. Anticipated starting and completion dates; and

5. Provisions for maintenance of the erosion control measures.

(2) *Content of erosion control plan for land-disturbing activities covering less than 1 acre in a given site.* An erosion control plan statement describing the site and erosion control measures and including a development schedule and a simple map showing the locations of the control measures is all that is required.

(3) *Review of erosion control plan.* The Town Manager shall review all necessary information.

(4) *Permits.*

(a) *Surety bond.* The Town Manager may require the applicant to provide a surety bond.

(b) *Permit conditions.* All permits shall require the applicant to:

1. Notify the Town Manager at least 24 hours before commencing with any land-disturbing activity;
2. Notify the Town Manager of the completion of erosion control measures within 7 days after installation;
3. Obtain permission from the Town Manager prior to modifying the erosion control plan;
4. Install all erosion control measures;
5. Maintain road drainage systems, stormwater drainage systems and erosion control measures;
6. Where legal, remove sediment resulting from land-disturbing activities from adjacent surfaces and drainageways and/or repair erosion damage to adjacent surfaces and drainageways; and
7. Allow the Town Manager to enter the site for verifying compliance with controls.

(G) *Inspection.*

(1) To ensure compliance with the erosion control plan, the Town Manager shall inspect sites having ongoing land-disturbing activities.

(2) If land-disturbing activities are being carried out without a permit, the Town Manager shall issue a stop-work order.

(H) *Enforcement.*

(1) The Town Manager shall post a stop-work order if:

(a) Any land-disturbing activity is undertaken without a permit;

(b) The erosion control plan is not being implemented in good faith; or

(c) The conditions of the permit are not being met.

(2) Upon appeal to the Town Manager, a stop-work order or the revocation may be retracted.

(3) Ten days after posting a stop-work order, the Town Manager may issue a notice of intent stating that 14 days after issuing the notice of intent the Town Manager will use the surety bond to perform work necessary.

(4) If, within 5 days after notification, a permit holder does not comply with the erosion control plan or permit conditions, the Town Manager may revoke the permit.

(5) Persons violating the provisions of this section shall be subject to forfeitures or fine.

(6) Compliance with the provisions of this section also may be enforced by injunction.

(I) *Project termination.* An orderly and timely termination of a project with land-disturbing activities should be planned between all persons involved with a site.

(1) Nearing the end of the project, but prior to the final land grading, the person holding the permit should petition the Town Manager to allow for the installation of utility lines. This work should be done promptly. After utilities are installed, complete all erosion control activities promptly.

(2) When a project has been completed, the person holding the permit shall petition the Town Manager for approval of erosion control measures which are to remain on the site. The Town Manager shall inspect the site to evaluate the adequacy of these measures.

(3) If the erosion control measures are approved, any surety bond or letters of credit shall be released.

(4) If the erosion control measures are not approved because they are not in line with either the erosion control plan or the general principles of this section, the Town Manager shall notify, in writing, the person holding the permit of unacceptable features.

(J) *Administrative appeals and judicial review.*

(1) *Town Council.*

(a) The Town Council shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Town Manager in administering this section.

(b) Upon appeal, the Town Council may authorize variances from the provisions of this section which are not contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of the section will result in unnecessary hindrances.

(c) The Town Council shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and in authorizing variances.

(2) *Judicial review.* Final decisions of the Town Council are subject to review by the Brown County Court, provided an appeal is filed within 30 days from the date of the final decision of the Town Council.

(Am. Ord. 2003-04, passed 7-17-2003)

(Ord. 1997-8, passed 1-15-1998)

§ 153.999 PENALTY.

Any person violating any of the provisions of the foregoing zoning and land use code shall be fined in an amount not exceeding \$500 per day, together with court costs. Each day a violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

(Ord. 1984-7, passed 8-6-1984; Am. Ord. 2003-04, passed 7-17-2003)

APPENDIX A: LAND USES AND REQUIREMENTS

FIGURE 1. RESIDENTIAL USES AND REQUIREMENTS

<i>Requirements</i>	<i>Types of Residential Use</i>		
	<i>Single-Family Dwelling</i>	<i>Two-Family Dwelling</i>	<i>Multi-Family Dwelling</i>
District in which use is permitted	R1, R2, B1, B2, B3, RB	R2, B1, B2, B3, RB	B1, B2, B3, RB
Minimum lot size in sq. ft./dwelling unit in districts indicated	R1 6,000 R2, RB 6,000 B1, B2, B3 6,000	R2, RB 3,000 B1, B2, B3 3,000	B1 3,000 B2, B3 2,000
Minimum lot width in feet in districts indicated	R1 59.5 R2, RB 60 B1, B2, B3 50	R2, RB 60 B1, B2, B3 50	B1, B2, B3 50 RB 60
Maximum building height in feet in districts indicated	R1, R2, RB, B1, B2, B3 35	R2, RB, B1, B2, B3 35	B1, B2, B3, RB 35
Minimum front yard in relation to avg. depth of lots in block	20 ft. from street right-of-way or 20% of depth of lot, whichever is less	20 ft. from street right-of-way or 20% of depth of lot, whichever is less	20 ft. from street right-of-way or 20% of depth of lot, whichever is less
Minimum side yard (1)	5 feet	5 feet	5 feet
Minimum side yards (both or 2) in % of lot width	20	20	20
Minimum rear yard in feet	20*	15	15
Minimum ground floor area in sq. ft. in districts indicated	1-story: +R1 800 R2, RB 800 B1, B2, B3 600 Over 1 story: +R1 1,000 R2, RB 600 B1, B2, B3 600	1-story: R2, RB 1,200 B1, B2, B3 960 Over 1 story: R2, RB, B1, B2, B3 600	First 2 units, same as 2-family dwelling, plus additional area/unit: B1, B2, B3, RB 200

Nashville - Land Usage

<i>Requirements</i>	<i>Types of Residential Use</i>		
	<i>Single-Family Dwelling</i>	<i>Two-Family Dwelling</i>	<i>Multi-Family Dwelling</i>
No. of vehicle parking spaces to be provided on lot	1	2	1/each dwelling unit
Maximum lot coverage in % of lot	35	35	40
Vision clearance on corner lot	Yes	Yes	Yes

(Am. Ord. 2019-01, passed 4-18-2019)

FIGURE 2: BUSINESS USES AND REQUIREMENTS

<i>Requirements</i>	<i>Types of Business Use</i>					
	<i>Local Business</i>		<i>General Business</i>		<i>Service and Warehouse Business</i>	
District(s) in which use is permitted	B1, B2, B3, I1		B2, B3, I1		B3, I1	
Minimum front yard in feet in districts indicated	B1, B3, I1 B2	15 None	B2 B3, I1	None 15	B3, I1	15
Minimum side yard in feet along the side street line of a corner lot, where block is adjoined by a residential district	5		5		5	
Minimum side yard in feet where a business district adjoins a residential district within the block	5		5		5	
Minimum side yard in blocks not including a residential district	None		None		None	
Maximum building height in feet in districts indicated	B1 B2, B3, I1	35 35	B2, B3, I1	35	B3, I1	35
Minimum rear yard in feet	15		15		15	
Maximum lot coverage in % of lot	90		90		90	
Vision clearance on corner lots	Yes		Yes		Yes	
Min. ground floor area	600		600		600	

FIGURE 3: PARKING SPACES REQUIRED FOR USES

<i>Type of Use</i>	<i>No. of Parking Spaces Required</i>
Local Business Uses: B1	
Uses listed in § 153.050	1 for each 125 sq. ft. of floor area
Indoor theater	1 for each 6 seats
Private club or lodge	Space to accommodate 50% of the active membership at 1 space/each 3 members
General Business Uses: B2	
Bank	1 for each 500 sq. ft. of floor area
Office building	1 for each 200 sq. ft. of floor area
Postal station	1 for each 500 sq. ft. of floor area
Telegraph office	1 for each 500 sq. ft. of floor area
Utility company business office	1 for each 500 sq. ft. of floor area
Hotel	1 for each 3 employees, plus 1 for each sleeping room
Motor bus or railroad passenger station	1 for each 3 employees, plus 1 for each 10 seats in waiting room. Other retail uses in connection therewith shall provide 1 space for each 2 employees
Bowling alley	3 for each lane, plus 1 for each 6 spectator seats
Dancing academy or billiard room	1 for each 200 sq. ft. of floor area
Department store	1 for each 200 sq. ft. of floor area
Outdoor business	*1 for each table or salesperson, whichever is greater
Uses listed in § 153.051	1 for each 125 sq. ft. of floor area
Service and Warehouse Business Uses: B3	
Storage warehouse and wholesale establishment	1 for each 3 employees or occupants. The maximum no. of employees or occupants to be used in determining spaces
Automobile and truck repair	1 for each 200 sq. ft. of floor area

Nashville - Land Usage

<i>Type of Use</i>	<i>No. of Parking Spaces Required</i>
Veterinary hospital for small animals or kennel	1 space for each 3 animals to be confined in temporary or permanent pens or cages
Category 9 under Paragraph C, § 15 ____-12	As determined by the Board
NOTE: *This provision shall not be waived under the terms of Section ____ subparagraph (D)(3)	

(Am. Ord. 1997-9, passed 12-18-1997)

FIGURE 4: LOADING AND UNLOADING BERTHS REQUIRED

<i>Type of Use</i>	<i>Gross Floor Area (in sq. ft.)</i>	<i>No. of Loading and Unloading Berths Required</i>
Retail stores, department stores, wholesale establishments, storage uses and other business uses	3,000 to 15,000	1
	15,001 to 40,000	2
	Each 25,000 additional	1 additional
Office buildings	100,000 or less	1
	100,001 to 336,000	2
	Each 200,000 additional	1 additional

FIGURE 5: INDUSTRIAL USES AND REQUIREMENTS

<i>Requirements</i>	<i>Type of Use</i>	
	<i>Light Industrial</i>	<i>Industrial</i>
District(s) in which use is permitted	B3, I1	I1
Minimum front yard in feet	B3 I1 None 15	I1 15
Side yard required in feet	B3, I1 None	I1 None
Minimum side yard in feet, if provided	B3, I1 5	I1 5
Minimum rear yard in feet	B3, I1 15	I1 15
Maximum building height in feet	B3, I1 35	I1 75
Maximum lot coverage in % of lot	B3, I1 90	I1 90
Vision clearance on corner lots	Yes	Yes

FIGURE 6: LOADING AND UNLOADING BERTH REQUIREMENTS

<i>Gross Floor Area of Industrial Use (in sq. ft.)</i>	<i>No. of Berths Required</i>
15,000 or less	1
15,001 to 40,000	2
40,001 to 100,000	3
Each 40,000 additional	1 additional

FIGURE 7: CONTINGENT USES AND REQUIREMENTS

<i>Type of Use</i>	<i>District(s) in which Use is Permitted</i>	<i>No. of Parking Spaces to be Provided</i>
Agricultural, of a noncommercial character	All	Not applicable
Boarding or lodging house	R2, B1, B2, B3	1 for each 3 occupants
Church or temple	All, except I1	1 for each 6 seats in main auditorium
Lodge or private club (which is of a noncommercial character)	B1, B2, B3	1 for each 125 sq. ft. floor area of building(s)
Mortuary	B2, B3, I1	1 for each 6 seats in main auditorium
Municipal or governmental building	All	1 for each 125 sq. ft. floor area of building(s)
Nursing home or homes for the aged	B1, B2, B3	1 for each 7 persons
Professional office in residence of practicing professional person	All	2 additional
Plant nursery	All	None required
Public library or museum	All, except I1	1 for each 125 sq. ft. floor area of building(s)
School, public or parochial	All, except I1	1 for each 3 members of staff, plus 1 for each 8 seats in auditorium

FIGURE 8: CONTINGENT USES - MAXIMUM HEIGHT

<i>District(s) in which Use is Permitted</i>	<i>Maximum Building Height (in feet)</i>
R1, R2, B1	35
B2, B3, I1	35

(Ord. 1998-16, passed 10-15-1998)

FIGURE 9: SPECIAL EXCEPTIONS AND REQUIREMENTS

<i>Special Exception</i>	<i>District(s) in which Use may be Permitted</i>	<i>Requirement Designation</i>
Airport or heliport	R1, I1	b6(Heliport), b12(Airport), g, h2, i1(Airport), i2(Heliport), j1, k1, l2, n2, p, r1, s, t, u, v, w, y
Artificial lake of 3 or more acres	All	c1, i1, j1, k2, p, r1, u1, v, w, y
Cemetery or crematory	R1	b11, c2, k1, p, q, r1, v, w, y
Charitable not-for-profit	R1, R2	b11, c2, k1, p, q, r1, v, w, y
Clinic or medical health center	B1, B2, B3, I1	b1, c3, h4, j1, k3, l1, r1, v, w, y
Country club or golf course	R1	c1, d3, j1, k5, l1, p, r1, v, w, y
Fire station, police station, or county jail	All	b1, c1, h1, j1, k6, l1, s, y
Greenhouse, commercial	All except R2	b4, c6, f2, h1, k7, m4, n1, r1, v, w, y
Home occupation	All, but a special exception is only required in R1 and R2	b1, c1, f1, h1, k8, v, y
Hospital	All	b7, c6, g, h5, j1, k9, l2, m5, n1, p, s, t, v, y
Kindergarten or day nursery	All except I1	b3, c8, f3, h1, i3, k12, p, r1, v, y
Mineral extraction, borrow pit, topsoil removal and their storage areas	R1, I1	c9, e, h1, i5, j1, n3, r1, s, t, u3, v, w, y
Mobile home park	B2, B3	b8, c6, d2, g, h1, j1, k13, l2, o, p, q, r1, s, u1, v, w, y
Municipal or government building	All	b1, c1, h1, j1, k28, l1, p, y
Outdoor theater	All except R2	c6, i6, k11, p, r1, s, t, v, w, y

<i>Special Exception</i>	<i>District(s) in which Use may be Permitted</i>	<i>Requirement Designation</i>
Outdoor commercial recreational enterprise	All	c4, d1, h1, i1, j3, k14, l2, n1, p, r2, s, t, v, w, y
Power transmission line	All	p
Practice golf-driving range	All except R2	c6, i7, j3, k16, l2, r1, v, y
Private recreational development	All	c4, g, h1, j3, k2, l2, r1, v, w, y
Produce terminal, wholesale	B3, I1	b10, c7, d3, e, h1, i8, j1, k11, l4, m3, n2, p, r1, s, t, v, w, y
Public camp	R1, I1	b7, c6, d1, h1, j3, k17, l2, r1, u1, v, w, y
Public or commercial sanitary fill or refuse dump	All	b7, c11, e, i9, j5, r1, u1, v, w, y
Public or commercial sewage or garbage disposal plant	I1	b11, c11, e, k19, r1, u1, v, w, y
Public or employee parking areas	All	b2, p, r1, s, t, v, x, y, z
Public park or public recreational facility	All	c4, g, h1, j2, k21, l2, t, v, w
Public utility substation or exchange	All	c1, g, j4, k18, r1, v, y
Radio or television tower	All	k19, r1, v
Railroad right-of-way and uses essential to railroad operation	All	h1, k20, r1, v
Raising and breeding of nonfarm fowl and animals, commercially, except kennel	B3, I1	b3, c10, h1, j1, k7, l2, m1, n2, r1, v, w, y
Riding stable	All	b5, c10, h1, j1, k21, m1, r1, v, w, y
Seasonal fishing or hunting lodge	All	b1, c1, f4, k22, v, w, y
State or federal correctional institution	I1	b13, c10, e, g, k15, l5, n3, p, r1, y
Tourist home	RB. Not permitted in R1, R2	b1, c1, f1, h1, k26, r1, v, y

<i>Special Exception</i>	<i>District(s) in which Use may be Permitted</i>	<i>Requirement Designation</i>
Truck - freight terminal	B3, I1	c1, e, j1, k25, l4, n2, p, r1, s, t, v, w, y
<p>If the nature of the special exception involved more than one of those listed, the applicant may apply for an improvement location permit for the special exception which most closely related to the primary use; provided that the requirements of all the related uses will be met.</p>		

(Am. Ord. 1997-5, passed 11-20-1997; Am. Ord. 2000-6, passed 11-16-2000; Am. Ord. 2003-04, passed 7-17-2003; Am. Ord. 2015-03, passed 3-19-2015; Am. Ord. 2018-07, passed 7-19-2018)

Nashville - Land Usage

<i>Requirement Designation</i>	<i>Requirement</i> <i>(Note: Use of # symbols indicates that the requirements of the district apply to the special exception where located)</i>		
a.	Classification of Use Permitted		
1.	Light Industrial		
2.	Local Business		
3.	Industrial		
b.	Minimum Lot Area		
1.	#		
2.	1,500 sq. ft.		
3.	110 sq. ft. per child		
4.	25,000 sq. ft.		
5.	20,000 sq. ft. plus 5,000 sq. ft. per horse over 4 horses		
6.	1 acre		
7.	5 acres		
8.	5 acres including 2,500 sq. ft. per mobile home stand		
9.	6 acres		
10.	20 acres		
11.	40 acres		
12.	80 acres		
13.	320 acres		
14.	2 times requirement for single-family dwelling		
15.	2 acres		
c.	<i>Minimum Yards (Feet)</i>		
	<i>Front</i>	<i>Side (each)</i>	<i>Rear</i>
1.	#	#	#
2.	#	50	50
3.	#	10	30
4.	#	40	40
5.	#	--	--
6.	100	40	40
7.	100	<i>Abutting residential</i>	75
		<i>Abutting other use</i>	35
8.	#	20	#
9.	150	150	150
10.	100	100	100
11.	300	300	300
d.	Building Setback From Center line of Interior Road (Feet)		
1.	40		
2.	50		
3.	85		

Requirement Designation	Requirement <i>(Note: Use of # symbols indicates that the requirements of the district apply to the special exception where located)</i>
e.	Use Permitted Not Closer than 300 Feet to a Residential Use
f. 1. 2. 3. 4. 5. 6.	Minimum Gross Floor Area of Principle Building(s) (Square Feet) # Over 1,000 Determined by number of children to be accommodated 400 2 times single-family dwelling 672
g.	Plan of Landscape Development to be Submitted with Application
h. 1. 2. 3. 4. 5. 6.	Maximum Height of Structure (Feet) # As required by appropriate state or federal agency Same as Light Industrial 45 70 25
i. 1. 2. 3. 4. 5. 6. 7. 8. 9. 10.	Fence 6-foot wire mesh where accessible to the public 6-foot wire mesh when located at ground level 4-foot wire mesh around play area Solid wall or solid painted fence 8 feet high 4-foot wire mesh abutting Residential Use Painted board fence 8 feet high Adequate to protect abutting use 6-foot wire mesh 6-foot solid painted for refuse dump 6-foot wire mesh abutting Residential Use
j. 1. 2. 3. 4. 5.	Screen Planting Where Abutting Residential Use (Tight screen, effective at all times) 6-foot height by 6-foot width 25 feet abutting Residential District or Use 8-foot height by 6-foot width Adequate to screen power substation from street view 6 feet high along streets for refuse dump

Nashville - Land Usage

Requirement Designation	Requirement <i>(Note: Use of # symbols indicates that the requirements of the district apply to the special exception where located)</i>
k.	Parking Spaces <ol style="list-style-type: none"> 1. 1 per 2 employees plus 1 per 4 seats in waiting room 2. 1 per 2 customers or members 3. 1 per 2 employees plus 3 per doctor 4. 1 per 3 employees plus 1 per 6 students 5. 30 6. 1 per 3 employees per shift 7. 1 per 3 employees plus 1 per 125 square feet of sales area 8. 1 additional 9. 1 per 4 beds plus 1 per doctor plus 1 per 3 employees plus 1 per hospital vehicle 10. 1 per 2 employees on largest shift 11. 1 per 2 employees 12. 1 per 2 employees plus 1 per 5 children to be accommodated 13. 1 per 2 employees 1 per mobile home stand 14. 1 per 3 employees plus 1 per 500 square feet of use area 15. 1 per 3 employees plus 1 per 10 inmates at estimated capacity 16. 1 per 3 employees plus 1 per driving tee 17. 1 per camp site and 1 per cabin 18. Telephone exchange - 1 per employee 19. 1 per employee per shift 20. 1 per 2 employees where headquartered 21. 1 per 5,000 square feet 22. 1 23. 1 per 60 square feet of sales area 24. 3 per 4 employees plus 1 per 4 seats 25. 1 per 2 employees plus 4 for customers 26. 1 per employee plus 1 per sleeping accommodation 27. 2 28. 1 per employee plus 1 for each 6 seats in main auditorium
l.	Distance of Parking Area from Residential Use (Feet) <ol style="list-style-type: none"> 1. 10 2. 25 3. 50 4. 100 5. 300
m.	Number of Loading and Unloading Berths (Shall not face on bordering highway) <ol style="list-style-type: none"> 1. 1 2. 2 3. Per Development Plan 4. 15,000 square feet - 1; over 15,000 square feet - 2 5. Up to 200 beds - 1; 200 to 500 beds - 2; over 500 beds - 3 6. Per Figure 6

Zoning Code

100C

<i>Requirement Designation</i>	<i>Requirement</i> <i>(Note: Use of # symbols indicates that the requirements of the district apply to the special exception where located)</i>
n.	Distance of Loading and Unloading Berth from Residential Use (Feet)
1.	50
2.	100
3.	300
o.	Plat Approved by the Commission to be Submitted with Application
p.	Development Plan to be Submitted with Application
q.	Covenant by Owners to Perpetuate Maintenance and Approve Future Improvements
r.	Maximum Number of Principal Entrances from Major Thoroughfare
1.	1
2.	2
s.	Acceptable Relationship to Major Thoroughfare
t.	Thoroughfares Must be Adequate to Carry Additional Traffic Engendered by Use
u.	Other Authority Approval Required
1.	State Board of Health
2.	Aeronautics Commission of Indiana
3.	Planning Act - Section 58-1/2
4.	Flood Control Act
v.	Outdoor Advertising Signs and Outdoor Artificial Lighting Shall be Approved by the Commission
w.	Disposal of Liquid and Other Wastes Shall Meet the Approval of the State Board of Health
x.	No Sales, Dead Storage, Repair Work or Dismantling on the Lot
y.	No Parking in the Front yard, Except as Provided in Section 15
z.	Except for Approved Exits and Entrances, A Masonry Wall 4 Feet in Height and 6 Inches Thick Erected at Required Front Line of Building and may be Required Along Boundaries of Parking Area as Determined by the Commission for the Protection of Residentially Zoned or Used Property

(Am. Ord. 1997-5, passed 11-20-1997; Am. Ord. 2000-6, passed 11-16-2000; Am. Ord. 2003-04, passed 7-17-2003)

CHAPTER 154: PLANNED UNIT DEVELOPMENTS

Section

- 154.01 Purpose
- 154.02 Definition
- 154.03 Requirements for planned unit development
- 154.04 Procedure for approval of planned unit development
- 154.05 Specific content of plans
- 154.06 Review considerations
- 154.07 Changes in the planned unit development

consisting of a map showing the development area and all improvements to the development area, a text which sets forth the uses and the development standards to be met, and exhibits setting forth any aspects of the development plan not fully described in the map and text. The map, exhibits, and text constitute a development plan. The uses and standards expressed in the development plan constitute the use and development regulations for the planned unit development site in lieu of the regulations for the underlying district.

(Ord. 2004-6, passed 8-19-2004)

§ 154.01 PURPOSE.

The purpose of the planned unit development is to encourage flexibility in the development of land in order to promote its most appropriate use; to improve the design, character and quality of new developments; to encourage a harmonious and appropriate mixture of uses; to facilitate the adequate and economic provision of streets, utilities and city services; to preserve the natural environmental and scenic features of the site; to encourage and provide a mechanism for arranging improvements on sites so as to preserve desirable features; and to mitigate the problems which may be presented by specific site conditions. It is anticipated that planned unit developments will offer one or more of the preceding advantages.

(Ord. 2004-6, passed 8-19-2004)

§ 154.02 DEFINITION.

A **PLANNED UNIT DEVELOPMENT** is an area under single ownership or control to be developed in conformance with an approved development plan,

§ 154.03 REQUIREMENTS FOR PLANNED UNIT DEVELOPMENT.

(A) The area designated in the planned unit development map must be a tract of land under single ownership or control. Single control of property under multiple ownership may be accomplished through the use of enforceable covenants and commitments which may be enforced by the Area Plan Commission and its designated agents.

(B) The outline plan shall indicate the land use, development standards, and other applicable specifications of the Nashville Land Use and Zoning Ordinances which shall govern the planned unit development. If the outline plan is silent on a particular land use, development standard, or other specification of the Nashville Zoning Land Use and Zoning Ordinances, the standard of the underlying district or the applicable regulations shall apply.

(C) The planned unit development map shall show the location of all improvements. The location of

planned unit developments shall be designated on the zoning map and adopted pursuant to this chapter.

(D) The planned unit development must comply with all required improvement construction standards and design standards of the Nashville Land Use Ordinance and Zoning Ordinances.

(E) Designation and conveyance of permanent open space.

(1) *Definition.* **PERMANENT OPEN SPACE** shall be defined as parks, playgrounds, landscaped green space, and natural areas, not including schools, community centers or other similar areas in public ownership.

(2) *Designation.* No plan for a planned unit development shall be approved, unless such plan provides for permanent landscaped or natural open space.

(3) *Stages.* If the outline plan provides for the planned unit development to be constructed in stages, open space must be provided for each stage of the planned unit development in proportion to that stage.

(4) *Conveyance.* Permanent open space shall be conveyed in one of the following forms:

(a) To a municipal or public corporation; or

(b) To a not-for-profit corporation or entity established for the purpose of benefiting the owners and tenants of the planned unit development or, where appropriate and where approved by the Plan Commission and the Town Council, adjoining property owners, or both. All conveyances hereunder shall be structured to insure that the grantee has the obligation and the right to effect maintenance and improvement of the common open space; and that such duty of maintenance and improvement is enforced by the owners and tenants of the planned unit development and, where applicable, by adjoining property owners; or

(c) To owners other than those specified in Subsections (a) and (b) above, and subject to restrictive covenants describing and guaranteeing the open space and its maintenance and improvement, running with the land for the benefit of residents of the Planned Unit Development or adjoining property owners, or both; or

(d) Included in single family residential lots under the control of lot owners. (Ord. 2004-6, passed 8-19-2004)

§ 154.04 PROCEDURE FOR APPROVAL OF PLANNED UNIT DEVELOPMENT.

(A) *Introduction.* Applications shall be accompanied by all plans and documents required by § 154.07. A four step application process shall be used. The steps in the process are:

- (1) Pre-design conference;
- (2) Outline plan approval; and
- (3) Design review in B1, B2 and B3 only;
- (4) Development plan approval.

(B) *Pre-design conference.* Prior to filing a formal application for approval of a planned unit development, the applicant shall schedule a pre-design conference with the planning staff. The purpose of the pre-application conference shall be to:

- (1) Allow the applicant to present a general concept and to discuss characteristics of the development concept in relation to adopted town policies.
- (2) Allow the planning staff to inform the applicant of applicable policies, standards and procedures for the planned unit development.
- (3) The pre-design conference is intended only for the above purposes; neither the developer nor the jurisdiction is bound by any decision made during a pre-application conference.

(C) *Procedure for outline plan approval.*

(1) The outline plan and application for the planned unit development shall be submitted to the Plan Commission.

(2) The application and the results of the review shall then be forwarded to the Plan Commission for its consideration, public hearing and recommendations.

(3) The Plan Commission shall hold a public hearing in accordance with its rules of procedure.

(4) Where there are environmentally sensitive features on the site or the development plan is expected to be complex, or there are other important planning implications involved, the plan commission may reserve the right to review the development plan.

(5) Upon completion of its review, the Plan Commission shall certify the application to the Town Council with a favorable recommendation, an unfavorable recommendation, or no recommendation.

(6) If the underlying district is a B1, B2 or B3 zone, then the architectural, signage and landscape features of the outline plan must be submitted to the Design Review Board, as established by Ordinance 2002-07, which shall make its report to the Town Council within 30 days of submission. If no report is made by the Design Review Board within 30 days, the architectural, signage and landscaping features shall be deemed approved.

(7) The Town Council shall vote on the proposal within 90 days after the Plan Commission certifies the proposal. The Town Council may adopt or reject the proposal. If the Plan Commission has given the proposal a favorable recommendation and the Board fails to act on the proposal within 90 days, the Ordinance takes effect as if it had been adopted as certified 90 days after certification. If the Plan Commission has failed to make a recommendation or has given the proposal an unfavorable

recommendation and the Board fails to act on the proposal within 90 days, the proposal is defeated.

(D) *Effect of approval of outline plan.*

(1) When an outline plan for a planned unit development has been approved by the Town Council, the plan shall become effective and its location shall be shown on the zoning map. The zoning map shall be amended to designate the site as a planned unit development.

(2) Upon such amendment of the zoning map, the use and development of the site shall be governed by the planned unit development outline plan, subject to approval of a development plan.

(3) No permit of any kind shall be issued until the development plan has been approved.

(E) *Development plan.*

(1) The purpose of the development plan is to designate the controls for development of the planned unit development. The development plan shall show the exact location of each building and improvement to be constructed and a designation of the specific internal use or range of uses to which each building shall be put.

(2) The development plan shall be submitted to the Plan Office not more than 18 months following the Town Council's approval of the outline plan. The outline and development plans may be submitted as a single plan if all requirements of §§ 154.05(B) and (C) are met. The development plan may be submitted and approved in stages, with each stage representing a portion of the outline plan, at the discretion of the Plan Commission. The time limit for submitting each stage for approval may be set forth in the outline plan, in which case that schedule shall control the timing of development, rather than the time period contained in this paragraph. The Plan Commission may extend the time for application for approval of development plan for good cause, consistent with the purposes of this chapter.

(3) If the time limits have expired, the planning staff shall report to the Plan Commission on planned unit developments whose time limits have expired. The applicants shall be notified. The Plan Commission shall determine whether to consider extending the time or to initiate action to amend the zoning map so as to rescind the planned unit development designation.

(4) The development plan shall conform to the outline plan as approved.

(5) Procedure for approval of a development plan shall be:

(a) *Development plan submission.* The development plan and supporting data shall be filed with the planning staff.

(b) *Staff review.* The planning staff shall review the development plan to include site plan review, in accordance with the requirements of this chapter.

(c) *Staff approval.* It shall generally be the responsibility of staff to review development plans unless the Plan Commission reviews the development plans or where new development is required.

(d) *Plan Commission review.* If the Plan Commission has retained development plan approval authority, the Plan Commission shall hold a public hearing in accordance with its rules of procedure. The Commission may approve, deny or approve with modifications.

(6) *Expiration of development plan.* The development plan shall expire 2 years after approval, unless grading and/or building permits have been obtained and are still current and valid on that date. This rule shall also apply to each stage of a development plan approved in stages. The applicant may request an extension of time in writing, and the approving authority may extend the time limit where appropriate. Such extension may be considered at the time of development plan approval.

(7) *Effect of approval of development plan.*

No permit of any kind shall be issued for any purpose within a planned unit development except in accordance with the approved development plan, and after acceptance by the Town Council of all required guarantees for improvements.

(Ord. 2004-6, passed 8-19-2004)

§ 154.05 SPECIFIC CONTENT OF PLANS.

Planned unit development plans and supporting data shall include all documentation listed in this section of the Zoning Ordinance unless certain documentation is deemed superfluous by the planning staff due to the specific circumstances of the particular request.

(A) *Pre-design conference requirements.*

(1) A written letter of intent from the applicant describing the applicant's intention for developing the site.

(2) A scaled drawing of the site, in simple sketch form, showing the proposed location and extent of the land uses, major streets, and the approximate location of any existing easements, natural features, and topographic or geologic constraints.

(B) *Outline plan requirements.*

(1) A drawing of the planned unit development shall be prepared at a scale not less 1"=50', or as considered appropriate by the planning staff, and shall show in concept major circulation; generalized location and dimensions of buildings, structures, and parking areas; open space areas, recreation facilities, and other details to indicate the character of the proposed development. The submission shall include:

(a) A site location map.

(b) The name of the development, with the words, "Outline Plan".

(c) Boundary lines and acreage of each land use component.

(d) Existing easements, including location, width and purpose.

(e) Existing land use on abutting properties.

(f) Other conditions on adjoining land: topography (at 2-foot contours) including any embankments or retaining walls; use and location of major buildings, railroads, power lines, towers and other influences, name of any adjoining subdivision plat.

(g) Existing streets on and adjacent to the tract, including street name, right-of-way width, walks, curbs, gutters, and culverts.

(h) Proposed public improvements: streets and other major improvements planned by the public for future construction on or adjacent to the tract.

(i) Existing utilities on the tract.

(j) Any land on the tract within the 100-year floodplain.

(k) Other conditions on the tract, including water courses, wooded areas, existing structures and other significant features.

(l) Existing vegetation to be preserved and the locations, nature, and purpose of proposed landscaping.

(m) Map data such as north point, scale and date of preparation.

(2) Miscellaneous: the Plan Office shall inform the applicant of any additional documents or data requirements after the pre-application conference.

(3) Written statement of character of the planned unit development: The written statement shall include:

(a) Ownership: a statement of present and proposed ownership of all land within the project including the beneficial owners of a land trust.

(b) Development scheduling indicating:

1. Stages in which the project will be built, including the area, density, use, public facilities, and open space to be developed with each stage. Each stage shall be described and mapped.

2. Projected dates for beginning and completion of each stage.

(c) Proposed uses:

1. Residential uses: gross area, architectural concepts (narrative, sketch, or representative photo), number of units bedroom breakdown, and proposed occupancy limits for each residential component:

2. Nonresidential uses: specific nonresidential uses, including gross areas, architectural concepts (narrative, sketch, or representative photo), and building heights.

(d) Facilities plan: preliminary concepts and feasibility reports for:

1. Roads, streets and alleys;

2. Sidewalks;

3. Sanitary sewers;

4. Stormwater management;

5. Water supply system;

6. Lighting;

7. Public utilities.

(4) Traffic analysis: if requested by the Plan Staff or the Plan Commission, a study of the

impact caused by the planned unit development and any measures proposed to accommodate that impact.

(C) *Development plan requirements.* The application for development plan approval shall include, but not be limited to, the following documents:

(1) Such additional information as may have been required by the outline plan approval.

(2) An accurate map exhibit of the entire phase for which development plan approval is being requested, showing the following:

(a) Precise location of all buildings to be constructed, and a designation of the specific use or range of uses for each building. Single family residential development on individual lots need not show precise locations of buildings on each lot, but plans shall show setback and other bulk constraints.

(b) Design and precise location of all streets, drives, and parking areas, including construction details, centerline elevations, pavement type, curbs, gutters, and culverts.

(c) Location of all utility lines and easements.

(d) A final detailed landscape plan, in conformance with the plan approved in the outline plan.

(e) Tabulation on each separate subdivided use area, including land area, number of buildings, number of dwelling units per acre, type of unit, bedroom breakdown, and limits on occupancy.

(3) If lands to be subdivided are included in the planned unit development, a subdivision plat meeting the requirements of a preliminary plat, as modified by the outline plan approval, is required where platting is to be done concurrent with the development plan approval.

(4) Projected construction schedule.

(5) Agreements and covenants which govern the use, maintenance, and continued protection of the planned unit development and its common spaces, shared facilities, and private roads.

(6) A comprehensive estimate of the cost of all proposed improvements so that a determination of the amount of bond, letter of credit or other surety may be made.

(7) Guarantee of performance for completion of improvements: a bond or other guarantee acceptable to the Nashville Town Council and the Brown County Area Plan Commission shall be provided for all required improvements and shall be executed at time of permit application or platting, whichever comes first. Improvements that must be guaranteed include facilities which shall become public, and may include other facilities or improvements as may be specified in the outline or development plan approval. If the project is to be built in phases, the guarantee shall be posted prior to the commencement of work on each phase. The guarantee shall specify the time for completion of improvements, and shall be in an amount of 125% of the estimated cost of the improvements.

(Ord. 2004-6, passed 8-19-2004)

§ 154.06 REVIEW CONSIDERATIONS.

In their consideration of a planned unit development outline plan, the planning staff in its report to the Plan Commission, the Plan Commission in its recommendation, and the Board of Commissioners in its decision, shall consider as many of the following as may be relevant to the specific proposal:

(A) The extent to which the planned unit development meets the purposes of the Nashville Land Use and Zoning Ordinances, the Comprehensive Plan, and any other adopted planning objectives of the Town of Nashville.

(B) The extent to which the proposed plan meets the requirements, standards, and stated purpose of the planned unit development regulations.

(C) The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to, the density, dimension, bulk, use, required improvements, and construction and design standards and the reasons, which such departures are or are not deemed to be in the public interest.

(D) The proposal will not be injurious to the public health, safety, and general welfare.

(E) The physical design of the planned unit development and the extent to which it makes adequate provision for public services, provides adequate control over vehicular traffic, provides for and protects designated permanent open space, and furthers the amenities of light and air, recreation and visual enjoyment.

(F) The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood, and whether the proposed plan would substantially interfere with the use or diminish the value of adjacent properties and neighborhoods.

(G) The desirability of the proposed plan to the town's physical development, tax base and economic well-being.

(H) The proposal will not cause undue traffic congestion, and can be adequately served by existing or programmed public facilities and services.

(I) The proposal preserves significant ecological, natural, historical, and architectural resources to the extent possible.

(Ord. 2004-6, passed 8-19-2004)

§ 154.07 CHANGES IN THE PLANNED UNIT DEVELOPMENT.

(A) *Changes requiring new outline plan approval.* Changes which alter the concept or intent of the planned unit development including but not limited to:

- (1) Significant increases in density;
- (2) Significant changes in the proportion or allocation of land uses;
- (3) Changes in the list of approved uses;
- (4) Changes in the locations of uses;
- (5) Changes in functional uses of open space, where such change constitutes an intensification of use of the open space; and/or
- (6) Changes in the final governing agreements where such changes conflict with the outline plan approval.

(B) *Changes requiring new development plan approval.* These changes shall include the following:

- (1) Changes in lot arrangement, or addition of buildable lots which do not change approved density of the development;
 - (2) Changes in site design requirements, such as location of required landscaping, signage, building height, cube and/or footprint, or other such requirements of this chapter;
 - (3) Changes to the internal street system or off-street parking areas;
 - (4) Changes in drainage management structures;
 - (5) Changes in access to the development site, where such change amounts to an intensification in the traffic patterns of roadways of classification higher than local; and/or
 - (6) All other changes not expressly addressed under division (A) shall require new development plan approval.
- (Ord. 2004-6, passed 8-19-2004)

CHAPTER 155: STRUCTURE AND PROPERTY MAINTENANCE REGULATIONS

Section

- 155.01 Findings
- 155.02 Adoption of the Unsafe Building Law
- 155.03 Appointment of department to administer chapter
- 155.04 Appointment of hearing authority
- 155.05 Adoption of Chapter 36, abatement of vacant structures and abandoned structures

- 155.98 Construction
- 155.99 Penalty

(F) Vacant, deteriorated structures contribute to blight, cause a decrease in property values, and discourage neighbors from making improvements to properties.

(G) Structures that remain boarded up for an extended period of time also exert a blighting influence and contribute to the decline of the neighborhood by decreasing property values, discouraging persons from moving into the neighborhood, and encouraging persons to move out of the neighborhood.

§ 155.01 FINDINGS.

(A) In the town, there exists a number of unoccupied structures that are not maintained and that constitute a hazard to public health, safety, and welfare.

(B) Vacant structures often become dilapidated because the structures are not maintained and repaired by the owners or persons in control of the structures.

(C) Vacant structures attract children, become harborage for vermin, serve as temporary abodes for vagrants and criminals, and are likely to be damaged by vandals or set ablaze by arsonists.

(D) Unkept grounds surrounding vacant structures invite dumping of garbage, trash, and other debris.

(E) Vacant structures may be situated on narrow town lots and in close proximity to neighboring structures, thereby increasing the risk of conflagration and spread of insect and rodent infestation.

(H) Vacant structures often continue to deteriorate to the point that demolition of the structure is required, thereby decreasing available housing in a community and further contributing to the decline of the neighborhood.

(I) The blighting influence of vacant, deteriorated structures adversely affects the tax revenue of local government.

(J) The Town Council finds that vacant, deteriorated structures create a serious and substantial problem and are a public nuisance.

(K) In recognition of the problems created in a community by vacant structures, the Town Council finds the vigorous and disciplined action should be taken to ensure the proper maintenance and repair of vacant structures and intends to adopt maintenance and repair standards appropriate for the community in accordance with this chapter and other statutes. (Ord. 2013-03, passed 3-21-2013)

§ 155.02 ADOPTION OF THE UNSAFE BUILDING LAW.

The town hereby adopts I.C. 36-7-9, which establishes the Indiana Unsafe Building Law.
(Ord. 2013-03, passed 3-21-2013)

§ 155.99 PENALTY.

The criminal and civil penalties listed in I.C. 36-7-9-28 and I.C. 36-7-36-10 shall be the penalties for violation of this chapter.
(Ord. 2013-03, passed 3-21-2013)

§ 155.03 APPOINTMENT OF DEPARTMENT TO ADMINISTER CHAPTER.

The Town Administration Department shall be the executive department authorized to administer this chapter.
(Ord. 2013-03, passed 3-21-2013)

§ 155.04 APPOINTMENT OF HEARING AUTHORITY.

The Town Council shall be the hearing authority.
(Ord. 2013-03, passed 3-21-2013)

§ 155.05 ADOPTION OF CHAPTER 36, ABATEMENT OF VACANT STRUCTURES AND ABANDONED STRUCTURES.

The town hereby adopts I.C. 36-7-36, which establishes Chapter 36, abatement of vacant and abandoned structures.
(Ord. 2013-03, passed 3-21-2013)

§ 155.98 CONSTRUCTION.

Any reference to a state statute shall mean the statute as amended from time to time, or any similar statutory provision that may supersede it relating to the same or similar subject matter.
(Ord. 2013-03, passed 3-21-2013)

TABLE OF SPECIAL ORDINANCES

Table

- I. AGREEMENTS**
- II. ANNEXATIONS**
- III. CONTRACTS**
- IV. REAL ESTATE TRANSACTIONS**
- V. VACATIONS**
- VI. ZONING MAP CHANGES**
- VII. BONDS**

TABLE I: AGREEMENTS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
Res. 1993-1	2-26-1993	Agreement authorizing the Mayor to execute for and on behalf of membership agreement in the Indiana Public Employers' Plan, Inc.
1993-4	- -1994	Agreement between the town and North O'Town/Pine Tree Hills Development for providing municipal services.
Res. 2007-02	3-15-2007	Authorizing the Town Council President to execute an agreement on behalf of the Police Department to purchase 2 automated external defibrillators using a \$4,000 grant from the Indiana Homeland Security Foundation.
10-05-09-01	10-5-2009	Authorizing and approving an interlocal agreement for economic development with the county.
Res. 2018-01	4-19-2018	Adopting second amended and restated agreement and declaration of trust of the AIM Medical Trust.
Res. 2019-07	12-30-2019	Approving execution of equipment lease documents for the purpose of acquiring police vehicles.
Res. 2020-13	12-17-2020	Approving execution of equipment lease documents for the purpose of acquiring maintenance and service vehicles.

TABLE II: ANNEXATIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
71166	--1966	Annexation of certain property beginning at an iron pin marking the center of section 19.
1-6-69	1-6-1969	Annexation of certain real estate, beginning 608.8 feet west of the northeast corner of the northwest quarter of the southwest quarter of section 19.
1971-3	--1971	Annexation of certain property, beginning at a point on the south right-of-way line of State Highway 46, in the northeast quarter of section 190.
1981-1	--1981	Annexation of certain properties, beginning with a part of the northwest quarter of section 29.
1993-4	--1993	Annexation of the North O'Town Condominium Projects and other properties.
1994-1	2-9-1994	Annexation of adjacent and contiguous territory commonly known as the Pine Tree Hills Addition.
1994-5	5-18-1995	Annexation of adjacent and contiguous territory commonly known as the Pine Tree Hills Addition, Phases III and IV.
1998-1	2-10-1998	Annexation of adjacent and contiguous territory commonly known as the Pine Tree Hills Addition, Phases IV and V, and including the same in Council District No. 1.
1998-2	2-10-1998	Annexation of adjacent and contiguous territory commonly known as the county property between the Brown County Inn and Salt Creek Plaza, and including the same in Council District No. 3.
2002-11	4-1-2003	Annexation of adjacent and contiguous territory commonly known as the Pine Tree Hills Addition, Phases VI and VII, and including the same in Council District No. 1.
2009-2	4-16-2009	Concerning the annexation of adjacent and contiguous territory commonly known as the Alexander Tract Phase II.

Nashville - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
Res. 2010-1	3-18-2010	Approving and adopting the fiscal plans for the annexation of Orchard Hill and Coffey Hill.
2010-2	7-22-2010	Annexing an area consisting of approximately 101 acres, located adjacent and contiguous to the town, commonly known as Coffey Hill.
2010-3	7-22-2010	Annexing an area consisting of approximately 128.5 acres, located adjacent and contiguous to the town, commonly known as Orchard Hill.
Res. 2011-02	4-21-2011	Approving and adopting a fiscal plan for the annexation of 2356 East State Road 46, 2412 East State Road 46, and 1150 Old State Road 46 East.
2011-03	9-15-2011	Annexing located adjacent and contiguous territory, commonly known as 2356 East State Road 46, 2412 East State Road 46, and 1150 Old State Road 46 East.
2015-01	6-18-2015	Annexing an area consisting of approximately 0.62 acres, located adjacent and contiguous to the town, commonly known as Napa Building.
Res. 2015-01	1-15-2015	Approving and adopting a fiscal plan for the annexation of 2356 East State Road 46, 2412 East State Road 46, and 1150 Old State Road 46 East.
Res. 2017-02	4-20-2017	Annexing an area of adjacent and contiguous territory commonly known as Firecracker Hill.
2017-09	9-21-2017	Annexing adjacent and contiguous territory located at 418 Old State Road 46.
Res. 2017-06	9-21-2017	Adopting the fiscal plan for annexation of 418 Old State Road 46.
2020-08	9-17-2020	Annexing adjacent and contiguous 0.282 acre territory known as parcel number 003-0540-19.
Res. 2020-11	9-17-2020	Proceeding with the annexation of a 0.282 acre contiguous territory known as parcel number 003-05740-19.

TABLE III: CONTRACTS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
—	2-4-1952	Contract for electric energy for power and light for operating a municipal water pumping and/or sewage disposal system.
1-28-64	1-28-1964	Contract for electric energy for power and light for operating a municipal water pumping and sewage disposal system.
4664	4-6-1964	Contract approving street lighting with Public Service Company of Indiana, Inc.
3-6-67	3-6-1967	Maintenance contract for the waterworks system between the East Monroe Water Company, the town and the City of Bloomington.
3-14-67D	3-6-1967	Maintenance contract for the waterworks system between the East Monroe Water Company, the town and the City of Bloomington.
3-14-67E	3-6-1967	Agreement for the transmission of water between the East Monroe Water Company and the town.
3-3-69	3-3-1969	Contract for electric energy for power and light for operating a municipal water pumping and/or sewage disposal system.
1971-1	5-10-1971	Contract of sale of water between the town of Nashville and the Brown County Water Utility, Inc.
1971-2	6-24-1971	Amendment of Ord. 1971-1, a contract of sale of water.
1979-2	7-2-1979	Contract for electric energy for power and light for operating a municipal water pumping and sewage disposal system.

Nashville - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
1981-5	9-8-1981	Franchise contract for electronic communications system between the town and the Brown County Democrat, Inc.
1983-1	1-6-1983	Contract between Public Service Company of Indiana, Inc. and the town for street lighting.
1984-5	9-10-1984	Amendment to Ord. 1981-5, a franchise contract between the town and the Brown County Democrat, Inc.
1991-7	- -1991	Contract forming the Nashville Town Hall Building Corporation in order to begin construction of the new town hall.
2002-05	4-18-2002	Franchise contract between the town and Charter Communications, VI, LLC, to operate and maintain a cable system for 15 years.
2002-09	6-20-2002	Amending franchisee of Ord. 2002-05 to correctly identify Interlink Communications Partners, LLC d/b/a Charter Communications as proper holder of the franchise.
2008-05	8-14-2008	Authorizing loans and execution of tax anticipation warrants.

TABLE IV: REAL ESTATE TRANSACTIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
72-2	6-5-1972	Sale of certain property, described as a part of Lots numbered 57 and 58 in the original plat of the town.
72-3	8-7-1972	Sale of certain property, described as a part of Lots numbered 57 and 58 in the original plat of the town.
Res. 2000-3	4-27-2000	Authorizing the sale and transfer of Onya LaTour Community Center from Brown County Library to the town.
Res. 6	10-30-2008	Interest in the purchase of property located 258 S. Jefferson Street, commonly known as the “Roberts Property” for the purpose of a parking lot on said site.
Res. 2012-07	8-16-2012	Authorizing the purchase of property located at 200 Hawthorne Drive, commonly known as the “Christole Building”.
Res. 2014-09	9-18-2014	Authorizing the transfer of the Four Corners Village Green property to the town.
Res. 2015-04	3-9-2015	Authorizing the purchase and mortgaging of property located at 27 South Jefferson Street.
Res. 2017-04	5-11-2017	Authorizing steps necessary for financing and purchasing of property for public park.
Res. 2019-02	3-8-2019	Interest in the purchase of real property.
Res. 2020-05	4-24-2020	Authorizing the sale of 200 Hawthorne Drive.
Res. 2020-06	4-24-2020	Authorizing the purchase of property commonly known as 25 Artist Drive.

TABLE V: VACATIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
—	9-2-1958	The vacation of the platted but unopened portions of Gardner Avenue.
1998-4	6-18-1998	Vacation of the portion of Mound Street west of Johnson Street.
1998-15	10-15-1998	Amending Ord. 1998-4 regarding the walkway easement on the Zieg tract (Outlot No. 5).
2001-03	3-15-2001	Amending Ord. 1998-4 regarding Inlot No. 7.
2015-07	8-6-2015	Vacation of the portion of Molly's Lane from Buck Stogsdill Way to Locust Lane.
2019-09	12-19-2019	Closing Pittman House Lane between Sycamore Lane and Johnson Street to all motor vehicles except as necessary for construction and upkeep of Lincoln Pinch Park.

TABLE VI: ZONING MAP CHANGES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
3-14	3-14-1967	Amendment to the zoning code, changing part of the land of the southwest quarter and part of the southwest quarter of section 19 from residential to business.
9-5-67	9-5-1967	Amendment to the zoning code, changing part of the west half of the northwest quarter of section 19 from business 2 to business 3.
Res. —	11-12-1979	Resolution to adopt the rezoning of a part of Outlot No. 2 in the original plat of the town from R-2 to B-2.
Res. —	11-12-1979	Resolution to adopt the rezoning of Lot No. 1 in the Shulz Addition of the town from B-1 to B-2.
1981-2	3-2-1981	Amendment to the zoning code, zoning property in the northwest quarter of the southwest quarter of section 19 as B-3.
1981-3	3-2-1981	Amendment to the zoning code.
1981-6	10-5-1981	Changing part of the northwest quarter of the northwest quarter of section 19 from R1 to R2.
1982-2	3-1-1982	Amendment to the zoning code, changing a part of the east side of Lot No. 37 in the Barnes addition from R2 (residential) to RB (restricted buffer).
1982-3	6-7-1982	Amendment to the zoning code, changing a part of the east side of Lot 37 in Barnes addition from R2 (residential) to RB (residential buffer).
1982-5	7-12-1982	Amendment to the zoning code, changing Lots 114, 115 and part of 113 from R2 (residential) to RB (restricted buffer).

Nashville - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
1982-6	8-5-1982	Amendment to the zoning code, changing Lots 123, 124, 125, 126, 127, and 128 to RB (restricted buffer).
1982-8	10-4-1982	Amendment to the zoning code, changing part of the east end of Lot 44 in the Barnes Addition from R2 (residential) to RB (Restricted Buffer).
1984-8	11-5-1984	Amendment to the zoning code, changing Inlots 121, 122 and 15-1/2 feet off of the entire south side of Inlot 120 from R2 (Residential) to RB (Restricted Buffer).
1984-7-1	11-5-1984	Amendment to the zoning code, changing Outlots 2 and 7 in the Barnes Addition to B2 (Business).
1985-1	3-4-1985	Amendment to the zoning code, changing part of the northeast corner of Inlot 3 from R1 (residential) to R2 (residential).
1985-2	3-4-1985	Amendment to the zoning code, changing part of the northeast corner of Inlot 3 from R1 (residential) to R2 (residential).
1985-4	6-3-1985	Amendment to the zoning code, changing part of the Northwest quarter of Sec. 19 from B 1 (business) to RB (restricted buffer).
1988-9	7-21-1988	Amendment to the zoning code, changing Lot 113 from R2 (residential) to RB (restricted buffer).
1988-18	12-15-1988	Amendment to the zoning code, changing Lot 117 from R2 (residential) to RB (restricted buffer).
1989-8	7-20-1989	Amendment to the zoning code, changing part of the west end of Lot 37 in the Barnes Addition from R2 (residential) to RB (restricted buffer).
1992-5	9-17-1992	Amendment to the zoning code, changing Inlots 118 and 119 from R2 (residential) to RB (restricted buffer).

Zoning Map Changes

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
1993-7	12-6-1993	Amendment to the zoning code, changing Inlot 12 in the Barnes Addition from R2 (residential) to RB (restricted buffer).
1995-6	7-7-1995	Amendment to zoning map, designating as Planned Unit Development a 0.70 acre tract of land located adjacent to Shulz Drive, property owners/developer of Harden/Rariden 6-unit apartment development.
1995-15	12-21-1995	Amendment to zoning map granting R2 zoning for a tract of land located at 204 North Johnson Street.
1998-16	10-15-1998	Amendment to the zoning map as shown on Exhibit 1 of Ord. 1998-16.
2005-07	7-21-2005	Amendment to the zoning map, zoning property in the northwest quarter of section 19, township 9 north, range 3 east, as B2.
2006-10	9-21-2006	Amending the zoning map for Creekside Apartments from R-1 zone to B-2 zone.
2010-4	7-15-2010	Rezoning property commonly know as 300 North Locust Lane from R1 to R2.
2012-12	10-4-2012	Rezoning property owned by Big Woods Brewing Company, LLC from R1 to B3.
2012-15	1-17-2013	Rezoning property commonly known as 360 State Road 135 N to RB.
2012-16	12-20-2012	Rezoning property located at 1904 State Road 135 North from R1 to B3.
2014-09	12-18-2014	Amendment to the zoning code, changing part of the east half of the northwest quarter and a part of the west half of the northeast quarter of Section 19, Township 9 North, Range 3 East to B3.
2015-09	9-17-2015	Amendment to the zoning code, changing Lots 16 and 17 in the Patrick J. Mullaney's addition to RB.
2015-11	9-17-2015	Amendment to the zoning code, changing part of the northeast quarter of the southwest quarter of Section 19, Township 9 North, Range 3 East of the Second Principal Meridian, Washington Township to B3.

Nashville - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
2015-14	11-19-2015	Amendment to the zoning code, changing 44 feet by parallel lines off the entire north side of Inlot 120 to RB.
2016-02	1-21-2016	Amendment to the zoning code, changing part of the northwest quarter of the northwest quarter of Section 19, Township 9 North, Range 3 East to B2.
2016-06	6-16-2016	Rezoning property commonly known as 75 Willow Street to B3.
2016-13	12-1-2016	Rezoning property commonly known as 140 W. Main Street to B1.
2017-03	5-4-2017	Rezoning property commonly known as 221 Locust Lane to RB.
2017-11	10-19-2017	Rezoning property commonly known as 210 Jefferson Street to RB.
2018-01	2-15-2018	Rezoning property commonly known as 188 Jefferson Street to B1.
2018-02	2-15-2018	Rezoning property located adjacent to 2450 State Road 46 East to B2.
2019-03	5-16-2019	Rezoning 243 Heimbürger Lane, Nashville, IN 47448 from to B1.
2020-10	10-15-2020	Rezoning 241 Heimbürger Lane and 245, 247, 251, 255, 259, and the lot between 245 and 247 Old State Road 46 to B1.

TABLE VII: BONDS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
1995-11	11-9-1995	Bond issue for the construction of improvements, additions and extensions to the waterworks system.
2010-5	9-2-2010	Bond issue for the acquisition, construction and installation of certain improvements for the sewage works system.
2015-16	11-19-2015	Bond issue for the collection, segregation and distribution of revenues of the waterworks system.
Res. 2017-10	12-21-2017	Bond issue for acquiring, constructing, enlarging, improving and/or extending town facility to serve area lawfully within its jurisdiction.
2017-16	12-21-17	Bond issue for extension of waterworks.

PARALLEL REFERENCES

References to Indiana Code
References to Resolutions
References to Ordinances

REFERENCES TO INDIANA CODE

<i>I.C. Section</i>	<i>Code Section</i>
4-21.5-3-7	150.39
4-21.5-5-1	92.99
4-22-1	95.02, 150.16
4-33-13-5(f)	34.080
5-3-1	33.95, 94.09, 153.025
5-4-1	30.16
5-11-10	31.22
5-13-9	34.004
5-14-1.5-1 <i>et seq.</i>	153.159
5-14-3-1 <i>et seq.</i>	153.159
5-22	30.03
6-1.1-17	34.100
6-1.1-18.5-9.8	34.018
6-2.5 <i>et seq.</i>	34.040—34.042
6-3.5-1.1-21	34.100
6-3.5-6-17.3	34.100
6-3.5-7	34.015, 34.017, 34.018
6-3.5-7-13.1	34.018
6-3.5-7-14	34.018
6-3.5-7-17.3	34.100
6-3.5-7-21	34.018
6-9-24-3	34.040
8-1-2-121(c)	51.20
8-1-11.1	153.151
8-1.5-3	33.140
8-1.5-3-3	33.141
8-1.5-3-9.1	51.41, 52.111
Title 9	33.130
9-13-1-1 <i>et seq.</i>	117.02
9-13-2-184	71.06
9-17	94.01, 94.10
9-18-12	94.17
9-21-8	Chapter 72, Schedule III
9-21-8-53	70.99
9-22-1-16	94.08
9-22-1-23	94.10
9-22-1-27	94.16
9-22-1-30	94.14
9-29-4	94.10
9-29-4-2	70.03
9-29-7	94.10
13-2-22	153.015

Nashville - Parallel References

<i>I.C. Section</i>	<i>Code Section</i>
14-28-1	151.05
14-28-1-26	151.050
14-28-3-3	151.01
22-9.5-1 <i>et seq.</i>	91.01
22-9.5-1-4 <i>et seq.</i>	91.04
22-9.5-2-2	91.04
22-9.5-2-3	91.04
22-9.5-2-4	91.04
22-9.5-2-8	91.04
22-9.5-2-9	91.04
22-9.5-2-10	91.04
22-9.5-2-10(b)	91.04
22-9.5-2-10(c)	91.04
22-9.5-2-11	91.04
22-9.5-2-13	91.04
22-9.5-4-8	91.02
22-9.5-5	91.04
22-9.5-6	91.02, 91.04
22-13-2-7	150.39
22-15-3-1	150.16
25-6.1	31.02
33-37-8-3	34.120
33-37-8-4	34.120, 70.99
34-4-32-1	70.99
34-24-30.1	34.070
35-45-1-1	92.20
35-48-1-9	36.060
36-1-5-4	36.064
36-1-20.2	36.064
36-1-21	36.064
36-2-7-2	153.155
36-4-6-11	36.064
36-4-8	31.22
36-4-9-2	33.144
36-4-9-12	33.144
36-5	34.100
36-5-2-9.4	36.064
36-5-2-10	33.66
36-5-4-2	34.070
36-7-4	153.150
36-7-4-208	153.151
36-7-4-601	151.01
36-7-9	155.02
36-7-9-10	155.99
36-7-9-28	155.99
36-7-14	33.60

References to Indiana Code

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<i>I.C. Section</i>	<i>Code Section</i>
36-7-36	155.05
36-8-2-4	92.01
36-8-3-20	33.02
36-8-3.5	33.90, 33.94, 33.95
36-8-3.5-3(a)	33.91
36-8-3.5-4(b)	33.91
36-8-3.5-4(c)	33.91
36-8-3.5-7	33.92
36-8-35-11	33.94
36-8-3.5-13	33.95
36-8-3.5-14	33.94
36-8-3.5-15	33.95
36-8-3.5-16	33.95
36-8-3.5-17	33.94
36-8-14	34.034, 34.111
36-9-16-2	34.111
36-9-16.5	34.034, 34.111
36-9-27-100	34.034, 34.111

REFERENCES TO RESOLUTIONS

<i>Res. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
—	1-19-1959	30.15
—	11-12-1979	T.S.O. VI
1987-1	11-18-1987	33.10—33.12
1988-2	10-20-1988	33.10—33.12
1989-4	- -1989	93.040—93.043
1990-1	1-18-1990	30.15
1991-2	1-17-1991	30.15
1992-1	1-28-1992	30.15
1993-1	2-26-1993	T.S.O. I
1993-2	5-20-1993	52.014
1993-3	7-15-1993	71.04
1994-3	2-7-1994	33.04
1994-2	2-9-1994	31.01, 31.02
1994-4	3-17-1994	91.01—91.03
1996-1	1-4-1996	32.01—32.03
1996-2	1-18-1996	36.037, 36.042
1996-3	1-18-1996	36.050—36.053
1996-4	2-15-1996	33.11
1997-2	3-20-1997	34.004
1997-4	7-17-1997	51.04
1998-1	6-18-1998	36.031—36.036, 36.041
1998-3	11-19-1998	36.031—36.036, 36.041
1998-4	12-17-1998	36.037, 36.042, 36.043
1998-5	12-17-1998	36.030
1999-8	11-18-1999	51.08
2000-1	2-21-2000	36.002
2000-3	4-27-2000	T.S.O. IV
2000-5	10-19-2000	36.037, 36.042, 36.043
2001-2	2-15-2001	153.180
2003-05	7-17-2003	153.023
2007-02	3-15-2007	T.S.O. I
2008-03	5-15-2008	34.090
2008-04	5-15-2008	36.003
6	10-30-2008	T.S.O. IV
2010-1	3-18-2010	T.S.O. II
2011-02	4-21-2011	T.S.O. II
2012-07	8-16-2012	T.S.O. IV
2012-13	11-29-2012	91.04
2013-03	3-21-2013	33.75, 33.76
2013-09	12-19-2013	52.060
2014-09	9-18-2014	T.S.O. IV
2015-01	1-15-2015	T.S.O. II

Nashville - Parallel References

<i>Res. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
2015-04	3-9-2015	T.S.O. IV
2015-12	12-17-2015	36.035
2016-01	1-7-2016	36.004, 36.014, 36.034, 36.038, 36.043
2016-03	5-19-2016	34.105
2017-02	4-20-2017	T.S.O. II
2017-04	5-11-2017	T.S.O. IV
2017-06	9-21-2017	T.S.O. II
2017-10	12-21-2017	T.S.O. VII
2018-01	4-19-2018	T.S.O. I
2018-04	11-15-2018	34.130
2019-02	3-8-2019	T.S.O. IV
2019-06	12-30-2019	33.150 - 33.152
2019-07	12-30-2019	T.S.O. I
2020-02	1-29-2020	33.150 - 33.152
2020-05	4-24-2020	T.S.O. IV
2020-06	4-24-2020	T.S.O. IV
2020-11	9-17-2020	T.S.O. II
2020-13	12-17-2020	T.S.O. I

REFERENCES TO ORDINANCES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
—	--	36.001, 36.011—36.020, 36.030—36.040, 36.050—36.063, 36.085
1	8-5-1880	11.01
—	--1937	111.01—111.03
1	2-4-1946	117.01, 117.02
155	--1948	34.060, 71.99
—	2-4-1952	T.S.O. III
—	--1957	33.25, 33.26
—	9-2-1958	T.S.O. V
—	--1959	153.128
—	7-26-1960	153.001—153.004, 153.015—153.022, 153.035, 153.036, 153.050—153.053, 153.060—153.062, 153.110—153.112, 153.126, 153.127, 153.129—153.131
3-3-1961	3-28-1961	51.01—51.07, 51.99
—	9-9-1963	153.036, 153.112, 153.127
1-28-64	1-28-1964	T.S.O. III
4664	4-6-1964	T.S.O. III
2-65	4-20-1965	113.01—113.05, 113.15—113.18, 113.35—113.41, 113.99
3-65	4-20-1965	114.01—114.04, 114.16—114.18, 114.30—114.33, 114.50—114.56, 114.70—114.73, 114.99
8265	8-2-1965	34.030—34.032
1-3-66	1-3-1966	30.15
71166	--1966	T.S.O. II
9-6-66	9-6-1966	52.015, 52.999
3-6-67	3-6-1967	T.S.O. III
3-14-67D	3-6-1967	T.S.O. III
3-14-67E	3-6-1967	T.S.O. III
3-14	3-14-1967	T.S.O. VI
9-5-67	9-5-1967	T.S.O. VI
4-3-68	5-6-1968	93.001, 93.999
6-3-68	6-3-1968	52.061, 52.062
1-6-69	1-6-1969	T.S.O. II
3-3-69	3-3-1969	T.S.O. III
7-7-69	8-4-1969	30.02
4-6-70	4-6-1970	11.02, 31.03, 31.99, 93.003, 93.999, 112.04, 130.01—130.07, 130.99, 131.04—131.08, 131.99
4-23-70	4-15-1970	50.30—50.33, 50.99

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
5-4-70	5-4-1970	35.01—35.05, 35.99, 112.99, 131.01—131.03, 131.99
1970-	10-5-1970	90.01—90.08, 90.99, 112.01—112.03, 112.99
1971-1	5-10-1971	T.S.O. III
1971-2	6-24-1971	T.S.O. III
1971-3	- -1971	T.S.O. II
72-2	6-5-1972	T.S.O. IV
72-3	8-7-1972	T.S.O. IV
1975-1	8-4-1975	34.060; 70.02; 70.99; 71.01; 71.99; Chapter 72, Schedules II and III;
1977-1	6-18-1977	71.02; 71.03; Chapter 72, Schedule I
1978-2	6-5-1978	92.01, 92.02
6679	9-5-1978	153.004, 153.015, 153.016, 153.035, 153.036, 153.050, 153.053, 153.060, 153.061, 153.070—153.072, 153.111, 153.126, 153.128
1979-2	7-2-1979	T.S.O. III
1979-3	10-1-1979	52.001—52.013, 52.025—52.027, 52.045, 52.060, 52.075—52.077
1980-5	1-4-1980	52.047, 52.060
1980-1	1-7-1980	51.02
1980-2	1-7-1980	153.015, 153.037
1980-3	1-7-1980	153.004, 153.050, 153.112
1980-4	1-7-1980	153.126
1980-6	3-3-1980	153.037
1981-1	- -1981	T.S.O. II
1981-2	3-2-1981	T.S.O. VI
1981-3	3-2-1981	153.111, 153.126, T.S.O. VI
1981-5	9-8-1981	T.S.O. III
1981-6	10-5-1981	T.S.O. VI
1982-2	3-1-1982	T.S.O. VI
1982-3	6-7-1982	T.S.O. VI
1982-5	7-12-1982	T.S.O. VI
1982-6	8-5-1982	T.S.O. VI
1982-8	10-4-1982	T.S.O. VI
1982-9	10-4-1982	33.02
1982-10	12-16-1982	30.01
1983-1	1-6-1983	T.S.O. III
1983-3	9-12-1983	90.01—90.08, 90.99
1984-1	3-5-1984	Chapter 73, Schedule II
1984-2	5-17-1984	70.99
1984-7	8-6-1984	153.131
1984-5	9-10-1984	T.S.O. III
1984-7-1	11-5-1984	T.S.O. VI
1984-8	11-5-1984	T.S.O. VI
1985-1	3-4-1985	T.S.O. VI

References to Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
1985-2	3-4-1985	T.S.O. VI
1985-3	5-6-1985	116.35, 116.36, 116.45—116.49, 116.99
1985-4	6-3-1985	T.S.O. VI
1986-1	1-6-1986	153.050
1986-4	11-3-1986	152.01
1987-4	5-7-1987	34.040—34.044
1987-6	10-15-1987	51.04
1988-1	1-30-1988	153.085—153.098
1988-2	3-17-1988	153.086, 153.130
1988-6	6-7-1988	150.01—150.07, 150.15—150.21, 150.35—150.40, 150.99
1988-9	7-21-1988	T.S.O. VI
1988-10	9-15-1988	70.03
1988-13	- -1988	33.40—33.48
1988-15	- -1988	93.075—93.080
1988-18	12-15-1988	T.S.O. VI
1988-19	1-12-1989	50.01—50.05, 50.15—50.22, 50.99
1989-3	3-16-1989	51.40—51.42, 52.110—52.112
1989-5	6-15-1989	153.130
1989-7	7-20-1989	93.002, 93.999
1989-8	7-20-1989	T.S.O. VI
1989-12	12-28-1989	30.15
1989-13	12-28-1989	33.02
1990-1	3-15-1990	52.090—52.095
1990-2	6-28-1990	52.040—52.042, 52.044—52.048
1990-7	12-20-1990	153.130
1991-1	3-21-1991	34.015—34.019
1991-2	- -1991	52.049
1991-4	9-26-1991	92.01, 92.02
1991-5	9-26-1991	34.001
1991-7	- -1991	T.S.O. III
1991-7	10-17-1991	52.045
1991-6	2-20-1992	93.055—93.061
1992-1	2-20-1992	33.01
1992-2	3-19-1992	33.02
1992-5	9-17-1992	T.S.O. VI
1992-3	11-19-1992	70.99; Chapter 72, Schedule II
1992-8	12-17-1992	30.01
1992-9	12-17-1992	34.002
1992-11	12-30-1992	34.060, 71.99
1993-2	5-6-1993	93.015—93.026, 93.999
1993-3	5-6-1993	153.004
1993-1	5-20-1993	51.01
1993-4	- -1993	T.S.O. II
1993-4	7-15-1993	30.16

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
1993-7	12-6-1993	T.S.O. VI
1993-6	12-16-1993	30.15
1993-8	12-30-1993	30.15
1993-4	- -1994	T.S.O. I
1994-1	2-9-1994	T.S.O. II
1994-2	5-19-1994	52.048
1994-7	7-25-1994	34.033, 34.034
1994-5	8-18-1994	71.20—71.28
1994-6	9-15-1994	30.31
1994-10	10-20-1994	34.060, 71.99
1994-11	10-20-1994	33.01
1994-12	12-28-1994	52.048
1995-2	3-16-1995	33.03
—	5-3-1995	36.075—36.084
1994-5	5-18-1995	T.S.O. II
1995-5	6-20-1995	153.150—153.168
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