

CODE OF ORDINANCES
TOWN OF
FRANCISCO, INDIANA

Published in 2025 by Order of the Town Council



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of the
TOWN OF
FRANCISCO, INDIANA
AT THE TIME OF THIS CODIFICATION

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PREFACE

This Code constitutes a codification of the general and permanent ordinances of the Town of Francisco, Indiana.

The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate ordinances included herein.

Acknowledgments

This publication was under the direct supervision of Johanna S. Coulter, Code Attorney, and Caroline M. Spinks, Editor, of CivicPlus, LLC, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to the town council and Renee Black, Town Attorney, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the town readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the town's affairs.

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CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

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- Sec. 1-2. Definitions and rules of construction.
- Sec. 1-3. Catchlines of sections; history notes; references.
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- Sec. 1-10. Severability.
- Sec. 1-11. Provisions deemed continuation of existing ordinances.
- Sec. 1-12. Certain ordinances not affected by Code.
- Sec. 1-13. Rates, charges, and fees established.
- Sec. 1-14. Recording, proof of publication of ordinances.
- Sec. 1-15. Effective date of ordinances.

Sec. 1-1. How Code designated and cited.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, Town of Francisco, Indiana" and may be so cited. This Code may also be cited as the "Code of Francisco, Indiana."

Sec. 1-2. Definitions and rules of construction.

In the construction of this Code and of all ordinances, the rules and definitions set out in this section shall be observed, unless such construction would be inconsistent with the manifest intent of the town council.

Generally.

- (1) Whenever the requirements or provisions conflict, the most restrictive requirements shall apply.
- (2) Whenever the requirements or provisions are in conflict with any statute, the most restrictive requirements shall apply.
- (3) All provisions shall be liberally construed so that the intent of the town council may be effectuated.
- (4) Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings shall be construed according to such meanings.
- (5) Provisions shall be interpreted and applied so as to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare.
- (6) If any manifest error is discovered consisting of the misspelling of any word, the omission of any word necessary to express the manifest intention of any provision, the use of a word to which no meaning can be attached, or the use of one word where it is manifest that a different word should have been used to express the intent of any provision, such spelling shall be corrected and such word supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the word correctly spelled, and as supplied, omitted or substituted, was used originally. However, this subsection shall not have the effect of permitting any change to be made should there exist doubt as to the meaning of the provision in question.
- (7) Grammatical errors shall not vitiate, and a transposition of words and clauses may be resorted to, when the sentence or clause is without meaning as it stands.

Code. The term "Code" means Code of Ordinances, Town of Francisco, Indiana, as designated in section 1-1.

Computation of time. In computing any period of time, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, legal holiday, or a day on which the town office in which the act is to be done is closed during regular business hours. In any event, the period runs until the end of the next day that is neither a Saturday, Sunday, legal holiday nor a day on which the town office in which the act is to be done is closed. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, legal holidays and days on which the town office is closed shall be excluded from the computation.

Conjunctions. In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "and," "or," or "either ... or," the conjunction shall be interpreted as follows, except that the terms "and" and "or" may be interchangeable when the context so requires:

- (1) The term "and" indicates that all the connected terms, conditions, provisions or events apply.
- (2) The term "or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.
- (3) The term "either ... or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

Corporate limits, town limits. The term "corporate limits" or "town limits" means the legal boundaries of the town, except as otherwise provided by law.

Council, town council. The term "council" or "town council" means the town council of Francisco, Indiana.

County. The term "county" means Gibson County, Indiana.

Delegation of authority. Whenever a provision appears requiring the head of a department or some other town officer to do some act or perform some duty, it shall be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

Gender. Words of gender include all genders.

IC, state acts. The abbreviation "IC" means the Indiana Code as now or hereafter amended. All references to state acts by title are to such acts as now or hereafter amended.

Includes. The term "includes" does not limit a term to a specified example.

Joint authority. All words giving joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

May. The term "may" is to be construed as being permissive and not mandatory.

May not. The term "may not" has a prohibitory effect and states a prohibition.

Month. The term "month" means a calendar month.

Must. The term "must" is to be construed as being mandatory.

Number. Words in the singular include the plural. Words in the plural include the singular.

Oath. The term "oath" shall be construed to include 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."

Officers, departments, etc. References to officers, departments, boards, commissions, committees, or employees are to town officers, town departments, town boards, town commissions, town committees, and town employees.

Owner. The term "owner," applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, tenant by the entirety, or any holder of a beneficial interest in the whole or in a part of such building or land.

Person. The term "person" means any human being, any governmental or political subdivision or public agency, any public or private corporation, any limited liability company, any partnership, any firm, association or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing or any other legal entity.

Personal property. The term "personal property" includes every species of property except real property.

Preceding, following. The terms "preceding" and "following" mean next before and next after, respectively.

Property. The term "property" includes real and personal property.

Public place. The term "public place" means any street or highway, sidewalk, park, school yard or open space adjacent thereto and any lake or stream.

Quorum. The term "quorum" means a majority of the members of a board, commission or committee holding office.

Real property. The term "real property" includes lands, tenements and hereditaments.

Reasonable time, reasonable notice. In all cases where any provision shall require any act to be done in a "reasonable time" or "reasonable notice" to be given to any person, such reasonable time or notice shall be deemed to mean such time only as may be necessary in the prompt execution of such duty or compliance with such notice.

Shall. The term "shall" is to be construed as being mandatory.

Signature or subscription. The term "signature" or "subscription" includes a mark when the person cannot write.

State. The term "state" means the State of Indiana.

Tenant or occupant. The term "tenant" or "occupant," applied to a building or land, includes any person holding a written or oral lease or who occupies the whole or a part of such building or land, either alone or with others.

Tense. The present tense of a verb includes the past and future tenses. The future tense includes the present tense.

Town. The term "town" means the Town of Francisco, Indiana.

Week. The term "week" shall be construed to mean seven consecutive days.

Written or in writing. The term "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The term "year" means a calendar year.

Sec. 1-3. Catchlines of sections; history notes; references.

(a) The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and are not titles of such sections, or of any part of the section, nor unless expressly so provided shall they be so deemed when any such section, including the catchline, is amended or reenacted.

(b) History notes that appear in this Code after sections or subsections or that otherwise appear in footnote form are provided for the convenience of the user of the Code and have no legal effect.

(c) Editor's notes, charter references, cross references and state law references that appear in this Code after sections or subsections or that otherwise appear in footnote form are provided for the convenience of the user of the Code and have no legal effect.

(d) Unless specified otherwise, all references to chapters or sections are to chapters or sections of this Code.

Sec. 1-4. Effect of repeal or amendment of ordinances.

(a) When any ordinance repealing a former ordinance shall be itself repealed, such repeal shall not be construed to revive such former ordinance unless it shall be therein so expressly provided.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.

(c) The repeal or amendment of an ordinance does not affect any vested right, privilege, obligation or liability.

Sec. 1-5. Amendments to Code; effect of new ordinances; amendatory language.

(a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of the Code and printed for inclusion in the Code.

(b) Amendments to provisions of this Code may be made with the following language: "Section (chapter, article, division or subdivision, as appropriate) ____ of the Code of Ordinances, Town of Francisco, Indiana, is hereby amended to read as follows:"

(c) If a new section, subdivision, division, article or chapter is to be added to the Code, the following language may be used: "Section (chapter, article, division or subdivision, as appropriate) ____ of the Code of Ordinances, Town of Francisco, Indiana, is hereby created to read as follows:"

(d) All provisions desired to be repealed should be repealed specially by section, subdivision, division, article or chapter number, as appropriate, or by setting out the repealed provisions in full in the repealing ordinance.

Sec. 1-6. Supplementation of Code.

(a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the town. A supplement to this Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of the supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete. The new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be removed from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, non-substantive changes in ordinances and parts or ordinances included in the supplement, insofar as necessary to do so in order to embody them into a unified code. For example, the person may:

- (1) Arrange the material into appropriate organizational units.
- (2) Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in the Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in the Code.
- (3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the Code.
- (4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.

- (5) Change the words "this ordinance" or similar words to "this chapter," "this article," "this division," "this subdivision," "this section" or "sections ____ to ____" (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated in the Code).
- (6) Make other non-substantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.

Sec. 1-7. General penalty; continuing violations.

(a) Any person violating any of the provisions of this Code shall be guilty of an ordinance violation.

(b) Each day a violation of this Code is committed or permitted to continue shall constitute a separate offense.

(c) Except in cases where a different punishment is prescribed by statute or a specific section of this Code, any person convicted of an ordinance violation shall be punished by a fine of not more than \$2,500.00 for each independent offense or violation.

(d) Whenever in this Code an act is prohibited or is made or declared to be unlawful, or whenever in this Code the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision of this Code shall be punished by a fine not exceeding \$2,500.00. The fine assessed for the violation of any ordinance requiring a license may be a sum equal to the amount required by the ordinance to be paid for such license, unless otherwise provided.

(e) In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this Code shall be deemed a public nuisance and may be by the town abated as provided by law, and each day such condition shall continue to be regarded as a new and separate offense.

(f) The town may bring a civil action to enjoin any person from:

- (1) Violating any ordinance regulation or prohibiting a condition or use of property; or
- (2) Engaging in conduct without a license if any ordinance requires a license to engage in the conduct.

(g) The court may suspend all or any part of a penalty imposed for an ordinance violation and may require as a condition of such suspension that the defendant shall perform uncompensated work that benefits the community.

(h) Any person adjudged guilty of violating any provision of this Code may also be adjudged to pay the costs of prosecution.

Sec. 1-8. Offenses punishable under separate provisions.

In all cases where the same offense may be made punishable or may be created by different clauses or sections of the ordinances of the town, the prosecuting officer may elect under which to proceed, but not more than one recovery shall be had against the same person for the same offense.

Sec. 1-9. Code does not affect prior offenses or rights.

(a) Nothing in this Code or the ordinance adopting this Code affects any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established before the effective date of this Code.

(b) The adoption of this Code does not authorize any use or the continuation of any use of a structure or premises in violation of any ordinance on the effective date of this Code.

Sec. 1-10. Severability.

The sections, subsections, paragraphs, sentences, clauses and phrases of this Code and all provisions adopted by reference in this Code are severable so that if any section, subsection, paragraph, sentence, clause and phrase of this Code or of any provision adopted by reference in this Code is declared unconstitutional or invalid by a valid judgment of a court of competent jurisdiction, such judgment shall not affect the validity of any other section, subsection, paragraph, sentence, clause and phrase of this Code or of any provision adopted by reference in this Code, for the town council declares that it is its intent that it would have enacted this Code and all provisions adopted by reference in this Code without such invalid or unconstitutional provisions.

Sec. 1-11. Provisions deemed continuation of existing ordinances.

The provisions of this Code, insofar as they are substantially the same as legislation previously adopted by the town relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

Sec. 1-12. Certain ordinances not affected by Code.

Nothing contained in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the following, and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.
- (2) Any ordinance promising or guaranteeing the payment of money for the town, or authorizing the issuance of any bonds of the town or any evidence of the town's indebtedness, or any contract or obligation assumed by the town.
- (3) Any ordinance fixing salaries of officers or employees of the town not inconsistent with this Code.

- (4) Any appropriation ordinance.
- (5) Any right or franchise granted to any person, firm or corporation.
- (6) Any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, or in any way affecting any street or public way in the town.
- (7) Any ordinance establishing and prescribing the street grades of any street in the town.
- (8) Any ordinance providing for local improvements or assessing taxes therefor.
- (9) Any ordinance dedicating or accepting any plat or subdivision in the town.
- (10) Any ordinance establishing traffic regulations for specific streets or portions thereof.
- (11) Any ordinance providing for the boundaries of the town or of any ward or district therein.
- (12) Any ordinance annexing property to the town or any ordinance or resolution of agreement with another political subdivision.
- (13) Any ordinance rezoning property or amending the zoning map.
- (14) Any ordinance levying taxes, not in conflict or inconsistent with the provisions of this Code.
- (15) Any ordinance or resolution, or part thereof, which is not of a general and permanent nature; or which is referred to elsewhere in this Code as continuing in effect.
- (16) Any ordinance or resolution establishing and/or prescribing employment, benefits, and/or personnel policies and procedures for any town officer or town employee.

Sec. 1-13. Rates, charges, and fees established.

(a) Unless otherwise provided for, all rates, charges, or fees necessary for the administration and enforcement of the provisions of this Code shall be as currently established or as hereafter adopted by motion, resolution or ordinance of the town council, from time to time. Any rates, charges, or fees established by the town pursuant to the regulations or requirements established herein may be changed from time to time by the town council, and such changes shall both be considered an amendment to this Code.

(b) Whenever any provision of this Code provides that a rate, charge, or fee shall be established by the town council from time to time, and the amount of such rate, charge, or fee is not expressed in this Code in any dollar amount, then the amount of such rate, charge, or fee shall be the most recent and latest amount established, set or fixed by the town council by ordinance, resolution or motion.

Sec. 1-14. Recording, proof of publication of ordinances.

All ordinances passed by the town council shall be recorded by the town clerk-treasurer in a book of ordinances. The original shall be filed in the clerk-treasurer's office, and due proof

of publication of all ordinances requiring publication, by the affidavit of the printer or publisher, shall be procured by the clerk-treasurer and attached thereto, or written and attested thereto, or written and attested upon the face of such ordinances.

Sec. 1-15. Effective date of ordinances.

All ordinances passed by the town council, requiring publication, shall take effect from and after the due publication thereof, unless therein otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage and upon being signed and attested to, unless otherwise expressly provided.

Chapter 2

ADMINISTRATION

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ARTICLE I. IN GENERAL**Sec. 2-1. Standards of conduct at public meetings.**

The town council has established the following standards of conduct at public meetings based on the norms of acceptable and courteous business behavior:

- (1) Members of the audience wishing to address the public body shall first secure the permission of the chairperson.
- (2) When commenting, persons addressing the public body shall be courteous, brief, constructive and non-repetitive, and limit comments to three minutes.
- (3) Members of the audience will refrain from disruptive actions such as hand clapping, stamping of feet, whistling, cheering, yelling or similar demonstrations, which conduct disturbs the peace and good order of the meeting and which conduct might have an intimidating effect upon members of opposing viewpoints.
- (4) Persons addressing the public body shall also refrain from slurs against race, creed, color, religion, national origin, gender, sexual orientation, marital status, familiar status, age, disability or status with regard to public assistance.
- (5) Profanity, slander, false statements, violence or the threat of violence in any form shall not be tolerated.
- (6) Signs brought to a meeting may not be attached to a stake, held higher than one's head, nor in any way obstruct the vision of others in the room.

(Ord. No. 2021-4, 1-12-2021)

Sec. 2-2. Maintaining acceptable behavior.

(a) Violations of the standards established in section 2-1 shall be determined by the opinion of the town council president or chairperson of the meeting or, absent such opinion, by the opinion of the majority of the members of the deliberating body.

(b) Any person violating these standards shall be called to order by the chairperson. If such conduct continues, said person may, at the discretion of the public body, lose the floor. With the exception of elected public officials at town council meetings, said person may be denied further audience for that meeting.

(c) If said person refuses to come to order and obey the directives of the chairperson of the meeting, they may request that said person leave the building. An exception is made for elected public officials at council meetings as protected by law.

(Ord. No. 2021-4, 1-12-2021)

Sec. 2-3. Acceptance of water quality management planning responsibilities.

The town council desires to be the approved designated management agency for the control of water pollution sources within its area of legal jurisdiction.

(Res. No. 1999-3, 3-23-1999)

Secs. 2-4—2-24. Reserved.

ARTICLE II. LEGISLATIVE BODY

DIVISION 1. GENERALLY

Secs. 2-25—2-52. Reserved.

DIVISION 2. TOWN COUNCIL ELECTED AT LARGE

Sec. 2-53. Composition.

All candidates of the town council shall be residents within the corporate limits and shall be elected at large by the voters of the entire town.

(Ord. No. 2012-15, § 2, 12-31-2012)

Secs. 2-54—2-81. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES

DIVISION 1. GENERALLY

Sec. 2-82. Credit card accounts.

(a) The town council and its board of works hereby establish and give authority to the clerk-treasurer to apply, set up and maintain credit card accounts hereby and hereafter above being the town council and its board of works.

(b) This section hereby authorizes the following office holders the right and authority to use said credit card, to-wit:

- (1) Town fire chief, four cards (Marathon Fleet Card);
- (2) Town marshal, two cards (one Marathon Fleet Card; one co-op card);
- (3) Town board of works members, two cards (one Marathon Fleet Card; one co-op card).

(c) The credit card shall only be used for the purchase of gas or oil for town vehicles or equipment.

(d) The town fire chief, town marshal and town employees shall maintain an accounting system or log which shall include the name of individuals using said cards, their position, amount charged, and vehicle number.

(e) Credit card users shall supply the clerk-treasurer with receipts as to purchases are made. Any interest or penalty incurred due to late filing or furnishing of documentation by users shall be the users' responsibility.

(f) Annual or user fees are hereby approved and may be paid by the clerk-treasurer.
(Ord. No. 2015-3, 8-11-2015)

Secs. 2-83—2-107. Reserved.

DIVISION 2. CLERK-TREASURER

Sec. 2-108. Power and authority to issue checks.

The clerk-treasurer of the town is hereby granted authority to make payments on valid claims presented and issue checks thereon prior to the approval thereof by the town council, in order to expedite the payment of all debts of the town. Said claims will be approved by the town council at their next regular meeting following the allowance of the claim and the payment thereof by the town clerk-treasurer.

(Ord. No. 1992-4, 12-11-1992)

Sec. 2-109. Accounts payable payments.

(a) Authorized expenses. The town council approves and authorizes payments to be made by the clerk-treasurer in advance of formal allowance by the town council or other board or commission of jurisdiction for the following types of expenses:

- (1) Property or services purchased or leased from:
 - a. The United States government; or
 - b. An agency or political subdivision of the United States government; or
 - c. The government of the state; or
 - d. An agency or department or branch of the government of the state, including a body politic and corporate of the state;
- (2) License fees or permit fees;
- (3) Insurance premiums;
- (4) Utility payments or utility connection charges;
- (5) Federal grant programs if:
 - a. Advance funding is not prohibited; or
 - b. The contracting party provides sufficient security for the amount advanced;
- (6) Grants of state funds authorized by statute;
- (7) Maintenance agreements or service agreements;
- (8) Lease agreements or rental agreements;
- (9) Principal and interest payments on bonds;
- (10) Payroll;
- (11) State, federal, or county taxes;

- (12) Expenses incurred and identified by the community events commission;
 - (13) Refunds, which are a consequence of a class or program cancellation;
 - (14) Vendor payments for office supplies and water and wastewater supplies and repair expenses;
 - (15) Payments to such vendors or service providers, public or private, which have provided services or goods to the town and for which a delay of payment incurs penalties or late payment charges;
 - (16) Expenditures for the following types of contributions:
 - a. Transfers or temporary loans in consequence of cashflow needs;
 - (17) Charges or fees for services provided by an authorized public depository employed by the town;
 - (18) Registration fees for conferences, workshops or training conducted by associations organized to support municipal government or entities engaged in training or providing workshops relevant to public administration generally or particularly in the functional areas of the local government;
 - (19) Payments that must be paid because of emergency circumstances;
 - (20) Reimbursements for mileage incurred by the clerk-treasurer in the performance of the clerk-treasurer's duties;
 - (21) Payments made for electronic and online payment processing services in support of utility, and other public services of the town.
- (b) Voucher required. Each payment of expenses outlined in subsection (a) of this section must be supported by a fully itemized accounts payable voucher.
- (c) The town clerk-treasurer may make these payments and present claim registers to the board of works and to the town council at their next regular meeting.
- (d) Timely review. The town council as town legislative body or the board having jurisdiction over allowance of the accounts payable voucher shall review and allow the payment at the body's or board's next regular or special meeting following the preapproved payment of the expense.
- (e) Payments for any of the expenses described in this section may be made by electronic fund transfer, wire or automated clearing house, or check.
- (Ord. No. 2021-7, 2-9-2021)

Secs. 2-110—2-131. Reserved.

DIVISION 3. TOWN MARSHAL

Sec. 2-132. Established.

There is hereby established the office of town marshal, who shall have all of the powers as set forth in IC 36-5-7-4.

(Ord. No. 2023-4, § 1, 5-9-2023)

Sec. 2-133. Salary.

The town marshal shall be paid a salary of \$650.00 per month for services rendered to the town as marshal.

(Ord. No. 2023-4, § 2, 5-9-2023)

Sec. 2-134. Resignation.

The marshal shall have the right to submit resignation at any time by giving two weeks' notice.

(Ord. No. 2023-4, § 3, 5-9-2023)

Sec. 2-135. Termination and discipline; abolishment authorized.

(a) The marshal serves at the pleasure of the town legislative body. Termination or discipline of a marshal who has been employed by the town for more than six months and who has completed the minimum basic training requirements adopted by the law enforcement training board under IC 5-2-1-9 shall comply with IC 36-5-7-3.

(b) The town may abolish the office of town marshal at its pleasure. The marshal can only be discharged for cause pursuant to the terms and provisions of IC 36-5-7-3.

(Ord. No. 2023-4, § 4, 5-9-2023)

Sec. 2-136. Body armor.

(a) As used in this section, the term "body armor" has the meaning set forth in IC 35-47-5-13(a).

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

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

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

(Ord. No. 2023-4, § 5, 5-9-2023)

Secs. 2-137—2-155. Reserved.

DIVISION 4. DEPUTY RESERVES

Sec. 2-156. Deputy marshal requirements.

There shall be no more than three deputy marshals on staff. The requirements for those deputy marshals are as follows:

- (1) Shall be a resident of the county or surrounding counties at the marshal's discretion with town council approval.
 - (2) Shall be 21 years of age or older;
 - (3) Shall be subject to the policies of the town marshal department;
 - (4) Shall be recommended by the town marshal;
 - (5) Shall be approved by the town council;
 - (6) Shall be properly bonded and insured by the insurance company for the town;
 - (7) Shall be volunteers without compensation.
- (Ord. No. 2023-18, § 1, 11-28-2023)

Sec. 2-157. Dismissal authorized.

The town marshal may dismiss a town deputy marshal at any time, with or without cause.
(Ord. No. 2023-18, § 2, 11-28-2023)

Secs. 2-158—2-182. Reserved.

ARTICLE IV. BOARDS AND COMMISSIONS

DIVISION 1. GENERALLY

Sec. 2-183. Town board of works.

(a) The town council hereby abolishes and terminates the existence of the town sanitary board.

(b) All powers, duties and obligations hereby held by the town sanitary board shall be transferred to the town council as the "board of works" as set forth in IC 36-1-2-24.
(Ord. No. 2015-14, § 1, 12-8-2015)

Sec. 2-184. Establishment; transfer of powers.

There is hereby established the town board of works. All powers of the town council concerning the supervision and control of the sewage works is hereby transferred to the board of works.
(Ord. No. 2000-12, § I, 1-9-2001)

Sec. 2-185. Membership.

The board of works shall consist of three members, one of whom shall be the president of the town council.

(Ord. No. 2000-12, § II, 1-9-2001)

Sec. 2-186. Terms and vacancies.

The elected officials of the board of works shall serve for a term of four years. Vacancies on the board of works shall be filled by appointment for the unexpired term of the member being replaced.

(Ord. No. 2000-12, § III, 1-9-2001)

Sec. 2-187. Officers.

The president of the town council shall serve as the chairperson of the board of works.

(Ord. No. 2000-12, § IV, 1-9-2001)

Sec. 2-188. Compensation.

Each member of the board of works is entitled to the compensation equal to but no greater than that of the town council. The compensation of the secretary and treasurer of the board of works shall be fixed by the town council.

(Ord. No. 2000-12, § V, 1-9-2001)

Sec. 2-189. Duties.

(a) The construction, acquisition, improvements, operation, management, maintenance and control of the sewage works shall be supervised and controlled by the board of works.

(b) The board may enter into all contracts or agreements necessary or incidental to the performance of its duties and the execution of its powers. However, the board may not obligate itself or the town beyond the extent to which money has been or may be provided.

(c) A contract relating to the financing of the acquisition or construction of any sewage works, or to any trust indenture, is not effective until it is approved by the town council.

(d) A contract or an agreement with any contractor for labor, equipment or materials shall be let and entered into under the statutes governing the letting of contracts by agencies of municipalities.

(e) The board or any public utility (as defined in IC 8-1-6-3) contracting with the board for the treatment, purification or disposal in a sanitary manner of liquid and solid waste, sewage, night soil, or industrial waste may contract with a water utility furnishing water service to users or property served in the town or by the public utility to do the following:

- (1) Ascertain the amount of water consumed.
- (2) Compute the amount of the charge to be billed for sewer services to each user or property served.

(3) Bill and collect the amounts due for sewer services.

(4) Discontinue water service to delinquent sewer users pursuant to the procedures in IC 36-9-25-11.5.

(f) The board may order and complete any extensions or improvements to the sewer works it considers necessary.

(g) The board shall adopt rules for the use and operation of the sewage works and of other sewers and drains connected to the sewage works, to the extent that they may affect the operation of the sewage works.

(h) The board may employ, fix the compensation of, and prescribe the duties of engineers, architects, inspectors, superintendents, managers, collectors, attorneys and any other employees it considers necessary. The expenses incurred hereunder shall be paid solely from money provided by the sewage works and the town council.

(i) The board may establish rules and bylaws for its own government.
(Ord. No. 2000-12, § VII, 1-9-2001)

Secs. 2-190—2-218. Reserved.

DIVISION 2. ADVISORY PLAN COMMISSION

Sec. 2-219. Creation.

The town council hereby creates the town advisory plan commission.
(Ord. No. 2009-12, § 1, 10-13-2009)

Sec. 2-220. Adherence to state law.

The membership of the advisory plan commission shall be in accordance with IC 36-7-4-207, 36-7-4-213, 36-7-4-214, and 36-7-4-215.
(Ord. No. 2009-12, § 2, 10-13-2009)

Sec. 2-221. Membership.

The advisory plan commission shall consist of seven members. The town council shall appoint three persons, who must be elected or appointed municipal officials or employees. The town council shall appoint four citizens of the town, of which no more than two may be of the same political party.
(Ord. No. 2009-12, § 3, 10-13-2009)

Sec. 2-222. Additional members.

Additional members for an unincorporated jurisdictional area of the advisory plan commission shall be provided by IC 36-7-4-214 and 36-7-4-215.
(Ord. No. 2009-12, § 4, 10-13-2009)

Sec. 2-223. Meetings

The advisory plan commission shall conduct meetings in accordance with IC 36-7-4-301 et seq.

(Ord. No. 2009-12, § 5, 10-13-2009)

Secs. 2-224—2-254. Reserved.**ARTICLE V. FINANCE****DIVISION 1. GENERALLY****Secs. 2-255—2-271. Reserved.****DIVISION 2. MATERIALITY POLICY****Sec. 2-272. Reporting—Required.**

The clerk-treasurer and the town council president shall be notified of any and all irregular variances, losses, shortages and thefts reported or in violation hereunder.

(Res. No. 2016-02, § 1, 2-9-2016)

Sec. 2-273. Reporting—Threshold.

The threshold of which reports shall be submitted to the state board of accounts (SBOA) shall be:

- (1) Incidents involving cash of more than \$500.00; and
 - (2) Incidents involving all other non-cash assets of \$500.00.
- (Res. No. 2016-02, § 2, 2-9-2016)

Sec. 2-274. Reporting—Procedure.

The clerk-treasurer and president, upon report or receipt of notice of violation, shall:

- (1) Log-in all reports to a spreadsheet that is permanently maintained;
- (2) Confirm the dollar amount of the variance, loss, shortage or thefts;
- (3) Evaluate the report against the dollar thresholds and notify the SBOA by letter when thresholds are exceeded;
- (4) Investigate the cause of any variance, loss, shortage or theft;
- (5) Implement corrective returns or internal control procedures to correct the cause of the variance, loss, shortage or theft; and

(6) Maintain files with all copies of relevant documentation, resolution reports of incidents, and any report to the state board of accounts in a centralized data folder. (Res. No. 2016-02, § 3, 2-9-2016)

Sec. 2-275. Notice to state board.

The town council hereby acknowledges and confirms IC 5-11-1-27(l) which requires public officials to send written notice to the state board of accounts and the county prosecuting attorney that they have actual knowledge or reasonable belief of misappropriation of public funds.

(Res. No. 2016-02, § 4, 2-9-2016)

Secs. 2-276—2-300. Reserved.

DIVISION 3. UNIFORM INTERNAL CONTROL STANDARDS

Sec. 2-301. Adoption of standards.

The town council stipulates that it has adopted the internal control standards defined by the state board of accounts (SBOA) under IC 5-11-1-27(e). Town personnel shall be trained and certified on the process. All certification forms shall be retained by the clerk-treasurer. (Res. No. 2021-18, § 1, 9-14-2021)

Sec. 2-302. Objectives.

The objectives of the town council shall be as follows:

- (1) Operations objectives which are designed to analyze operational and performance goals along with the effectiveness and efficiencies of operation, including the safeguarding of assets.
- (2) Reporting objectives which are designed to consider both financial and non-financial information, internal and external to the unit, with an expectation of reliability, accountability and transparency.
- (3) Compliance objectives which are designed to ensure adherence to laws and regulations.

(Res. No. 2021-18, § 2, 9-14-2021)

Sec. 2-303. Oversight committee.

The oversight committee, consisting of the clerk-treasurer and the town council president, shall have the responsibility to oversee and monitor that the internal controls have been activated and used by the town.

(Res. No. 2021-18, § 3, 9-14-2021)

Sec. 2-304. Responsibilities of the clerk-treasurer.

(a) The clerk-treasurer shall provide the town council with a copy of the fund report and bank reconciliation each month and have them signed off on, and shall obtain town council approval and note the same in minutes showing the balance in funds.

(b) The clerk-treasurer shall provide the town council with a copy of the adjustment report for utilities and list the total of adjustments for the month, have the town council approve the report and sign off on the report, and note the same in minutes with the amount of adjustments.

(c) The clerk-treasurer shall provide the town council with the meter reconciliation report and have the town council approve it, sign off on it, and note the balance in minutes.

(d) Customers shall continue to pay water, fire, wastewater and services bills and meter deposits at either the German American Bank in Oakland City, Indiana, or the German American Bank in Princeton, Indiana, or by online pay option or in town hall during normal business hours paid direct by customer to German American Bank. Any customers making payments in person at meeting or to the clerk-treasurer shall be given a receipt; the clerk-treasurer shall keep a copy of said receipt and promptly deliver those payments to the bank. The clerk-treasurer shall pick up the payment stubs from the banks and deposits slips from the banks, enter the same into the utility program, enter the receipts into the fund software, separating out the payments for water, fire, wastewater and service fees, and shall double-check that the deposits received total the amount of the stubs attached thereto. If there is a discrepancy, the clerk-treasurer shall contact the bank and go over records with the bank.

(e) All other miscellaneous checks that may be received by the clerk-treasurer shall be deposited promptly upon receipt into the appropriate fund and bank.

(f) The town council shall direct and ascertain that its employees promptly obtain and provide information requested by the clerk-treasurer to him/her as needed to perform his/her duties.

(g) The clerk-treasurer shall provide the town council with access to all claims for review at their request and shall provide them with a copy of the claim registers, obtain their signatures on the claim registers, and note the approval and amounts approved in the minutes.

(h) Shutoff notices shall be prepared as per ordinance. Shutoffs are to be done following expiration of the time given on said notice, if the customer has not paid. The town council shall direct its employees to do the shutoffs promptly upon request of the clerk-treasurer.

(i) The clerk-treasurer shall maintain copies of all relevant documentation, resolution of incidents and any report to the SBOA in a centralized data folder.

(j) The clerk-treasurer shall certify that all personnel having access to funds shall receive training concerning the Uniform Internal Control Standards for Indiana Political Subdivisions as required by IC 5-11-1-27(g)(2).

(k) The clerk-treasurer is to prepare annually the annual financial report through Gateway, and shall print the financial report from the AFR and have the town council president compare the AFR to the fund report from the town's software to ascertain that they are the same before said AFR is submitted in Gateway.

(l) The clerk-treasurer shall maintain control of the Visa credit card in the clerk-treasurer's office and shall maintain a log so that town council members or employees needing to use the credit card sign it out and back in the same day and provide appropriate receipts for transactions made to the credit card. The clerk-treasurer shall maintain a log of the transactions and shall check those transactions against the credit card statement before the statement is paid.

(Res. No. 2021-18, § 4, 9-14-2021)

Secs. 2-305—2-326. Reserved.

ARTICLE VI. TOWN POLICIES

DIVISION 1. GENERALLY

Secs. 2-327—2-355. Reserved.

DIVISION 2. FAIR HOUSING

Sec. 2-356. Policy statement.

It shall be the policy of the town to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the federal Civil Rights Act of 1968, as amended, the Federal Housing and Community Development Act of 1974, as amended, and IC 22-9.5-1 et seq.

(Ord. No. 2012-4, § 1, 8-14-2012)

Sec. 2-357. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aggrieved person includes any person who:

- (1) Claims to have been injured by a discriminatory housing practice; or
- (2) Believes that such person will be injured by a discriminatory housing practice that is about to occur (IC 22-9.5-2-2).

Commission (IC 22-9.5-2-3) means the state civil rights commission created pursuant to IC 22-9-1-4 et seq.

Complainant (IC 22-9.5-2-4) means a person, including the commission, who files a complaint under IC 22-9.5-6.

Disability means, with respect to a person:

- (1) A physical or mental impairment which substantially limits one or more of such 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.

The term "disability" shall not include current legal use of or addictions to a controlled substance as defined in 21 USC 802 or other conditions exempted by the Americans with Disabilities Act of 1990.

Discriminatory housing practice means an act that is unlawful under section 2-359, 2-360, 2-361, 2-362, or 2-363 or IC 22-9.5-5-1 through 22-9.5-5-8.

Dwelling means any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families, or any vacant land which is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as a residence by one or more families (IC 22-9.5-2-8).

Familial status means one or more individuals who have not attained the age of 18 years being domiciled with a parent or another person having legal custody of such individual or the written permission of such parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

Family includes a single individual (IC 22-9.5-2-9), with the status of such family being further defined in the definition of the term "familial status". Also, pursuant to 24 CFR part 5, the definition of the term "family" is revised to include families regardless of the actual or perceived sexual orientation, gender identity, or marital status of its members.

Person (IC 22-9.5-2-11) includes one or more individuals, corporations, partnership, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, non-incorporated organizations, trustees, trustees in cases under title 11 of the United States Code, receivers, and fiduciaries.

To rent (IC 22-9.5-2-13) includes to lease, to sublease, to let and otherwise to grant for a consideration the rights to occupy the premises owned by the occupant.
(Ord. No. 2012-4, § 2, 8-14-2012)

Sec. 2-358. Unlawful practice.

(a) Subject to the provisions of subsection (b) of this section, section 2-364 and IC 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth IC 22-9.5-5-1 and in section 2-359 shall apply to all dwellings except as exempted by subsection (b) of this section and IC 22-9.5-3.

(b) Other than the provisions of subsection (a) of this section, nothing in section 2-359 shall apply to:

- (1) Any single-family house sold or rented by an owner where the private individual owner does not own more than three such single-family houses at any one time; provided, however, that in the sale of such single-family house by a private individual owner not residing in the house at the time of sale, such exemption shall apply only to one such sale within any 24-month period. The owner may not own any interest in, nor have owned or reserved on the owner's behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time. The sale or rental of any such single-family house shall be exempted from application of this section only if such house is sold or rented:
 - a. Without the use in any manner of the sales or rental facilities or services of any real estate broker, agent or salesman licensed under IC 25-34.1 or of any employee or agent of any licensed broker, an agent or a salesman, or the facilities or services of the owner of a dwelling designed or intended for occupancy by five or more families; or
 - b. Without the publication, posting or mailing, after notice of advertisement prohibited by IC 22-9.5-5-2, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other such professional assistance as necessary to perfect or transfer this title; or
- (2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as the owner's residence.

(Ord. No. 2012-4, § 3, 8-14-2012)

Sec. 2-359. Discrimination in the sale or rental of housing.

- (a) (1) As made applicable by section 2-358, and except as exempted by sections 2-358(b) and 2-364, it shall be unlawful:
 - a. To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, disability, familial status or national origin.

- b. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith because of race, color, religion, sex, disability, familial status or national origin.
 - c. To make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, disability, familial status or national origin, or an intention to make any such preference, limitation or discrimination.
 - d. To represent to any person because of race, color, religion, sex, disability, familial status or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.
 - e. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or perspective entry into the neighborhood of a person of a particular race, color, religion, sex, disability, familial status or national origin.
 - f. To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:
 - 1. That buyer or renter;
 - 2. A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
 - 3. Any person associated with that person.
 - g. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of:
 - 1. That person; or
 - 2. A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
 - 3. Any person associated with that person.
- (2) For purposes of this section, the term "discrimination" includes:
- a. A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modifications, reasonable wear and tear excepted;

- b. A refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or
- c. In connection with the design and construction of covered multifamily dwellings for first occupancy after March 31, 1991, a failure to design and construct those dwellings in such a manner that:
 - 1. The public use and common use portions of such dwellings are readily accessible to and usable by disabled persons;
 - 2. All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and
 - 3. All premises within such dwellings contain the following features of adaptive design:
 - (i) An accessible route into and through the dwelling;
 - (ii) Light, switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
 - (iii) Reinforcements in bathrooms such that an individual in a wheelchair can maneuver about the space;
 - (iv) Usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

(b) Compliance with the appropriate requirements of the Americans with Disabilities Act of 1990 and of the American National Standard for Buildings and Facilities providing accessibility and usability for people with disabilities (commonly cited as ANSI A117.1) suffices to satisfy the requirements of subsection (a)(2)c.3(iii) of this section.

(c) Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(Ord. No. 2012-4, § 4, 8-14-2012)

Sec. 2-360. Discrimination in residential real estate related transactions.

(a) It shall be unlawful for any person or other entity whose business includes engaging in residential real estate related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, disability, familial status, or national origin.

(b) As used in this section, the term "residential real estate related transaction" means any of the following:

- (1) The making or purchasing of loans or providing other financial assistance:
 - a. For purchasing, constructing, improving, repairing, or maintaining a dwelling;
 - or

b. Secured by residential real estate.

(2) The selling, brokering, or appraising of residential real property.

(c) Nothing in this division prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, disability, or familial status.

(Ord. No. 2012-4, § 5, 8-14-2012)

Sec. 2-361. Discrimination in the provision of brokerage service.

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, disability, familial status or national origin.

(Ord. No. 2012-4, § 6, 8-14-2012)

Sec. 2-362. Interference, coercion, or intimidation.

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 2-358, 2-359, 2-360 or 2-361.

(Ord. No. 2012-4, § 7, 8-14-2012)

Sec. 2-363. Prevention of intimidation in fair housing cases.

Whoever, whether or not acting under code or law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with:

- (1) Any person because of race, color, religion, sex, disability, familial status, or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or
- (2) Any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:
 - a. Participating, without discrimination on account of race, color, religion, sex, disability, familial status, or national origin, in any of the activities, services, organizations or facilities described in subsection (1) of this section; or
 - b. Affording another person or class of persons opportunity or protection so to participate; or
- (3) Any citizen because he is or has been, or in order to discourage such citizen or any other citizen from, lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, disability, familial

status, or national origin, in any of the activities, services, organizations or facilities described in subsection (1) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate;

shall be fined according to local, state and federal law and, if bodily injury results, shall be fined not more than \$10,000.00 or imprisoned not more than ten years, or both and, if death results, shall be subject to imprisonment for any term of years or for life.

(Ord. No. 2012-4, § 8, 8-14-2012)

Sec. 2-364. Exemptions.

(a) Exemptions defined or set forth under IC 22-9.5-3 shall be exempt from the provisions of this division to include those activities or organizations set forth under subsections (b) and (c) of this section.

(b) Nothing in this division shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin; nor shall anything in this division prohibit a private club not in fact open to the public, which as an incident to its primary purpose provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.

(c) Nothing in this division regarding familial status shall apply with respect to housing for older persons. As used in this section, the term "housing for older persons" means housing:

- (1) Provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development or the state civil rights commission determines is specifically designed and operated to assist elderly persons (as defined in the state or federal program); or
- (2) Intended for, and solely occupied by, persons 62 years of age or older; or
- (3) Intended and operated for occupancy by at least one person 55 years of age or older per unit.

(Ord. No. 2012-4, § 9, 8-14-2012)

Sec. 2-365. Administrative enforcement of division.

(a) The authority and responsibility for properly administering this division and referral of complaints hereunder to the commissioner as set forth in subsection (b) of this section shall be vested in the chief elected official of the town.

(b) Notwithstanding the provisions of IC 22-9.5-4-8, the town, because of lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under this division, herein elects to refer all formal complaints of violation of this division by complainants to the state civil rights commission for administrative enforcement actions pursuant to IC 22-9.5-6 and the chief elected official of the town shall refer all said complaints to the commission as provided for under subsection (a) of this section to said commission for purposes of investigation, resolution and appropriate relief as provided for under IC 22-9.5-6.

(c) All executive departments and agencies of the town shall administer their departments, programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this division and shall cooperate with the chief elected official and the commission to further such purposes.

(d) The chief elected official of the town, or the chief elected official's designee, shall provide information on remedies available to any aggrieved person or complainant requesting such information.

(Ord. No. 2012-4, § 10, 8-14-2012)

Secs. 2-366—2-388. Reserved.

DIVISION 3. NEPOTISM

Sec. 2-389. Employment policy.

(a) Effective July 1, 2012, IC 36-1-20.2 specifies that relatives may not be employed by the town in positions that result in one relative being in the direct line of supervision of the other relative. An employee who is employed by the town as of June 30, 2102, is not subject to the nepotism provision unless the employee has a break in employment with the town in the future.

(b) The term "direct line of supervision" is defined as an elected officer or employee who is in a position to affect the terms and conditions of another individual's employment, including making decisions about work assignments, compensation, grievances, advancement, or performance evaluation.

(c) Indiana Code defines the term "relative" to include a spouse, a parent or stepparent, a child or stepchild, a brother, sister, stepbrother or stepsister, a niece or nephew, an aunt or uncle, a daughter-in-law or son-in-law, an adopted child and a brother or sister by half blood.

(d) Each elected office holder of the town shall annually certify in writing that the officer is in compliance with the nepotism policy under IC 36-1-20.2. Such certification must be submitted to the town not later than December 31 of each year.

(e) An elected official or department head that is in violation of this division may be subject to penalties for perjury. The town's failure to adopt policies under IC 36-1-20.2 (Nepotism) will result in the state department of local government finance not approving the town's budget or any additional appropriations for the ensuing calendar year until the state board of accounts certifies the town is in compliance.
(Ord. No. 2012-3, 6-12-2012)

Sec. 2-390. Elective officer and town employment restricted.

(a) Effective January 1, 2013, IC 3-5-9 specifies that a town employee is considered to have resigned from employment with the town if the employee assumes the elected executive office of the town or becomes an elected member of the town's legislative or fiscal body.

(b) A volunteer firefighter may not assume or hold a position on the executive, legislative, or fiscal body of the town if the town received fire protection services from the department in which the volunteer firefighter serves. Fire protection services provided under mutual aid agreements are excluded. An employee or volunteer who assumes or holds an elected office on January 1, 2013, may continue to hold the office and be employed by the town or serve as a volunteer firefighter until the expiration of the term of office.
(Ord. No. 2012-3, 6-12-2012)

Sec. 2-391. Contracting with the town.

(a) Effective July 1, 2012, IC 36-1-21-5 states that the town may enter into a contract or renew a contract for the procurement of goods and services or a contract for public works with an individual who is a relative of an elected official or a business entity that is wholly or partially owned by a relative of an elected official only if the elected official does not violate IC 35-44.1-1-4 and files a full disclosure which must:

- (1) Be in writing;
- (2) Describe the contract or purchase to be made by the town;
- (3) Describe the relationship of the official to the individual or business entity that contracts or purchases;
- (4) Be affirmed under penalty of perjury;
- (5) Be submitted to the legislative body and accepted by the legislative body in a public meeting prior to final action on the contract or purchase;
- (6) Be filed within 15 days of final action with the state board of accounts and the county clerk.

(b) If a contract is entered into with a relative the appropriate agency of the town shall make a certified statement that the contract amount or purchase price was the lowest amount or price offered or make a certified statement of the reasons why the vendor or contractor was selected. Contracts in existence prior to July 1, 2012, are excepted.

(c) An elected official that is in violation of this division may be subject to penalties for perjury. The town's failure to adopt policies or failure to include a statement in the R-100 Personnel Report under IC 36-1-21 (contracting with a unit) will result in the state department of local government finance not approving the town's budget or any additional appropriations for the ensuing calendar year.

(Ord. No. 2012-3, 6-12-2012)

Chapter 3

RESERVED

Chapter 4

ANIMALS

Article I. In General

Secs. 4-1—4-18. Reserved.

Article II. Regulation

- Sec. 4-19. Definitions.
- Sec. 4-20. Dangerous animals prohibited.
- Sec. 4-21. Running at large; disturbances prohibited.
- Sec. 4-22. Violation citations.
- Sec. 4-23. Impounding.
- Sec. 4-24. Claim and maintenance fee.
- Sec. 4-25. Impoundment fee; vaccination required.
- Sec. 4-26. Responsibilities of animal owners.
- Sec. 4-27. Regulation of dangerous animals.
- Secs. 4-28—4-57. Reserved.

Article III. Fowl

- Sec. 4-58. Definitions.
- Sec. 4-59. Number harbored.
- Sec. 4-60. Minimum penalties.

ARTICLE I. IN GENERAL

Secs. 4-1—4-18. Reserved.

ARTICLE II. REGULATION**Sec. 4-19. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandon means to intentionally or recklessly leave unattended, without food, water, or shelter for 24 hours or longer, whether in or about a building or on or about a property.

Adequate care means the provision of sufficient food, water, shelter, sanitary conditions and veterinary medical attention in order to maintain an animal in a state of good health.

Affidavit of complaint means a written sworn statement of complaint.

Animal means any living, domestic creature, including fowl, mammals and reptiles, except human beings.

Animal control officer means the staff members of the Gibson County Animal Services Shelter.

At large means any animal that is:

- (1) Not on a leash and is off the property of its owner, its owner's agent or its keeper;
- (2) On a leash that does not adequately confine the animal to the property of its owner, its owner's agent or its keeper; or
- (3) On a leash that is not otherwise under the immediate control of a person physically capable of restraining the animal.

Dangerous animal means any animal which presents a substantial threat of bodily harm to any person or pet in its vicinity or if it were to escape its primary enclosure or escape from the control of its owner or custodian. Past acts of aggressive behavior shall justify the determination that it is a dangerous animal. A dog's breed shall not be considered in determining whether or not it is dangerous.

Domestic animal means any tame animal associated with family life or accustomed to life in or near the habitation of persons.

Neglect means to fail to sufficiently and properly care for an animal to the extent that the animal's health is jeopardized.

Owner means any person, partnership or corporation owning, keeping or harboring animals.

Shelter means adequate protection from the elements and weather conditions suitable for the age, species and physical condition of the animal so as to maintain the animal in a state of good health. Shelter for livestock includes structures or natural features such as trees or topography and, for a dog, includes one or more of the following:

- (1) The residence of the dog's owner or other individual.
- (2) A doghouse that is an enclosed structure with a roof and of appropriate dimensions for the breed and size of the dog. The doghouse shall have dry bedding when the outdoor temperature is or is predicted to drop below freezing.
- (3) A structure, including a garage, barn or shed, that is sufficiently insulated and ventilated to protect the dog from exposure to extreme temperatures or, if not sufficiently insulated and ventilated, contains a doghouse as provided under subsection (2) of this definition that is accessible to the dog.

State of good health means freedom from disease and illness and in a condition of proper body weight and temperature for the age and species of the animal, unless the animal is undergoing appropriate treatment.

(Ord. No. 2010-3, § 1, 7-13-2010)

Sec. 4-20. Dangerous animals prohibited.

No person shall own, possess or harbor any animal that is dangerous.

(Ord. No. 2010-3, § 2, 7-13-2010)

Sec. 4-21. Running at large; disturbances prohibited.

No person shall permit any animal to run at large, or keep, possess or harbor any animal which by loud and frequent howling, or other noise, or by entering property other than that of the owner, causes annoyance or disturbance to any person in the county unless the animal is under the reasonable control of its owner or keeper or some individual authorized by him or her or unless engaged in lawful hunting accompanied by the owner or custodian of said animal or running on forested or agricultural land or with the permission of the landowner.

(Ord. No. 2010-3, § 3, 7-13-2010)

Sec. 4-22. Violation citations.

(a) Upon determination by an animal control with an affidavit of complaint that an animal is being permitted to run at large or causes annoyance or disturbance to any person, said animal control officer may issue a violation citation. Said violation citation shall be administered through the town council.

(b) Any person who is found to have violated any provisions of this article shall on first offense be issued a written warning, shall on second offense, per occurrence, be fined in the amount not to exceed \$100.00, on third offense, per occurrence, be fined in an amount not to exceed \$150.00 and on any fourth or subsequent offense, per occurrence, be fined in an amount not to exceed \$200.00.

(c) Any person who fails, refuses or neglects to pay said fines may be summoned to appear before the town council for hearing.
(Ord. No. 2010-3, § 4, 7-13-2010)

Sec. 4-23. Impounding.

If witnessed by the animal control officer that an animal is being permitted to run at large and no animal custodian or owner can be located to confine the animal, the animal control officer shall impound the animal. Unless the animal is an unknown stray, the animal control officer will leave a notice of impoundment for the owner of custodian. This notice will give the owner or custodian of the animal the information needed to claim the animal at Gibson County Animal Services Shelter. County animal services shall maintain impounded animals for a minimum of ten days, so long as space allows and the animal is healthy. If the animal has been so seriously injured it cannot recover or is suffering from a serious disease, the animal service may have to destroy the animal in a humane manner. If the animal is not claimed within the ten-day time period, county animal services shall destroy it in a humane manner or place the animal up for adoption.
(Ord. No. 2010-3, § 5, 7-13-2010)

Sec. 4-24. Claim and maintenance fee.

An animal claim fee and maintenance fee will be charged to the owner for any such animal and the rate of maintenance will be dependent upon the type of animal and type of care needed to provide the animal with adequate housing, food, medicine and/or veterinary care.
(Ord. No. 2010-3, § 6, 7-13-2010)

Sec. 4-25. Impoundment fee; vaccination required.

(a) The animal control officer shall not release any impounded animal to an owner without the owner showing proof of a current rabies vaccination. If no proof of vaccination can be provided, an owner will be required to purchase an owner claim rabies voucher for a fee as determined by county animal services which can be taken to any veterinary clinic. This voucher will be active for a ten-day period.

(b) Fees for owners of impounded animals claimed shall be determined by county animal services.

(c) After the third offense, the animal shall not be released to the owner.

(d) After the first offense, county animal services shall be authorized to impose a fee as determined by county animal services for each day the animal is boarded, beginning on the second day of impoundment, in addition to claim fees.

(e) County animal services shall have authority to require identification tags to be placed upon the impounded animal. Fees for such identification tags shall be determined by county animal services.

(f) All fines and fees paid to county animal services are to be used to defray the expenses of operating the county animal services shelter.

(Ord. No. 2010-3, § 7, 7-13-2010)

Sec. 4-26. Responsibilities of animal owners.

(a) An owner, possessor, or person having the charge or custody of an animal shall not do any of the following:

- (1) Fail to provide an animal adequate care.
- (2) Abandon an animal or cause an animal to be abandoned, in any place, without making provisions for the animal's adequate care, unless premises are vacated for the protection of human life or the prevention of injury to a human.
- (3) Negligently allow any animal, including one who is aged, diseased, maimed, hopelessly sick, disabled or non-ambulatory to suffer unnecessary neglect, torture or pain.
- (4) Tether a dog unless the tether is at least three times the length of the dog as measured from the tip of its nose to the tip of its tail and is attached to a harness or non-choke collar designed for tethering.
- (5) Leave an animal unattended in a vehicle when conditions in that vehicle would constitute a health hazard to the animal.
- (6) Fail to confine in a secure building or enclosure a female domestic animal in heat so as to prevent conception except during instances of planned breeding.

(b) Vaccination required. No owner or custodian of any dog, cat or ferret shall keep, maintain, or harbor the animal unless the animal has been vaccinated by a licensed veterinarian with anti-rabies vaccine of a type approved by the state board of health. The anti-rabies vaccination of the animal shall be repeated every one to three times as applicable to the vaccine. In no case shall more than three years elapse between each vaccination. All dogs, cats and ferrets shall be vaccinated for rabies as required by state statute. A licensed veterinarian shall provide such vaccinations.

(Ord. No. 2010-3, § 8, 7-13-2010)

Sec. 4-27. Regulation of dangerous animals.

(a) Pursuant to a preponderance of the evidence, an animal may be declared as a dangerous animal if there have occurred two serious unprovoked attacks to a person or another animal while running at large.

(b) The following conditions may be imposed on an owner of an animal deemed a dangerous animal:

- (1) Indoors, when not alone, the animal must be under control of a person 18 years of age or older.

- (2) Outdoors and unattended, the animal must be kept within a locked fenced area from which it cannot escape.
 - (3) When outdoors, the animal must be attended and kept within a locked area from which it cannot escape.
 - (4) When outdoors, the animal must be attended and kept on a leash no longer than six feet and under the control of a person 18 years of age or older.
 - (5) When outdoors, the animal must be attended and muzzled. Such muzzle shall not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting a person or animal. The muzzle must be made of non-metallic material so as to prevent the muzzle from freezing to the animal.
 - (6) Placement of a "Beware of Dog" sign on the property.
- (c) An animal may not be declared dangerous:
- (1) If the animal was protecting or defending a person within the imminent vicinity of the animal from an attack or assault.
 - (2) If, at the time, the recipient of the attack was committing a crime or offense upon the property of the owner or custodian of the animal.
 - (3) If the recipient of the attack was teasing, tormenting, abusing or assaulting the animal on its own property or in the past has teased, tormented, abused or assaulted the animal.
 - (4) If the animal was attacked or menaced by another animal, or the animal attacked was on the property of its owner or custodian.
 - (5) If the animal was responding to pain or injury, or protecting itself, its kennel, its offspring or owner or custodian's property.
- (d) Neither growling nor barking nor both shall alone constitute grounds upon which to find an animal to be dangerous.
- (e) An animal deemed dangerous that is not under restraint and cannot be safely captured by animal control officers and impounded may be slain by law enforcement.
(Ord. No. 2010-3, § 9, 7-13-2010)

Secs. 4-28—4-57. Reserved.

ARTICLE III. FOWL

Sec. 4-58. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Fowl means all classes and species of domestic fowl or birds and shall include the male and female.

Harboring. Any person, firm or corporation who shall suffer or permit any fowl or rabbit to frequent or remain in any building, premises or enclosure shall be deemed to be harboring fowl or rabbits within the meaning of this article.

Owner means any person, firm or corporation keeping, harboring, feeding and maintaining any fowl or rabbits.

Rabbit means all classes and species and shall include the male and female.
(Ord. No. 1992-1, § 1, 5-8-1992)

Sec. 4-59. Number harbored.

It shall be unlawful for any person, firm or corporation to own, keep or harbor within the corporate limits of the town more than 18 of any species of fowl or rabbits within the corporate limits of the town.

(Ord. No. 1992-1, § 2, 5-8-1992)

Sec. 4-60. Minimum penalties.

Any person found guilty of violating any provision of this article shall, upon conviction, be subject to the general penalty as set forth in section 1-7.

(Ord. No. 1992-1, § 3, 5-8-1992)

Chapter 5

RESERVED

Chapter 6

BUILDINGS AND BUILDING REGULATIONS

Article I. In General

Secs. 6-1—6-18. Reserved.

Article II. Building Standards

- | | |
|------------|-------------------------------------|
| Sec. 6-19. | Title. |
| Sec. 6-20. | Application. |
| Sec. 6-21. | Definitions. |
| Sec. 6-22. | Adoption of IC 36-7-9 by reference. |
| Sec. 6-23. | Fine. |

ARTICLE I. IN GENERAL

Secs. 6-1—6-18. Reserved.

ARTICLE II. BUILDING STANDARDS

Sec. 6-19. Title.

This article shall be known as the building standards for the town.
(Ord. No. 2004-13, § 1, 11-9-2004)

Sec. 6-20. Application.

This article applies within the boundaries of the town.
(Ord. No. 2004-13, § 2, 11-9-2004)

Sec. 6-21. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Department means the town council.

Enforcement authority means the president of the town council.

Hearing authority means the town council.

Substantial property interest means any right in real property that may be affected in a substantial way by actions authorized by this article, including a fee interest, a life estate interest, a future interest, a present possessory interest, or an equitable interest of a contract purchaser.

(Ord. No. 2004-13, § 3, 11-9-2004)

Sec. 6-22. Adoption of IC 36-7-9 by reference.

The provisions of IC 36-7-9-2 through 36-7-9-29 of the laws of the state, as amended, are hereby adopted as an ordinance of the town, and the town, to the extent stated in section 6-20, shall be governed by said statute.

(Ord. No. 2004-13, § 4, 11-9-2004)

Sec. 6-23. Fine.

Any person in violation of this article shall be subject to the general penalty as set forth in section 1-7.

Chapter 7

RESERVED

Chapter 8

BUSINESSES AND BUSINESS REGULATIONS

(RESERVED)

Chapter 9

RESERVED

Chapter 10

FLOODS

Article I. In General

Sec. 10-1. Flood insurance program.

Secs. 10-2—10-20. Reserved.

Article II. Flood Damage Prevention

Sec. 10-21. Statutory authorization; findings of fact; purpose; objectives.

Sec. 10-22. Definitions.

Sec. 10-23. General provisions.

Sec. 10-24. Administration.

Sec. 10-25. Provisions for flood hazard reduction.

Sec. 10-26. Variance procedures.

ARTICLE I. IN GENERAL**Sec. 10-1. Flood insurance program.**

The town council hereby:

- (1) Assures the Federal Insurance Administration that it will enact as necessary and maintain in force in those areas having flood, mudslide (i.e., mudflow), or flood-related erosion hazards, adequate land use and control measures with effective enforcement provisions consistent with the criteria set forth in section 59 et seq., of the National Flood Insurance Program Regulations; and
- (2) Vests the county floodplain administrator with the responsibility, authority, and means to:
 - a. Assist the administrator, at the administrator's request, in the delineation of the limits of the area having special flood, mudslide, or flood-related erosion hazards;
 - b. Provide information the administrator may request concerning present uses and occupancy of the floodplain, mudslide or flood-related erosion areas;
 - c. Cooperate with federal, state, and local agencies and private firms which undertake to study, survey, map, and identify floodplain, mudflow, or flood-related erosion areas, and cooperate with neighboring communities with respect to management of adjoining floodplain, mudslide and/or flood-related erosion areas in order to prevent aggravation of existing hazards;
 - d. Submit, on forms provided by the administrator, an annual report on the progress made during the past year within the community in the development and implementation of floodplain management measures;
 - e. Upon occurrence, notify the administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area. Include an accurate corporate limit map suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority. The community will use the Flood Insurance Rate Map published for the community from which land areas were annexed or from that political entity that previously had regulatory authority until the administrator provides a map using the new corporate limits;
- (3) Appoints the county floodplain administrator to maintain for public inspection and to furnish, upon request (for determining flood insurance premium rates), the following information on all new and substantially improved structures constructed within the identified special flood hazard area:
 - a. The actual (as-built) lowest floor (including basement) elevation in relation to mean sea level;

- b. Any certificates of floodproofing;
 - c. Whether or not a building has a basement;
 - d. For all floodproofed structures, the elevation to which the structure has been floodproofed;
- (4) Agrees to take such other official action as may be reasonably necessary to carry out the objectives of the program.
- (Res. No. 2017-9, §§ 1—4, 8-8-2017)

Secs. 10-2—10-20. Reserved.

ARTICLE II. FLOOD DAMAGE PREVENTION

Sec. 10-21. Statutory authorization; findings of fact; purpose; objectives.

(a) *Statutory authorization.* The state legislature has in IC 36-1-4-11 (no zoning) granted the power to local government units to control land use within their jurisdictions. Therefore, the board of commissioners of the county, the city council of Oakland City, the town council of Francisco, the town council of Hazleton, and the town council of Patoka, respectively, do hereby adopt the floodplain management regulations set forth herein.

(b) *Findings of fact.*

- (1) The flood hazard areas of Oakland City, Francisco, Hazleton, Patoka and unincorporated Gibson County 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 floodproofed, or otherwise unprotected from flood damages.

(c) *Statement of purpose.* It is the purpose of this article 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 floodwaters.
 - (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 communities of Oakland City, Francisco, Hazleton, Patoka, and unincorporated Gibson County by fulfilling the requirements of the National Flood Insurance Program.
- (d) *Objectives.* The objectives of this article 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 floodprone areas in such a manner as to minimize flood blight areas.
- (Res. No. 2016-04A, art. 1, §§ A—D, 8-16-2016)

Sec. 10-22. Definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

A *zone* means 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 as follows:

Zone A. Areas subject to inundation by the one percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.

Zone A99. Areas subject to inundation by the one percent 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.

Zone AE and Zones A1-A30. Areas subject to inundation by the one percent 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 AH. Areas subject to inundation by one percent annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

Zone AO. Areas subject to inundation by one percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

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.

Accessory structure (appurtenant structure) means 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) means 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 means a request for a review of the floodplain administrator's interpretation of any provision of this article.

Area of shallow flooding means a designated AO or AH Zone on the community's flood insurance rate map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE) means the elevation of the one percent annual chance flood.

Basement means that portion of a structure having its floor sub-grade (below ground level) on all sides.

Boundary river means the part of the Ohio River that forms the boundary between Kentucky and Indiana.

Boundary river floodway means the floodway of a boundary river.

Building. See *Structure*.

Community means a political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

Community rating system (CRS) means 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 means 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 means 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 means any human-made change to improved or unimproved real estate, including, but not limited to:

- (1) Construction, reconstruction, or placement of a structure or any addition to a structure;
- (2) 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;
- (3) Installing utilities, erection of walls and fences, construction of roads, or similar projects;
- (4) Construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
- (5) Mining, dredging, filling, grading, excavation, or drilling operations;
- (6) Construction and/or reconstruction of bridges or culverts;
- (7) Storage of materials; or
- (8) Any other activity that might change the direction, height, or velocity of floodwaters or surface waters.

The term "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 means 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 is a certified statement that verifies a structure's elevation information.

Emergency program means 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 means 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 means 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 means the Federal Emergency Management Agency.

Flood means 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) means an official map on which FEMA or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

Flood insurance rate map (FIRM) means 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) is 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 protection grade (FPG) is the elevation of the regulatory flood plus two feet at any given location in the SFHA. (See *Freeboard*.)

Floodplain means 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 means 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 means this article and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in floodprone areas. The term "floodplain management regulations" 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.

Floodprone area means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See *Flood*.)

Floodproofing (dry floodproofing) is 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 is a form used to certify compliance for nonresidential structures as an alternative to elevating structures to or above the FPG. This certification must be by a registered professional engineer or architect.

Floodway is 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 means 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 is those portions of the floodplain lying outside the floodway.

Hardship, as related to variances of this article, means the exceptional hardship that would result from a failure to grant the requested variance. The board of commissioners 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 disabilities, 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 means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

Historic structures means any structures individually listed on the National Register of Historic Places or the state register of historic sites and structures.

Letter of final determination (LFD) means a letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

Letter of map change (LOMC) is 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 as follows:

Letter of map amendment (LOMA) means 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) means 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) means 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 means the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

Lowest floor means 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 floodwaters unless:
 - a. The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;

- b. The total net area of all openings shall be at least one square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and
- c. Such enclosed space shall be usable solely for the parking of vehicles and building access.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a recreational vehicle.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market value means 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 means 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) is 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, is a vertical control used as a reference for establishing varying elevations within the floodplain.

New construction means 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 means 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 means the floodway of any river or stream other than a boundary river.

North American Vertical Datum of 1988 (NAVD 88), as adopted in 1993, 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 is the flood that has a one percent chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one percent annual chance flood. See *Regulatory flood*.

Physical map revision (PMR) is an official republication of a community's FEMA map to effect changes to base (one percent 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 nuisance means 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 means 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 means 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 means the flood having a one percent chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the state department of natural resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in section 10-23(b). The regulatory flood is also known by the term "base flood," "one percent annual chance flood," and "100-year flood."

Section 1316 is 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 floodprone areas.

Special flood hazard area (SFHA) means those lands within the jurisdiction of Oakland City, Francisco, Hazleton, Patoka, and unincorporated Gibson County subject to inundation

by the regulatory flood. The SFHAs of Oakland City, Francisco, Hazleton, Patoka, and unincorporated Gibson County are generally identified as such on the county and incorporated areas flood insurance rate maps dated November 5, 2014, as well as any future updates, amendments, or revisions, prepared by FEMA 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 term "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 term "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 means a structure that is principally above ground and is enclosed by walls and a roof. The term "structure" includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term "structure" also includes recreational vehicles to be installed on a site for more than 180 days.

Substantial damage means 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 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. The term "substantial improvement" includes structures that have incurred repetitive loss or substantial damage regardless of the actual repair work performed. The term "substantial improvement" does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements.

Suspension means 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 means a grant of relief from the requirements of this article which permits construction in a manner otherwise prohibited by this article where specific enforcement would result in unnecessary hardship.

Violation means the failure of a structure or other development to be fully compliant with this article. A structure or other development without the elevation, other certification, or other evidence of compliance required in this article is presumed to be in violation until such time as that documentation is provided.

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. The term "watercourse" includes specifically designated areas in which substantial flood damage may occur.

X zone means 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 percent 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 percent.

Zone means a geographical area shown on a FIRM that reflects the severity or type of flooding in the area.

Zone A. See *A zone*.

Zone B, C, and X means 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.)

(Res. No. 2016-04A, art. 2, 8-16-2016)

Sec. 10-23. General provisions.

(a) *Lands to which this article applies.* This article shall apply to all SFHAs and known floodprone areas within the jurisdiction of Oakland City, Francisco, Hazleton, Patoka, and unincorporated Gibson County.

(b) *Basis for establishing regulatory flood data.* This article's protection standard is the regulatory flood data. 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 Oakland City, Francisco, Hazleton, Patoka, and unincorporated Gibson County shall be as delineated on the one percent annual chance flood profiles in the flood insurance study of the county and incorporated areas dated November 5, 2014, and the corresponding flood insurance rate map dated November 5, 2014, as well as any future updates, amendments, or revisions, prepared by FEMA with the most recent date.
- (2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of Oakland City, Francisco, Hazleton, Patoka, and unincorporated Gibson County delineated as an A zone on the county and incorporated areas flood

insurance rate map dated November 5, 2014, as well as any future updates, amendments, or revisions, prepared by FEMA with the most recent date, shall be according to the best data available as provided by the state department of natural resources, provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the state department of natural resources for review and subsequently approved.

- (3) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known floodprone areas shall be according to the best data available as provided by the state department of natural resources, provided the upstream drainage area from the subject site is greater than one square mile.
- (4) Upon issuance of a letter of final determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

(c) *Establishment of floodplain development permit.* A floodplain development permit shall be required in conformance with the provisions of this article 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 article and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this article and other applicable regulations.

(e) *Abrogation and greater restrictions.* This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article 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 article, all provisions shall be:

- (1) Considered as minimum requirements.
- (2) Liberally construed in favor of the town council.
- (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 article 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 article does not create any liability on the part of Oakland City, Francisco, Hazleton, Patoka, unincorporated Gibson County, the state department of natural resources, or the state, for any flood damage that results from reliance on this article 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 article. All violations shall be punishable by a fine not exceeding \$2,500.00.

- (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 county, including Oakland City, Francisco, Hazleton, or Patoka, from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person responsible.

(Res. No. 2016-04A, art. 3, §§ A—I, 8-16-2016)

Sec. 10-24. Administration.

(a) *Designation of administrator.* The board of commissioners of the county, the city council of Oakland City, the town council of Francisco, the town council of Hazleton, and the town council of Patoka hereby appoint the county floodplain administrator to administer and implement the provisions of this article 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 structures 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 nonresidential 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 subsection (c)(2)f of this section for additional information.)

(2) *Finished construction.* Upon completion of construction, an elevation certification which depicts the as-built lowest floor elevation is required to be submitted to the floodplain administrator. If the project includes a floodproofing measure, floodproofing certification is required to be submitted by the applicant to the floodplain administrator.

(c) *Duties and responsibilities of the floodplain administrator.*

- (1) The floodplain administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this article. The administrator is further authorized to render interpretations of this article which are consistent with its spirit and purpose.
- (2) Duties and responsibilities of the floodplain administrator shall include, but not be limited to:
 - a. Review all floodplain development permits to ensure that the permit requirements of this article have been satisfied.
 - b. Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations.

- c. Ensure that construction authorization has been granted by the state department of natural resources for all development projects subject to section 10-25(e) and (g)(1) and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).
- d. 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.
- e. Maintain and track permit records involving additions and improvements to residences located in the floodway.
- f. 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.
- g. Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, LOMCs, copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and as-built elevation and flood-proofing data for all buildings constructed subject to this article.
- h. Utilize and enforce all LOMCs or physical map revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
- i. Ensure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- j. Review certified plans and specifications for compliance.
- k. Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with subsection (b) of this section.
- l. Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with subsection (b) of this section.

(Res. No. 2016-04A, art. 4, §§ A—C, 8-16-2016)

Sec. 10-25. Provisions for flood hazard reduction.

(a) *General standards.* In all SFHAs and known floodprone areas, the following provisions are required:

- (1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

- (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 floodwaters into the system.
 - (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters 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 article shall meet the requirements of new construction as contained in this article.
- (b) *Specific standards.* In all SFHAs, the following provisions are required:
- (1) *All construction.* In addition to the requirements of subsection (a) of this section, 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 percent 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 its before damaged condition equals or exceeds 50 percent 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 article does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.
- (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 (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of subsection (b)(4) of this section.
- (3) *Nonresidential structures.* New construction or substantial improvement of any commercial, industrial, or nonresidential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of subsection (b)(4) of this section. 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 section 10-24(c)(2)l.
 - b. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.
- (4) *Elevated structures.*
- a. New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.
 - b. Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:
 - 1. Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).

2. The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.
 3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 4. Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
 5. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
 6. The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.
- (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 one foot deep before compacting to 95 percent 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 ten 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 three horizontal to one 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.
- (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 one 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 subsection (b)(4) of this section.
- 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 subsection (b)(4) of this section.
- 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 in subsection (b)(6)b of 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 subsection (b)(4) of this section.

- (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 five acres.

(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.*

- (1) Located within SFHAs, established in section 10-23(b) are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris and potential projectiles, and has erosion potential. If the site is in an identified floodway, the floodplain administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the state department of natural resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1, a permit for construction in a floodway from the state department of natural resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing 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. (IC 14-28-1-26 allows construction of a non-substantial addition/improvement to a residence in a non-boundary river floodway without obtaining a permit for construction in the floodway from the state department of natural resources. If fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the state department of natural resources.)
- (2) No action shall be taken by the floodplain administrator until a permit or letter of authorization (when applicable) has been issued by the state department of natural

resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the state department of natural resources, the floodplain administrator may issue the local floodplain development permit, provided the provisions contained in this section have been met. The floodplain development permit cannot be less restrictive than the permit for construction in a floodway issued by the state department of natural resources. However, a community's more restrictive regulations (if any) shall take precedence.

- (3) No development shall be allowed which, acting alone or in combination with existing or future development, 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.
- (4) For all projects involving channel modifications or fill (including levees), the floodplain administrator shall submit the data and request that FEMA 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 this section 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 one square mile.
 - a. If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the floodplain administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the state department of natural resources for review and comment.
 - b. 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 one percent annual chance flood elevation and the recommended flood protection grade has been received from the state department of natural resources.
 - c. Once the floodplain administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a floodplain development permit may be issued, provided the conditions of the floodplain

development permit are not less restrictive than the conditions received from the state department of natural resources and the provisions contained in this section have been met.

- (2) Drainage area upstream of the site is less than one square mile.
 - a. If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the floodplain administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one percent annual chance flood elevation for the site.
 - b. Upon receipt, the floodplain administrator may issue the local floodplain development permit, provided the provisions contained in this section 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 one foot and shall not increase flood damages or potential flood damages.

(h) *Standards for floodprone areas.* All development in known floodprone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per this section.

(Res. No. 2016-04A, art. 5, §§ A—H, 8-16-2016)

Sec. 10-26. Variance procedures.

(a) *Designation of variance and appeals board.* The board of commissioners shall hear and decide appeals and requests for variances from requirements of this article.

(b) *Duties of variance and appeals board.* The board of commissioners 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 article. Any person aggrieved by the decision of the board may appeal such decision to the county circuit court.

(c) *Variance procedures.* In passing upon such applications, the board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article, 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 section 10-25(e) or (g)(1) may be granted.
 - (3) Any variance granted in a floodway subject to section 10-25(e) or (g)(1) will require a permit from the state department of natural resources.
 - (4) Variances to the provisions for flood hazard reduction of section 10-25(b) may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
 - (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 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 subsection (e) of this section.)

- (8) The floodplain administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the state department of natural resources upon request. (See subsection (e) of this section.)

(e) *Variance notification.*

- (1) 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:
 - a. 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 \$25.00 for \$100.00 of insurance coverage; and
 - b. Such construction below the flood protection grade increases risks to life and property.
- (2) 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 this section and the purposes of this article, the board of commissioners may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

(Res. No. 2016-04A, art. 6, §§ A—G, 8-16-2016)

Chapter 11

RESERVED

Chapter 12

MANUFACTURED HOMES AND TRAILERS

Article I. In General

Secs. 12-1—12-18. Reserved.

Article II. Mobile Homes

- Sec. 12-19. Definitions.
- Sec. 12-20. Parking limit.
- Sec. 12-21. Hindering motion prohibited.
- Sec. 12-22. Water and sewer connection.
- Sec. 12-23. Minimum lot size and lot placement requirements.
- Sec. 12-24. Permit age limit.
- Sec. 12-25. Permit requirements.
- Sec. 12-26. Required notice.
- Sec. 12-27. Required permit.
- Sec. 12-28. Preexisting mobile homes.
- Sec. 12-29. Penalty.
- Sec. 12-30. Permit fund.
- Sec. 12-31. Injunctions.
- Sec. 12-32. Permit expiration.
- Sec. 12-33. Exceptions permitted.

ARTICLE I. IN GENERAL

Secs. 12-1—12-18. Reserved.

ARTICLE II. MOBILE HOMES

Sec. 12-19. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means the owner in fee simple, life estate, corporation, partnership, joint tenant, or tenant in common of the real estate in which the mobile home placement is being sought. The applicant shall show proof of ownership to the town council.

Mobile home means any vehicle either mounted on wheels or designed and constructed for wheels and propelled either by its own power or by another power-driven vehicle to which it is attached, and which is used for living, sleeping or business purposes.

Real estate means real estate located in the corporate limits of the town, as recorded and platted in the Gibson County Courthouse, Princeton, Indiana.
(Ord. No. 2022-7-A, § 1, 4-12-2022)

Sec. 12-20. Parking limit.

Except for the parking of mobile homes in a mobile home park approved by the state board of health, the parking of any mobile home on any lot or parcel of real estate within the corporate limits of the town for more than ten days of any 30-day period is unlawful unless the town council has issued a permit.

(Ord. No. 2022-7-A, § 2, 4-12-2022)

Sec. 12-21. Hindering motion prohibited.

Removing or causing to have removed the wheels or any transporting device from a mobile home, or the altering of a mobile home in any manner which would hinder or delay the ready removal of said mobile home, is unlawful unless a permit has been issued by the town council.

(Ord. No. 2022-7-A, § 3, 4-12-2022)

Sec. 12-22. Water and sewer connection.

Each mobile home used as a permanent dwelling shall be properly connected with its own water meter to the water and sewer system of the town.

(Ord. No. 2022-7-A, § 4, 4-12-2022)

Sec. 12-23. Minimum lot size and lot placement requirements.

The parking of any mobile home on any lot containing less than 10,000 square feet or the placing of a mobile home less than ten feet from any lot or property line or any non-connecting structure is a violation of this article.

(Ord. No. 2022-7-A, § 5, 4-12-2022)

Sec. 12-24. Permit age limit.

The town shall not issue a permit for a mobile home that is 11 years of age or older.

(Ord. No. 2022-7-A, § 6, 4-12-2022)

Sec. 12-25. Permit requirements.

No permit for the parking of a mobile home shall be issued unless and until:

- (1) The town council has determined that placement of a mobile home will not substantially and permanently injure the use of the neighborhood property where said mobile home is to be parked.
- (2) The town council has determined that said mobile home will be placed on a lot or parcel of real estate containing at least 10,000 square feet and will be placed at least ten feet from any property or lot line or non-connecting structure.
- (3) The town council has determined that said mobile home will be connected properly, with its own water meter, to the water and sewer system of the town.
- (4) Published notice has been given by the applicant in the form as set forth herein, said publication to be made at least two times in the Princeton Daily Clarion, the last of which said publications shall be at least seven days prior to a regularly scheduled meeting of the town council wherein the application for a mobile home permit will be considered.

(Ord. No. 2022-7-A, § 7, 4-12-2022)

Sec. 12-26. Required notice.

The published notice referred to in section 12-25(4) shall be substantially in the following form:

"Notice is hereby given to the citizens of the Town of Francisco, Indiana, that (name of applicant) has applied to the town council of the Town of Francisco for a permit to park a mobile home at (address). This notice is given pursuant to Mobile Home Ordinance No. 2022-7-A. The public hearing on the permit application is scheduled for the _____ day of _____, 20____ at 7:00 p.m. at the Town Hall, Francisco, Indiana. Interested persons appearing at said meeting will be given opportunity to present their views on said application."

(Ord. No. 2022-7-A, § 8, 4-12-2022)

Sec. 12-27. Required permit.

The permit to be given by the town council shall be substantially in the following form:

MOBILE HOME PERMIT

The town council of the Town of Francisco, Indiana, by acting by and through its clerk-treasurer, hereby grants to (name of applicant), whose address is _____, permission to park (number of mobile homes) at (address). By acceptance of this permit, the permittee warrants that said mobile home(s) shall be connected properly to the town water and sewer system.

There shall be imposed a penalty not to exceed \$100.00 upon conviction for each violation of any provision of this ordinance. Each day shall be considered a separate offense.

DATE: _____

CLERK-TREASURER
TOWN OF FRANCISCO, INDIANA

(Ord. No. 2022-7-A, § 9, 4-12-2022)

Sec. 12-28. Preexisting mobile homes.

This article does not apply to any mobile home established on any lot or parcel of real estate within the town on or before the effective date of the ordinance from which this article is derived or to any mobile home used to replace any such mobile home, provided such replacement is made within 30 days after removal of the original mobile home.

(Ord. No. 2022-7-A, § 10, 4-12-2022)

Sec. 12-29. Penalty.

There shall be imposed a penalty not to exceed \$100.00 upon conviction for each violation of any provision of this article. Each day shall be considered a separate offense.

(Ord. No. 2022-7-A, § 11, 4-12-2022)

Sec. 12-30. Permit fund.

There is hereby established for the town a mobile home permit fund which allows the clerk-treasurer of the town to collect a permit fee of \$100.00 for each and every permit for providing to each person, firm or corporation a permit for placement of said mobile home.

(Ord. No. 2022-7-A, § 12, 4-12-2022)

Sec. 12-31. Injunctions.

Any person or entity by any violation of this article may seek in any court of jurisdiction an injunction enjoining said violation.

(Ord. No. 2022-7-A, § 14, 4-12-2022)

Sec. 12-32. Permit expiration.

Any applicant for a mobile home permit who fails, neglects, or refuses to place a mobile home on any real estate within 60 days following the town's approval of said mobile home permit under sections 12-24 and 12-25 shall be deemed to have waived all rights and privileges for the placement of said mobile home and shall have to re-apply for another permit in the manner prescribed by this article.

(Ord. No. 2022-7-A, § 16, 4-12-2022)

Sec. 12-33. Exceptions permitted.

The town council may, when there is just cause, grant any reasonable exception to the terms and conditions required by this article, and grant a permit accordingly.

(Ord. No. 2022-7-A, § 17, 4-12-2022)

Chapter 13

RESERVED

Chapter 14

NUISANCES

- Sec. 14-1. Definitions.
- Sec. 14-2. Conditions or activities constituting nuisances.
- Sec. 14-3. Unsafe building law.
- Sec. 14-4. Noise.
- Sec. 14-5. Prohibited.
- Sec. 14-6. Notice to abate.
- Sec. 14-7. Contents of notice.
- Sec. 14-8. Service of notice.
- Sec. 14-9. Abatement by town.
- Sec. 14-10. Recovery of town's costs.

Sec. 14-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Nuisance is defined consistent with IC 32-30-6-6 as the doing of an unlawful act, or the omitting to perform a duty, or the suffering or permitting any condition or thing to be or exist, which act, omission, condition, or thing either:

- (1) Injures or endangers the comfort, repose, health, or safety of others; or
- (2) Is indecent; or
- (3) Is offensive to the senses; or
- (4) Unlawfully interferes with, obstructs, or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch, or drainage; or
- (5) In any way renders other persons insecure in life or the use of property; or
- (6) Essentially interferes with the comfortable enjoyment of life and property or tends to depreciate the value of the property of others.

(Ord. No. 2022-06, 9-13-2022)

Sec. 14-2. Conditions or activities constituting nuisances.

The maintaining, using, placing, depositing, leaving, or permitting to be or remain on any public or private property of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or constructed to be conclusive, limiting, or restrictive:

- (1) Weeds and other rank vegetation growing to more than 12 inches high.
- (2) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber, or things.
- (3) Any condition which provides harborage for rats, mice, snakes, and other vermin.
- (4) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, kept in such an insanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.
- (5) All unnecessary or unauthorized noises and annoying vibrations, including noises.
- (6) All disagreeable or obnoxious odors and stench, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stench.
- (7) The carcasses of animals or fowl not disposed of within a reasonable time after death.

- (8) The pollution of any public well or cistern, stream, lake, canal, or body of water by sewage, dead animals, creamery, industrial wastes, or other substances.
 - (9) Any building, structure or other place or location where any activity which is in violation of local, state, or federal law is conducted, performed, or maintained.
 - (10) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
 - (11) Noxious fumes, gas, soot or cinders in unreasonable quantities.
 - (12) The unauthorized obstruction of any public street, road, or sidewalk (i.e., parking a vehicle on the sidewalk).
 - (13) Any abandoned appliances.
- (Ord. No. 2022-06, 9-13-2022)

Sec. 14-3. Unsafe building law.

(a) IC 36-7-9 et al., as amended from time to time, is hereby adopted and incorporated by reference. Further, this chapter incorporates by reference the definition of the term "substantial property interest" in IC 36-7-9-2, as amended from time to time. This chapter shall incorporate all portions of the referenced code section, including, but not limited to, all requirements, limitations, findings, instructions, and definitions. Any restatements of any particular provisions of the code are included herein for administrative convenience and public information and are not intended to limit the inclusion of those portions of the code that are adopted by reference only. Further, any provisions restated in this chapter which are later amended by the legislature shall be superseded by such amendments.

(b) The town council and the marshal's department shall be authorized to administer and prosecute all provisions of this chapter in inspecting and ordering the repair, removal or other remedy of any building or premises determined to be unsafe as specified by law. They may do so either with the permission of a landowner or by a court order signed by a judicial officer. The homeowner may request the presence of a uniformed law enforcement officer during said inspection.

(c) All unsafe building or structures or portions thereof or unsafe premises within the town which are determined to be unsafe as defined by this chapter and the law incorporated by reference are declared to be public nuisances and shall be abated by vacation of the unsafe building, sealing of the unsafe building, extermination of vermin, removal of trash or debris or hazardous materials, repair or rehabilitation, demolition or in any other manner as provided by the law incorporated by reference.

(d) For purposes of this chapter, a building or structure, or any part of a building or structure, that is:

- (1) In an impaired structural condition that makes it unsafe to a person or property;
- (2) A fire hazard;

- (3) A hazard to the public health;
- (4) A public nuisance as defined by IC 32-30-6-6;
- (5) Dangerous to a person or property because of a violation of a statute or ordinance concerning building condition or maintenance; or
- (6) Vacant and not maintained in a manner that would allow human habitation, occupancy or use under the requirements of a statute or an ordinance;

is considered an unsafe building.

(e) For the purposes of this chapter, an unsafe building and the tract of real property on which the unsafe building is located are considered unsafe premises.

(f) For purposes of this chapter, a tract of real property that does not contain a building or structure, not including land used for production agriculture, is considered unsafe premises if the tract of real property is:

- (1) A fire hazard;
- (2) A hazard to public health;
- (3) A public nuisance as defined by I.C. §32-30-6-6; or
- (4) Dangerous to a person or property because of a violation of a statute or an ordinance.

(g) A non-reverting unsafe building fund is established in the operating budget of the town in accordance with IC 36-7-9-14.

(h) All requirements, limitations and instructions for issuing orders, providing notice, modifying or rescinding orders, holding hearings, appeals, emergency actions, actions to enforce orders, liability for the costs of performance of work required by orders, payment of costs, management of the unsafe building fund and transfer of monies, inspection warrants, civil actions, judgments, injunctions, performance bonds, civil forfeitures, appointment of receivers and rehabilitation property, transfers of property, violations, penalties and any and all other requirements, limitations and instructions and definitions of IC 36-7-9, et al., are hereby incorporated by reference.

(Ord. No. 2022-06, 9-13-2022)

Sec. 14-4. Noise.

(a) No person shall play, use, operate or permit to be played, used or operated, any radio, tape player, cassette player, compact disc player, loudspeaker, sound amplifier or other device designed for generating or reproducing sound, if the sound generated is audible by another human being at a distance of 30 feet from the device producing the sound. This restriction applies after 10:00 p.m. on Monday, Tuesday, Wednesday, and Thursday, Sunday, and after 12:00 midnight on Friday and Saturday.

(b) Possession by a person of any of the sound generating machines or devices enumerated in subsection (a) of this section shall be prima facie evidence that such person operates, or those persons operate, the machine or device.

(c) The generation of sound in violation of this chapter is deemed to be a public nuisance.

(d) Exemptions.

- (1) This chapter shall not apply to properly operating vehicle alarms, authorized emergency vehicle, vehicle horns used as a warning of danger or public safety officials acting within the scope of their authority.
- (2) This chapter shall not apply to licensed festivals, parades or any activity authorized by governmental authorities.
- (3) This chapter shall not apply if the sound is generated on private property and the sound generated cannot be heard beyond the boundary lines of the private property on which it is generated.

(e) A custodial parent shall be responsible for ensuring a minor child complies with this chapter and is responsible for any fine imposed. The term "minor" means a person under 18 years of age. The marshal's department shall notify the custodial parent of any violations of this chapter committed by a minor.

(f) A person who violates this chapter shall be subject to the following fines:

- (1) First offense (payable within 30 days):..... \$50.00 fine
 - (2) Second offense (payable within 30 days):.....\$200.00 fine
 - (3) Third or subsequent offense (payable within 30 days):.....\$350.00 fine
- (Ord. No. 2022-06, 9-13-2022)

Sec. 14-5. Prohibited.

(a) Any person who causes, permits, maintains, or allows the creation or maintenance of a nuisance shall be punishable by a fine not to exceed:

- (1) First offense (payable within 30 days):..... \$50.00 fine
- (2) Second offense (payable within 30 days):.....\$200.00 fine
- (3) Third or subsequent offense (payable within 30 days):.....\$350.00 fine

(b) Every day any violation of this chapter exists shall constitute a separate offense.
(Ord. No. 2022-06, 9-13-2022)

State law reference—Power of town to prohibit use of property in a way which endangers health, safety, and welfare, IC 36-8-2-4.

Sec. 14-6. Notice to abate.

(a) Whenever a nuisance is found to exist within the town, the town marshal's department may give written notice to the owner or occupant of the property upon which such nuisance exists or upon the person causing or maintaining the nuisance. The owner or occupant shall abate the nuisance within ten days, or a specified number of days as determined through discussion with the town council prior to incurring fines as described herein.

(b) Nuisances meeting the definition of indecent nuisances pursuant to IC 32-30-7-1 et seq., or drug nuisances pursuant to IC 32-30-8-1 et seq., will prescribe the amount of notice consistent with those chapters. The period during which a nuisance must be abated shall begin on the day notice was received by the owner or occupant of the land.
(Ord. No. 2022-06, 9-13-2022)

Sec. 14-7. Contents of notice.

The notice to abate a nuisance issued the provisions of this chapter shall contain the following:

- (1) An order to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances and not less than ten days.
- (2) The location of the nuisance, if the same is stationary.
- (3) A description of which constitutes the nuisance.
- (4) A statement of acts necessary to abate the nuisance.
- (5) A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the town may abate such nuisance and assess the cost thereof against such person.

(Ord. No. 2022-06, 9-13-2022)

Sec. 14-8. Service of notice.

The notice to abate a nuisance shall be served as authorized by law.

(Ord. No. 2022-06, 9-13-2022)

Sec. 14-9. Abatement by town.

Upon the failure of the person upon whom notice to abate a nuisance was served pursuant to the provisions of this chapter to abate the same, a duly designated officer or employee of the town may proceed to abate such nuisance and shall prepare a statement of costs incurred in the abatement thereof.

(Ord. No. 2022-06, 9-13-2022)

State law reference—Power of town to correct conditions which are in violation of ordinances, IC 36-1-6-2.

Sec. 14-10. Recovery of town's costs.

(a) All costs incurred by the town in the abatement of a nuisance under the provisions of this chapter shall constitute a lien against the property upon which such nuisance existed and shall be certified by the clerk-treasurer to the county auditor who shall cause such costs to be placed upon the tax duplication of the owner of such property and such costs shall then be collected from the owner as other taxes are collected.

(b) In addition, such costs shall be a debt which may be collected by the town in an appropriate civil action.

(Ord. No. 2022-06, 9-13-2022)

State law reference—Powers of town to obtain lien for expenses incurred in correcting ordinance violations, IC 36-1-6-2.

Chapter 15

RESERVED

Chapter 16

OFFENSES AND MISCELLANEOUS PROVISIONS

Article I. In General

Secs. 16-1—16-18. Reserved.

Article II. Open Burning

Sec. 16-19. Prohibited.

Sec. 16-20. Fires permitted.

Sec. 16-21. Penalties.

Sec. 16-22. Citations authority.

Secs. 16-23—16-54. Reserved.

Article III. Fireworks (Reserved)

ARTICLE I. IN GENERAL

Secs. 16-1—16-18. Reserved.

ARTICLE II. OPEN BURNING

Sec. 16-19. Prohibited.

No person shall open burn any material except as provided in section 16-20.
(Ord. No. 2018-4, § 1, 8-14-2018)

Sec. 16-20. Fires permitted.

(a) The following types of fires are permitted:

- (1) Fires celebrating church activities.
- (2) Fires celebrating scouting activities.
- (3) Fires used for recreation and cooking purposes, i.e., campfires.
- (4) Residential burning. Burning shall be in a noncombustible container sufficiently vented to induce adequate primary combustion air with enclosed sides, a bottom, and a mesh covering with openings no larger than one-fourth-inch square. Burning is prohibited in apartment complexes and mobile home parks.

(b) All exemptions under subsection (a) of this section shall be subject to the following:

- (1) Only wood products consisting of untreated wood or vegetation shall be burned unless otherwise stated in subsection (a) of this section.
- (2) Burning of yard debris causing dark smoke (such as wet leaves) is not permitted.
- (3) Fires shall be attended at all times until completely extinguished.
- (4) If fires create a nuisance or a fire hazard, they shall be extinguished.
- (5) All residential burning shall occur during daylight hours.
- (6) No burning shall be conducted during unfavorable meteorological conditions such as temperature inversions, high winds, air stagnation, etc.

(Ord. No. 2018-4, § 2, 8-14-2018)

Sec. 16-21. Penalties.

The town shall impose the following fees for violation of this article:

- (1) \$50.00 for the first offense.
- (2) \$100.00 for the second offense.
- (3) \$150.00 for the third offense.

(Ord. No. 2018-4, § 3, 8-14-2018)

Sec. 16-22. Citations authority.

The town marshal and/or town fire chief may issue any and all citations as specified in this article.

(Ord. No. 2018-4, § 4, 8-14-2018)

Secs. 16-23—16-54. Reserved.

ARTICLE III. FIREWORKS (RESERVED)

Chapter 17

RESERVED

Chapter 18

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

Article I. In General

Secs. 18-1—18-18. Reserved.

Article II. Driveway Culverts and Drains

Sec. 18-19. Purpose.
Sec. 18-20. Location.
Sec. 18-21. Authorization.
Sec. 18-22. Culverts.

ARTICLE I. IN GENERAL

Secs. 18-1—18-18. Reserved.

ARTICLE II. DRIVEWAY CULVERTS AND DRAINS

Sec. 18-19. Purpose.

This article is intended to minimize rainwater runoff, encourage natural flow drainage and minimize blockage of rainwater.

(Ord. No. 2000-11, § 1, 1-9-2000)

Sec. 18-20. Location.

All drainage facilities shall be located in the road/street right-of-way where feasible or in perpetual unobstructed easements of appropriate width. Drain facilities shall be provided under driveways/entrances so that the flow of water in ditches are not impeded.

(Ord. No. 2000-11, § 2, 1-9-2000)

Sec. 18-21. Authorization.

All improvements to driveway culverts shall not interfere with drainage of the street or right-of-way nor cause additional areas to drain onto the right-of-way, nor shall they be constructed so as to cause drainage onto the roadway or street.

(Ord. No. 2000-11, § 3, 1-9-2000)

Sec. 18-22. Culverts.

All drainage culverts/pipes or tile used in the construction of driveways/entrances shall be a minimum of 12 inches in diameter and as much larger as the street superintendent deems necessary for proper drainage, and all new or replacement driveway culverts shall be furnished by the landowner at landowner's cost.

(Ord. No. 2000-11, § 4, 1-9-2000)

Chapter 19

RESERVED

Chapter 20

TRAFFIC AND VEHICLES

Article I. In General

Secs. 20-1—20-18. Reserved.

Article II. Parking, Stopping and Speed Limits

Division 1. Generally

Secs. 20-19—20-39. Reserved.

Division 2. Parking

Sec. 20-40. Parking of certain vehicles.
Sec. 20-41. Parking prohibited in certain areas.
Secs. 20-42—20-72. Reserved.

Division 3. Stop Signs

Sec. 20-73. Stop intersections.
Sec. 20-74. Two-way stop intersections.
Sec. 20-75. Four-way stop intersections.
Sec. 20-76. Penalty.
Secs. 20-77—20-99. Reserved.

Division 4. Speed Limits

Sec. 20-100. Established.
Sec. 20-101. State Road 64.
Sec. 20-102. Fine.
Secs. 20-103—20-129. Reserved.

Article III. Truck Traffic

Division 1. Generally

Secs. 20-130—20-156. Reserved.

Division 2. Weight Limits

Sec. 20-157. Acts prohibited.
Sec. 20-158. Fines and penalties.
Secs. 20-159—20-188. Reserved.

Division 3. Truck Traffic from Fifth Street to West School Street to County Road 550 E

Sec. 20-189. Definitions.
Sec. 20-190. Truck route.

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Sec. 20-191. Penalty.
Secs. 20-192—20-222. Reserved.

Division 4. Use of Engine Compression Brakes

Sec. 20-223. Prohibited.
Sec. 20-224. Penalty.
Secs. 20-225—20-241. Reserved.

Article IV. Off-Road Vehicles

Sec. 20-242. Definitions.
Sec. 20-243. Operation or use in town.
Sec. 20-244. Compliance required.
Sec. 20-245. Penalty.
Secs. 20-246—20-268. Reserved.

Article V. Abandoned Vehicles (Reserved)

ARTICLE I. IN GENERAL

Secs. 20-1—20-18. Reserved.

ARTICLE II. PARKING, STOPPING AND SPEED LIMITS**DIVISION 1. GENERALLY**

Secs. 20-19—20-39. Reserved.

DIVISION 2. PARKING**Sec. 20-40. Parking of certain vehicles.***(a) Unlicensed vehicle parking*

- (1) No vehicle, as defined by IC 9-13-2-196, which does not have issued to it and on display a current license plate issued by a state of the United States, or an agency of government, shall be parked or allowed to set upon any public right-of-way in the town.
- (2) No vehicle, as defined by IC 9-13-2-196, which is damaged so as to render it non-functional or which does not have issued to it and on display a current license plate issued by a state of the United States or any agency of government shall be stored or left setting on private property if such vehicle may be seen by the public from a public right-of-way.

(b) Requirements for licensed vehicles stored with tarp or cover.

- (1) Owners of recreation/competition vehicles, such as demolition cars, race cars, mud bogging trucks, etc., stored on private property and visible to the public from a public right-of-way must keep a tarp or cover over the vehicle.
- (2) Private passenger vehicles with current license and insurance as defined IC 9-13-2-196 will be limited to cover by way of a tarp or cover for no more than 30 calendar days, and shall be stored out of public view.

(c) Penalty. Violation of this section may be the subject of a suit for injunction to enforce the same, a fine of \$25.00 for each day of violation, or both.

(Ord. No. 2021-9, 5-11-2021)

Sec. 20-41. Parking prohibited in certain areas.*(a) Parking is prohibited in the following areas:*

- (1) On the north side of West School Street from the intersection of West School Street and Fifth Street 100 feet in length from said intersection running east to west.

- (2) On the east side of Fifth Street 96 feet in length from the intersection of Fifth Street and West School Street running north to south.
- (3) On the south side of West School Street between First Street and Second Street.
- (b) Any person who violates this section shall be subject to a \$50.00 fine, plus court costs. (Ord. No. 2007-1, §§ 1—4, 7-10-2007; Ord. No. 2023-16, §§ 1—3, 11-14-2023)

Secs. 20-42—20-72. Reserved.

DIVISION 3. STOP SIGNS

Sec. 20-73. Stop intersections.

- (a) The following intersections shall be designated a stop intersection:
 - (1) Any and all streets that intersect with State Highway 64, including those streets that end at State Highway 64;
 - (2) North Park Street at East Wood Street;
 - (3) West Wood Street at North Division Street;
 - (4) South Watkins Street at East Maple;
 - (5) South Collins Street at East Maple;
 - (6) East Locust Street at South Division;
 - (7) East Maple Street at South Division;
 - (8) West Chestnut Street at South Division;
 - (9) West Chestnut Street at South Second Street;
 - (10) West Chestnut at South Green Street;
 - (11) West Chestnut at South First Street;
 - (12) South Third Street at West School Street;
 - (13) South Fourth Street at West School Street;
 - (14) South First Street at West Church Street;
 - (15) Cemetery Road at West Church Street;
 - (16) West Wood Street at North Third Street;
 - (17) North Cross Street at Railroad Street;
 - (18) North Center Street at Railroad Street.

(b) Drivers of any vehicles proceeding on each street provided in subsection (a) of this section before entering said intersection shall first stop and shall not proceed into said intersection until they have first yielded the right-of-way to the driver of any vehicle proceeding into said intersection.

(Ord. No. 2002-10, § 1, 9-10-2002)

Sec. 20-74. Two-way stop intersections.

(a) The following intersections shall be designated as a two-way stop intersection:

- (1) West Vine Street at North Third Street;
- (2) West Vine Street at North Fourth Street;
- (3) Vine Street at North Division Street;
- (4) East Vine Street at North Cross Street;
- (5) East Wood and North Cross Streets;
- (6) South Cross Street at East Maple Street;
- (7) East Maple Street at South Center Street;
- (8) South Fifth Street at West Chestnut Street;
- (9) South Fourth Street at West Chestnut Street;
- (10) South Third Street at West Chestnut Street;
- (11) South First Street at West School Street;
- (12) West and East Railroad Streets at North Division Street.

(b) Drivers of any vehicle proceeding on each street provided in subsection (a) of this section before entering said intersection shall first stop and shall not proceed into said intersection until they have yielded the right-of-way to the driver of any vehicle proceeding into said intersection who has already stopped at said intersection.

(Ord. No. 2002-10, § 2, 9-10-2002; Ord. No. 2003-4, § 2, 6-10-2003)

Sec. 20-75. Four-way stop intersections.

(a) The following intersections shall be designated as four-way stop intersections:

- (1) East Vine Street at North Center;
- (2) West School Street at South Second Street;
- (3) West School Street at South Green Street;
- (4) North Division Street, North Fourth Street and East Wood Street.

(b) Drivers of any vehicle proceeding on each street provided in subsection (a) of this section before entering said intersections shall first stop and shall not proceed into said intersection until they have yielded the right-of-way to the driver of any vehicle proceeding into said intersection who has already stopped at said intersection.

(Ord. No. 2002-10, § 3, 9-10-2002)

Sec. 20-76. Penalty.

A person who violates this division shall be subject to a \$50.00 fine under this division, plus court costs, plus state fines and fees.

(Ord. No. 2002-10, § 4, 9-10-2002)

Secs. 20-77—20-99. Reserved.

DIVISION 4. SPEED LIMITS

Sec. 20-100. Established.

(a) The following speed limits exist within the town:

- (1) West School Street between Fifth Street and the town corporation line: 20 miles per hour.
- (2) East Wood Street between Division Street and the town corporation line: 20 miles per hour.
- (3) North Division Street between State Highway 64 and the town corporation line: 20 miles per hour.
- (4) South Division Street between State Highway 64 and the town corporation line: 20 miles per hour.
- (5) South Green between State Highway 64 and Church Street: 20 miles per hour.

(b) Any person who violates this section shall be fined \$50.00, plus court costs.

(Ord. No. 2005-5, §§ 1—6, 9-13-2005)

Sec. 20-101. State Road 64.

All motorized traffic traveling on, over or upon State Road 64 within the corporate limits of the town shall abide by the posted speed limits designated by the state.

(Ord. No. 2002-6, § 1, 3-12-2022)

Sec. 20-102. Fine.

Any person in violation of the posted speed limits shall be subject to a \$50.00 fine, plus court costs.

(Ord. No. 2002-6, § 2, 3-12-2022)

Secs. 20-103—20-129. Reserved.

ARTICLE III. TRUCK TRAFFIC

DIVISION 1. GENERALLY

Secs. 20-130—20-156. Reserved.

DIVISION 2. WEIGHT LIMITS

Sec. 20-157. Acts prohibited.

It shall be unlawful for any person, firm or corporation to drive any vehicle, regardless of its source of power, having a gross weight of over 6,000 pounds on South First Street, South Second Street, South Third Street, South Green Street and West School Street within the corporate limits of the town.

(Ord. No. 1992-3, § 1, 8-11-1992)

Sec. 20-158. Fines and penalties.

Any person, firm or corporation found guilty of violating any provision of this division shall, upon conviction, be subject to the general penalty as set forth in section 1-7.

(Ord. No. 1992-3, § 2, 8-11-1992)

Secs. 20-159—20-188. Reserved.DIVISION 3. TRUCK TRAFFIC FROM FIFTH STREET TO WEST SCHOOL STREET TO
COUNTY ROAD 550 E**Sec. 20-189. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Semitrailer has the same meaning as defined in IC 9-13-2-190.

Truck has the same meaning as defined in IC 9-13-2-188.

Truck-tractor has the same meaning as defined in IC 9-13-2-189.

(Ord. No. 2007-2, § 1, 7-10-2007)

Sec. 20-190. Truck route.

All trucks, truck tractors or semi-tractors or any combination thereof delivering to the south side of town shall use the truck route from Fifth Street to West School Street to County Road 550 E.

(Ord. No. 2007-2, § 2, 7-10-2007)

Sec. 20-191. Penalty.

Any person who violates this division shall be fined \$50.00, plus court costs.
(Ord. No. 2007-2, § 3, 7-10-2007)

Secs. 20-192—20-222. Reserved.

DIVISION 4. USE OF ENGINE COMPRESSION BRAKES

Sec. 20-223. Prohibited.

All persons shall be prohibited from using engine compression brakes on any vehicle or otherwise within the town corporate limits.
(Ord. No. 2008-9, § 1, 11-11-2008)

Sec. 20-224. Penalty.

Any person found to violate this division shall be fined in the amount of \$150.00, plus court costs.
(Ord. No. 2008-9, § 2, 11-11-2008)

Secs. 20-225—20-241. Reserved.

ARTICLE IV. OFF-ROAD VEHICLES

Sec. 20-242. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Off-road vehicles shall be defined as found in IC 14-1-3-1 et seq.
(Ord. No. 2009-9A, § 1, 8-11-2009)

Sec. 20-243. Operation or use in town.

Off-road vehicles may use the streets, roads and alleys within the corporate limits of the town.
(Ord. No. 2009-9A, § 2, 8-11-2009)

Sec. 20-244. Compliance required.

All persons operating off-road vehicles shall follow all rules, regulations, registrations and safety rules under IC 14-1-3-1 et seq., and state traffic regulations.
(Ord. No. 2009-9A, § 3, 8-11-2009)

Sec. 20-245. Penalty.

Any person who violates this article shall be fined in an amount not to exceed \$500.00, plus court costs.

(Ord. No. 2009-9A, § 4, 8-11-2009)

Secs. 20-246—20-268. Reserved.

ARTICLE V. ABANDONED VEHICLES (RESERVED)

Chapter 21

RESERVED

Chapter 22

UTILITIES

Article I. In General

Secs. 22-1—22-18. Reserved.

Article II. Prohibition on Cross Connections

Sec. 22-19. Definitions.
Sec. 22-20. Cross connection not permitted.
Sec. 22-21. Inspections.
Sec. 22-22. Access required.
Sec. 22-23. Discontinuation authorized.
Sec. 22-24. Grounds for discontinuation.
Sec. 22-25. Reduced pressure principal backflow preventers.
Sec. 22-26. Supplement to state law.
Sec. 22-27. Backflow prevention devices required.
Sec. 22-28. Notice of required backflow prevention device.
Secs. 22-29—22-48. Reserved.

Article III. Water Service

Division 1. Generally

Secs. 22-49—22-69. Reserved.

Division 2. Water Rates

Sec. 22-70. Rates established.
Sec. 22-71. Minimum charges per month based upon size of meter.
Sec. 22-72. Hydrant fees.
Sec. 22-73. Tap-in fees.
Sec. 22-74. Service fee.
Sec. 22-75. Delinquent water bills and disconnection.
Sec. 22-76. Utility payment plans.
Sec. 22-77. Unincorporated town water users.
Sec. 22-78. User's responsibility.
Sec. 22-79. Deposits.
Sec. 22-80. Refund deposits.
Sec. 22-81. Unclaimed or abandoned meter deposits.
Sec. 22-82. Requirement for separate meter for all residences and businesses.
Sec. 22-83. Tracking.
Sec. 22-84. Bad debts and uncollectible accounts.
Sec. 22-85. Bad checks.
Sec. 22-86. Accounts of deceased residents.
Secs. 22-87—22-115. Reserved.

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Article IV. Sewer Service

Division 1. Generally

Secs. 22-116—22-143. Reserved.

Division 2. Wastewater Use

Sec. 22-144. Definitions.

Sec. 22-145. General requirement; public, private and commercial sewer public sewer line.

Sec. 22-146. Sewer line and attachments.

Sec. 22-147. Private sewer line.

Sec. 22-148. Discharge of wastewater.

Sec. 22-149. Substances prohibited.

Sec. 22-150. Authority to reject waste.

Sec. 22-151. Industrial non-single-family residential.

Sec. 22-152. Accessibility.

Sec. 22-153. Permits and inspection.

Secs. 22-154—22-174. Reserved.

Division 3. Wastewater Rates

Sec. 22-175. Established.

ARTICLE I. IN GENERAL

Secs. 22-1—22-18. Reserved.

ARTICLE II. PROHIBITION ON CROSS CONNECTIONS

Sec. 22-19. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cross connection means any physical connection or arrangement between two otherwise separate systems, one 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 one system to the other, the direction of flow depending on the pressure differential between the two systems.

(Ord. No. 2021-5, § 1, 2-9-2021)

Sec. 22-20. Cross connection not permitted.

No person, firm or corporation shall establish or maintain, or permit to be established or 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 town, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the town water department and by the state department of environmental management in accordance with 327 IAC 8-10 et seq.

(Ord. No. 2021-5, § 2, 2-9-2021)

Sec. 22-21. Inspections.

It shall be the duty of the town water department to cause inspections to be made of all properties served by the public water system where cross connections with the public water system is deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved shall be established by the town water department.

(Ord. No. 2021-5, § 3, 2-9-2021)

Sec. 22-22. Access required.

Upon presentation of credentials, the representative of the town water department shall have the right to request entry at any reasonable time to examine the 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 such property. The refusal of access or refusal of requested pertinent information shall be deemed evidence of the presence of cross connections.

(Ord. No. 2021-5, § 4, 2-9-2021)

Sec. 22-23. Discontinuation authorized.

The town water department is hereby authorized and directed to discontinue water service to any property wherein any connection in violation of this division exists, and to take such other precautionary measures deemed necessary to eliminate any damage 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 such property shall not be restored until the cross connection has been eliminated in compliance with the provisions of this division.

(Ord. No. 2021-5, § 5, 2-9-2021)

Sec. 22-24. Grounds for discontinuation.

If it is deemed by the town water department that a cross connection or an emergency endangers public health, safety or welfare and requires immediate action, and a written finding of that effect is filed with the clerk of the town and delivered to the consumer's premises, service may be immediately discontinued. The consumer shall have an opportunity for hearing within ten days of such emergency discontinuance.

(Ord. No. 2021-5, § 6, 2-9-2021)

Sec. 22-25. Reduced pressure principal backflow preventers.

(a) All consumers using toxic or hazardous liquids, all hospitals, mortuaries, wastewater treatment plants, and laboratories, and all other hazardous users must install and maintain a reduced pressure principal 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.

(b) The reduced pressure principal backflow preventers shall not be installed below ground level.

(Ord. No. 2021-5, §§ 7, 8, 2-9-2021)

Sec. 22-26. Supplement to state law.

This division does not supersede the Indiana Plumbing Code, the IDEM Rule 327 IAC 8-10 or any applicable town plumbing ordinance, but is supplementary to them.

(Ord. No. 2021-5, § 9, 2-9-2021)

Sec. 22-27. Backflow prevention devices required.

In addition to IDEM Rule 327 IAC 8-10-4(c), the following customer facilities need a backflow prevention device:

- (1) Francisco Car Wash.
 - (2) Francisco Grain Elevator.
 - (3) Francisco Elementary School.
 - (4) Marathon Gas Station.
- (Ord. No. 2021-5, § 10, 2-9-2021)

Sec. 22-28. Notice of required backflow prevention device.

If, in the judgment of the superintendent of water, an approved backflow prevention device is necessary for the safety of the public water system, the superintendent of water will give notice to the water consumer to install such an approved device immediately. The water consumer shall, at the water consumer's own expense, install such an approved device at a location and in a manner approved by the superintendent of water and shall have inspections and tests made of such approved devices as required by the superintendent of water and in accordance with IDEM Rule 327 IAC 8-10.

(Ord. No. 2021-5, § 11, 2-9-2021)

Secs. 22-29—22-48. Reserved.**ARTICLE III. WATER SERVICE****DIVISION 1. GENERALLY****Secs. 22-49—22-69. Reserved.****DIVISION 2. WATER RATES****Sec. 22-70. Rates established.**

There are hereby established rates for users of the town water works utility for one-half-inch, five-eighths-inch or three-fourths-inch meters with the basic rates for the below listed water consumption of five-eighths-inch, one-half-inch and three-fourths-inch meters. Town charges and rates for its customers are as follows:

Basic Rates per 1,000 Gallons.

| <i>Consumption Per Month</i> | | |
|------------------------------|---------------|----------------------------|
| First | 2,500 gallons | \$17.165 per 1,000 gallons |
| Next | 2,500 gallons | \$15.761 per 1,000 gallons |

| <i>Consumption Per Month</i> | | |
|------------------------------|----------------|----------------------------|
| Next | 5,000 gallons | \$14.336 per 1,000 gallons |
| Next | 10,000 gallons | \$12.952 per 1,000 gallons |
| Next | 30,000 gallons | \$11.457 per 1,000 gallons |
| Next | 50,000 gallons | \$9.930 per 1,000 gallons |

(Ord. No. 2023-03, § 1, 5-9-2023)

Sec. 22-71. Minimum charges per month based upon size of meter.

There are hereby established the following basic minimum charges per month based on the size of the water meter utilized by the user:

| <i>Meter Size</i> | <i>Gallons</i> | <i>Amount</i> |
|---|----------------|---------------|
| $\frac{1}{2}$ " to $\frac{5}{8}$ " or $\frac{3}{4}$ " meter | 2,500 | \$42.91 |
| 1" meter | 5,300 | \$86.29 |
| 1 $\frac{1}{2}$ " meter | 7,800 | \$122.04 |
| 2" meter | 11,600 | \$174.14 |
| 3" meter | 18,750 | \$266.37 |
| 4" meter | 26,850 | \$360.59 |
| 6" meter | 43,500 | \$550.40 |

(Ord. No. 2023-03, § 2, 5-9-2023)

Sec. 22-72. Hydrant fees.

Any town water user within 1,250 feet of a fire hydrant shall be charged a monthly fire hydrant fee of \$2.24.

(Ord. No. 2023-03, § 3, 5-9-2023)

Sec. 22-73. Tap-in fees.

Each user, at the time he is connected to the town water works system, shall pay a charge for the costs of tapping into the water main, furnishing and paying service pipe, corporation and stop cocks, service and meter box and installing the water meter as follows:

| | |
|--|--|
| $\frac{5}{8}$ " to $\frac{3}{4}$ " or less meter | \$900.00, plus any excess installation material cost over \$500.00 |
| $\frac{3}{4}$ " or larger | \$900.00, plus cost of labor and materials |

(Ord. No. 2023-03, § 4, 5-9-2023)

Sec. 22-74. Service fee.

There is hereby established the following service fees:

- (1) \$20.00 for service which includes preparation and mailing of the shutoff notice by the clerk-treasurer.

- (2) \$20.00 total for actual shutoff and turning back on of water by the water manager or other employee.
(Ord. No. 2023-03, § 5, 5-9-2023)

Sec. 22-75. Delinquent water bills and disconnection.

(a) There is hereby established a charge of ten percent for any and all delinquent water bills which are due and payable from the first to the 15th day of each month, or the date due as stated on the bill.

(b) In the event a water bill, fire hydrant bill or wastewater bill is not paid by the due date on the bill, a disconnect notice shall be generated and customer shall be notified of their right to a hearing before the town water board, consisting of the president of the board and the clerk-treasurer, to determine whether disconnect is appropriate. Further, that the customer is responsible for showing proof of payment upon receipt of shutoff notice and payment to the clerk-treasurer by taking a picture of their stamped paid water stub and texting it to the number on the shutoff notice, or if they have paid by Paygov.us, by emailing their Paygov.us payment receipt to the clerk-treasurer at clerktreasurer@townoffrancisisco.com or by taking a picture of the Paygov.us receipt and texting it to the number on the shutoff notice. Said proof of payment is to be sent to the clerk-treasurer as soon as it is paid.

(c) If a customer does not have a cell phone or email, they are to call the clerk-treasurer and advise the date the bill was paid, which bank it was paid at, and keep a copy of their payment stamped by the bank as paid, and provide to the clerk-treasurer, if she requests.

(d) Any and all customers who pay their water charges by electronic payment such as Paygov.us prior to or on the penalty date and payment does not credit the water department's account until after the penalty date, the board of works hereby authorizes and directs the clerk-treasurer to waive the penalty on each occurrence, unless the payment is for a past due bill.

(e) If the penalty date of the 15th falls on a Friday, Saturday, Sunday or a holiday, the penalty shall not be charged until the next business day.

(f) If a town water customer desires to request a hearing to contest the disconnect for nonpayment of their combined water, fire hydrant, and wastewater bill, the customer shall request such hearing in writing at the office of the clerk/treasurer, Town Hall, Francisco, Indiana, within seven days after the date on the disconnect notice.

(g) If a customer is past due on the water bill less than \$25.00, a shutoff notice shall not be generated.

(h) Shutoff notices are to be sent following the penalty date, with shutoffs not to be scheduled prior to the first of the month. Upon shutoff of the water, the water manager, or person shutting water off, shall notify the clerk-treasurer of the date and time of shutoff and the meter reading as taken at the time of shutoff. When the water is turned back on the

water manager, or person turning the water back on, shall notify the clerk-treasurer of the date and time the water was turned back on and the meter reading as taken when turned back on.

(Ord. No. 2023-03, § 6, 5-9-2023)

Sec. 22-76. Utility payment plans.

Each customer shall be entitled to three payment plans per year with the following conditions:

- (1) A written payment agreement must be signed by all customers on the account and witnessed by the clerk-treasurer;
- (2) The agreement must be requested prior to the shutoff date by calling the clerk-treasurer;
- (3) If the agreement is to prevent shutoff, the past due is to be paid as determined by the clerk/treasurer and/or the board of works as a term and condition of the agreement.

(Ord. No. 2023-03, § 7, 5-9-2023)

Sec. 22-77. Unincorporated town water users.

All water customer's meters without sewer outside the corporate limits of the town will be charged, in addition to their monthly bill, a surcharge of \$4.78 per month. All water customers on private water lines may be charged in addition to their monthly charges for water loss recorded by master meters. All private water line owners are responsible for all water loss attributable to their private water line and are subject to shutoff if not paid.

(Ord. No. 2023-03, § 8, 5-9-2023)

Sec. 22-78. User's responsibility.

(a) It shall be the responsibility of each user of the town water works utility to maintain the water line from the meter to their home or other structure obtaining water service. It shall also be the responsibility of the owners of private water lines to maintain said private line at the sole and exclusive costs of the owner thereof.

(b) It is also the user's responsibility to advise the clerk-treasurer of a change of mailing address.

(c) Failure to receive a bill does not relieve user of payment and penalty.

(Ord. No. 2023-03, § 9, 5-9-2023)

Sec. 22-79. Deposits.

(a) There is hereby established a deposit charge for new water and/or existing water users subject to subsection (c) of this section, in the amount of \$150.00. The deposit shall be paid at either the German American Bank in Princeton, Indiana, or German American Bank in Oakland City, Indiana.

(b) The clerk-treasurer shall require all new water customers or reconnection water customers to fill out and accurately complete an application to become a water customer before water service is turned on. Said form is to be filled out at either the German American Bank in Oakland City, Indiana, or the German American Bank in Princeton, Indiana.

(c) Upon a water and/or wastewater account being subject to their third shutoff notice due to nonpayment of current bill, an additional deposit of \$150.00 shall be required for continuation of service. Said additional deposit must be paid within 60 calendar days from the date on the third shutoff notice or water service will be shut off until additional deposit is paid in full.

(Ord. No. 2023-03, § 10, 5-9-2023)

Sec. 22-80. Refund deposits.

Any deposits posted are to be applied to the customer's final bill and any remaining deposit amount is to be refunded, if requested. Interest shall not be paid on any part of the deposit.

(Ord. No. 2023-03, § 11, 5-9-2023)

Sec. 22-81. Unclaimed or abandoned meter deposits.

(a) Any and all unclaimed or abandoned meter deposits shall be transferred to the cash operating fund of the town water department.

(b) The board of works defines unclaimed and/or abandoned meter deposits to be any deposit remaining after a period of 90 days from the date of voluntary or involuntary shutoff.

(Ord. No. 2023-03, § 12, 5-9-2023)

Sec. 22-82. Requirement for separate meter for all residences and businesses.

(a) Each individual house, trailer, modular home or any other building or structure used as a dwelling or commercial use shall each have their own individual water meter. However, said meter shall be subject to council discretion.

(b) The town board of works shall allow each individual customer to have more than one water meter upon approval by the board of works. The additional water meter may or may not be subject to wastewater treatment charges, depending on its usage and approval by the town board of works.

(c) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Dwelling means any house, structure, mobile home or place used or intended to be used by human occupants as a place of residence.

Superintendent shall mean the superintendent of the municipal water works of the town or the authorized employee, agent or representative.

Water meter means a device which measures the quantity of water to any dwelling including its water yoke and setting.

Water works shall mean all facilities for distributions, pumping, treating and selling of water from the town.

(d) General requirement.

- (1) The owners of all houses, buildings or dwellings used for human occupancy, education, employment, recreation or other purposes, including industrial or commercial businesses situated within the town are hereby required to install an individual water meter for each above-described facility in accordance with the provisions of this division within 90 days after the date of official notice to do so.
- (2) It shall be the responsibility of the town to bring the water line to the property line and it shall be the property owner's responsibility to pay for the connection and meter to said water line in accordance with the provisions of this division.
- (3) No unauthorized person or entity shall uncover, make any connection with or install said water meter without first obtaining a permit or supervised by the superintendent or the superintendent's designee. To do otherwise is a violation.

(e) Water line and meters.

- (1) A separate and independent water meter shall be provided for every principal residential and/or commercial building except where waived or excepted by the board of works.
- (2) The water meters shall be located in a place or area approved or directed by the superintendent or the superintendent's designee.
- (3) The town shall provide any and all water meters to the users of the town water system at the user's expense.
- (4) The town shall allow a customer to have more than one water meter, if requested and approved. The additional water meter shall not service a dwelling. The additional water meter shall not be charged wastewater charges if said water does not flow into the wastewater system, upon approval of the board of works.
- (5) The water usage for the additional water meter which does not have wastewater charges shall not be used for human consumption. Any violation of this subsection (e) shall allow the board of works to rescind, revoke, terminate the non-charges of wastewater treatment.

(f) Expense or cost.

- (1) Any person who is presently connected to or on the town's water works who has two or more existing dwellings or commercial buildings or other structures used as residences shall be allowed to connect to said water works at a cost of \$185.00 per meter.

- (2) A meter deposit of \$150.00 shall be required for each new connection, to be paid within 90 days of installation of meter.
- (3) Any person who fails to comply with this section shall be required to pay for water meter cost and installation cost and shall be fined by the town in an amount of \$25.00 per day.

(g) Use. This division is not to be constructed to circumvent, set aside, amend or revoke any and all other ordinances, but merely to enforce the connection for each and every dwelling or commercial building to individual meters.

(Ord. No. 2023-03, § 13, 5-9-2023)

Sec. 22-83. Tracking.

Any and all rate increases passed by the town's water supplier, Pike-Gibson Water, Inc., shall be automatically implemented in the above rate schedule. The board of works shall pass by resolution a rate tracker to set forth the amount of the Pike-Gibson Water Inc.'s rate increase and date the increase will become effective to water users.

(Ord. No. 2023-03, § 14, 5-9-2023)

Sec. 22-84. Bad debts and uncollectible accounts.

(a) The clerk-treasurer may bring before the board of works any and all bad checks, inactive accounts or past due accounts which are at least two years of age. The two years shall be determined from the date of the last activity (payment, billing, or adjustment) on the account.

(b) The board of works may determine that the accounts mentioned in subsection (a) of this section are uncollectible and can move to have them removed from the current water record as bad debts.

(Ord. No. 2023-03, § 15, 5-9-2023)

Sec. 22-85. Bad checks.

The clerk-treasurer shall be given the authority to charge all water customers the sum of \$25.00 for each returned, insufficient or closed account for checks/drafts. Said additional charge may be placed on the water customer's monthly statement.

(Ord. No. 2023-03, § 16, 5-9-2023)

Sec. 22-86. Accounts of deceased residents.

The clerk-treasurer, upon learning of the death of a resident, shall send a letter to the last known address advising that the account of the deceased resident will be closed in 30 days and the water will be turned off. In the event a relative of the deceased has moved in and wishes water service to continue, they are to contact the clerk-treasurer and pay a deposit as set out in section 22-79. Water will not be turned on for the relative until all charges have been paid on the deceased resident's account.

(Ord. No. 2023-03, § 17, 5-9-2023)

Secs. 22-87—22-115. Reserved.

ARTICLE IV. SEWER SERVICE

DIVISION 1. GENERALLY

Secs. 22-116—22-143. Reserved.

DIVISION 2. WASTEWATER USE

Sec. 22-144. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter.

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

Closely built-up areas includes any areas situated within the boundary of the town upon which areas are located either residential or business buildings.

Dwelling means any house or place used or intended to be used by human occupants as a place of residence.

Foundation drain means that portion of a building drainage system provided to drain groundwater from the outside of the foundation or under basement floor, not including any sewage.

Garbage means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

Health officer means the health officer of the state, the county and the town.

Industrial wastes means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

Inspector means the person duly authorized by the town through its town council to inspect and approve the installation of building sewers, private sewer systems, and/or their connection to the public sewer system.

Limiting layer means any layer of soil with a stabilized percolation rate exceeding 60 minutes for the water to fall one inch.

Natural outlet means a channel in which a flow of water occurs, either continuously or intermittently.

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

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

Public sewer means any sewer constructed, installed, maintained, operated and owned by the town established for that purpose. A county drain installed for the purpose of carrying surface water runoff and sub-soil drainage shall not be considered nor used as a public sewer under this definition.

Residential sewage disposal system means all equipment and devices necessary for proper conduction, collection, storage, treatment, and on-site disposal of sewage from a one-family or two-family dwelling. Included within but not limited to the scope of this definition are building sewers, septic tanks, and subsurface absorption fields.

Sanitary building drain means that part of the lowest horizontal piping of the sanitary drainage system inside the walls of any building, which receives the discharge from soil or waste stacks and branches and conveys the same to a point three feet outside the building walls where it connects with its respective building sewer.

Sanitary sewer means a sewer which carries sewage and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

Sewer means a pipe and/or conductor for carrying sewage.

Sewage means a combination of the water-carried wastes from residence, business buildings, institutions, and industrial establishments within the town and other areas.

Sewage disposal system means a system which is designed to receive sewage and transport the sewage to a proper sewage treatment system.

Sewage treatment plant means any arrangement of devices and structures used for treating sewage.

Sewage works means all facilities for collecting, pumping, treating, and disposing of sewage.

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

Soil profile observation means observations of the physical characteristics of the soil horizons or layers to a depth of at least five feet.

Storm drain or storm sewer means a sewer which carries stormwaters and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

Subsurface absorption field means open-jointed or perforated pipes laid in a system of trenches into which the effluent from the distribution box is discharged for direct absorption into the soil.

Superintendent means the superintendent of the municipal sewage works of the town or the authorized deputy, agent or representative.

Suspended solids means 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.
(Ord. No. 2002-4, § I, 2-12-2002)

Sec. 22-145. General requirement; public, private and commercial sewer public sewer line.

(a) The owners of all houses, buildings, or properties used for human occupancy, education, employment, recreation or other purposes, including industrial or commercial business, situated within the town and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the town are hereby required at their expense to install toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this division, within 90 days after date of official notice to do so, provided that said public sewer is within 300 feet of the property line whether or not said property is within the corporation limits of the town. It shall be the responsibility of the town to bring the sewer line to the property line, and it shall be the property owner's responsibility to pay for the connection to said sewer line. Failure to connect within 90 days shall be a violation.

(b) The disposition of existing septic tanks and rain fields shall be that the owner shall empty the septic tank of its contents, fill with granular material or remove said tank, disconnect from the house and discontinue usage of the private system.

(c) No person shall throw, run, drain, seep, or otherwise dispose into any of the streams or waters of the state, or cause, permit, or suffer to be thrown, run, drained, allowed to seep or otherwise dispose into such waters, any organic or inorganic matter that shall cause or contribute to a polluted condition of such water unless a permit for such disposal has been obtained as authorized by IC 13-1-3 or 13-7.

(d) No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a permit from the town. To do otherwise is a violation.

(e) No permit shall be furnished until the application has been completed to the satisfaction of the town.

(f) No city, town, county, public institution, firm, corporation, or officer or employee thereof, or other person, shall install or contract for the construction of any sewers, sewage treatment works, or other sewage facilities, designed to collect, convey, treat, or otherwise dispose of any water carried or liquid waste, either of domestic or industrial origin, or make any material change in any such existing sewage facilities or sewage treatment or disposal works, until plans and specifications, together with an engineering report supporting in detail the design set forth in such plans, shall have been submitted to and have been approved by the county board of health, and the town, so far as relates to their sanitary features.

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

(h) The town shall deny any permit if the information on the application is incomplete, inaccurate, or indicates that the provisions of this division cannot be met.

(Ord. No. 2002-4, § II, 2-12-2002)

Sec. 22-146. Sewer line and attachments.

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

(b) Existing building sewers may be used in connection with new buildings only when they are found, on examination and testing by the town, to meet all requirements of this division.

(c) The building sewer shall be polyvinyl chloride (PVC), ASTM D-3034 Schedule 40 or SDR 26; or other suitable material approved by the town in writing prior to use. Joints shall be capable of passing an infiltration test of 200 gallons per inch diameter per mile of sewer per day on a low-pressure air test. Any part of the building sewer that is located within ten feet of a well or water service pipe shall be constructed of ductile iron pipe or PVC Schedule SDR-26 with rubber ring joints. If the building sewer is installed in filled or unstable ground, the building sewer shall be suitably supported and approved by the inspector.

(d) The size and slope of the building sewer shall be subject to the approval of the town, but in no event shall the diameter be less than four inches. The slope of such four-inch or six-inch pipe shall be not less than one-eighth inch per foot. Refer to ASTM and WPCF Manual of Practice. Additionally, there shall be cleanouts on the service laterals at maximum intervals of 100 feet.

(e) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an equipment, facility or pollution control device they deemed necessary for the further development of the state of the art of pollution control.

(f) All connectors to the town sewer system shall be inspected and approved prior to connection and backfill. Any connection that has not been inspected and approved by the town must be re-opened at the expense of the landowner and contractor severally.

(Ord. No. 2002-4, § III, 2-12-2002)

Sec. 22-147. Private sewer line.

(a) Before commencement of construction or modification of a private sewage line, the owner shall first obtain a written permit signed by the town. The application for such permit shall be made on a form furnished by the town which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the town. A permit and inspection fee of \$25.00 shall be paid to the town at the time the application is filed. The amount of said fee may be amended from time to time by separate ordinance of the town council.

(b) After receiving an order in writing from the town, the owner, agent of the owner, the occupant or agent of the occupant of the property shall comply with the provisions of this division as set forth in said order and within the time limit included therein. Said order shall be served on the owner or the owner but may be served on any person who, by contract with the owner, has assumed the duty of complying with the provisions of an order.

(c) The owner shall operate and maintain the private line in a sanitary manner at all times, at no expense to the town.

(d) The application for a permit shall be posted in a conspicuous place at or near the building where the sewage disposal system is under construction. The notice should be plainly visible from the public thoroughfare serving this building.

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

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

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

(h) The building sewer shall be located at least 50 feet from any water supply well or pump suction line serving a residence; however, sewers constructed of waterworks-grade cast iron having mechanical or push type joints or of waterworks-grade pressure type plastic with an SDR rating of 26 having gasketed or push-type joints may be located within the

50-foot distance but not closer than 20 feet to dug and bored wells and not closer than ten feet to drilled and driven wells or underground pump suction lines or requirements of SE-13. (Ord. No. 2002-4, § IV, 2-12-2002)

Sec. 22-148. Discharge of wastewater.

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

(b) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by written permit of the town. Industrial cooling water or unpolluted process waters may be discharged, on written approval of the town, and the state department of environmental management, to a storm sewer or natural outlet.

(c) No person shall discharge or cause to be discharged the substances, materials, waters, or wastes described in section 22-149 if it appears likely in the opinion of the town that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming this opinion as to the acceptability of these wastes, the town will give written consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. (Ord. No. 2002-4, § V, 2-12-2002)

Sec. 22-149. Substances prohibited.

The substances prohibited are:

- (1) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).
- (2) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 mg/L or containing substances which may solidify or become viscous at temperatures between 32 degrees Fahrenheit (0 degrees Celsius) and 150 degrees Fahrenheit (65 degrees Celsius).
- (3) Any water or wastes containing strong acid, iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- (4) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the town for such materials.
- (5) Any waters or wastes containing phenols or other taste-producing or odor-producing substances, in such concentrations exceeding limits which may be established by the

town as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

- (6) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the town in compliance with applicable state or federal regulations.
 - (7) Materials which exert or cause:
 - a. Unusual concentrations of inert, suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - c. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant loan on the sewage treatment works.
 - d. Unusual volume of flow or concentration of wastes constituting slugs as defined in section 22-144.
 - (8) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas, known or unknown, as such.
 - (9) Any waters or wastes containing toxic or poisonous substance, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure to interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.
 - (10) Any waters or wastes having a pH lower than 5.5 or greater than 9, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
 - (11) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tax, plastics, wood, underground garbage, whole blood, paunch manure, hair and fleshings, entrails, plastic or paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
 - (12) Waters or wastes containing substances which are not amendable to treatment or reduction by the sewage treatment processes employed, or are amendable to treatment only to such degree that the sewage treatment plant effluent discharge cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (Ord. No. 2002-4, § VI, 2-12-2002)

Sec. 22-150. Authority to reject waste.

(a) If any waters or wastes are discharge, or are proposed to be discharged, to the public sewers, which waters contain the substances or possess the characteristics enumerated in section 22-149, and which in the judgment of the town may have deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the town shall, upon written notice:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (3) Require control over the quantities and rates of discharge; and/or
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.

(b) If the town permits the pretreatment or equalization of waste flows, the design and installation of the plans and equipment shall be subject to the review and approval of the town and subject to the requirements of all applicable codes, ordinances and laws.

(c) Grease, oil and sand interceptors shall be provided when, in the opinion of the town, they are necessary for the proper handling of liquid wastes containing grease in excessive amount, or any flammable wastes, sand or other harmful ingredients; all interceptors shall be of a type and capacity approved by the town, and shall be located as to be readily and easily accessible for cleaning and inspection.

(d) Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by and at the owner's expense.

(Ord. No. 2002-4, § VII, 2-12-2002)

Sec. 22-151. Industrial non-single-family residential.

(a) The industrial or non-single-family residential dwelling owner or agent shall make application on a special form furnished by the said town. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the town.

(b) All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) 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 town.

(d) When required by the town, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessible by authorized town personnel and safely located, and shall be constructed in accordance with plans approved by the town. The manhole shall be installed and maintained by the owner so as to be safe and accessible at all times.

(e) All measurement, tests, and analysis of the characteristics of waters and wastes to which reference is made in this division shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premise is appropriate or whether a grab sample should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls where pHs are determined from periodic grab samples.

(f) No statement contained in this section shall be construed as preventing any special agreement or arrangement between the town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the town for treatment subject to payment therefor by the industrial concern.

(g) While performing the necessary work on industrial properties referred to herein, the duly authorized employees of the town shall observe all safety rules applicable to the premises established by the company and the town shall indemnify the company against loss or damage to its property by town employees and against liability claims for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required.

(Ord. No. 2002-4, § VIII, 2-12-2002)

Sec. 22-152. Accessibility.

(a) The superintendent, inspector, and other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this division. The superintendent or the superintendent's representatives shall have authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

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

(Ord. No. 2002-4, § IX, 2-12-2002)

Sec. 22-153. Permits and inspection.

The town or its agent shall be permitted to enter upon all properties at the proper time for purposes of inspection, observation, measurement, sampling and testing necessary to carry out the provisions of this division.

(Ord. No. 2002-4, § X, 2-12-2002)

Secs. 22-154—22-174. Reserved.

DIVISION 3. WASTEWATER RATES

Sec. 22-175. Established.

The rates for users of the town wastewater utility for the following meter sizes are as follows:

- (1) *Minimum charges per month based on size of meter.*

| | |
|------------------|------------|
| 5/8-inch meter | \$28.42 |
| 3/4-inch meter | \$28.42 |
| 1-inch meter | \$64.42 |
| 1 1/4-inch meter | \$100.37 |
| 1 1/2-inch meter | \$143.52 |
| 2-inch meter | \$244.14 |
| 3-inch meter | \$555.65 |
| 4-inch meter | \$962.95 |
| 6-inch meter | \$2,185.04 |

- (2) *Treatment rate.*

Per 1,000 gallons of usage per month \$9.72

- (3) *Unmetered water users.*

Single-family resident/unit \$67.30

(4) *Excessive strength surcharges (in excess of 250 mg/L).*

| | |
|------------------------------|--------|
| TBOD (cost per pound) | \$0.59 |
| TSS (cost per pound) | \$0.59 |
| (Ord. No. 2011-2, 9-10-2011) | |

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The following table gives the location of ordinances and other legislation within the Code.

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| Ord. No. 1992-1 | 5-8-1992 | 1 | 4-58 |
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| Ord. No. 2004-13 | 11-9-2004 | 1 | 6-19 |
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| Ord. No. 2005-5 | 9-13-2005 | 1 | 20-100 |
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| Ord. No. 2008-9 | 11-11-2008 | 3 | 20-191 |
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| Ord. No. 2009-9A | 8-11-2009 | 1 | 20-242 |
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| Ord. No. 2011-2 | 9-10-2011 | — | 22-175 |
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***Note**—The adoption, amendment, repeal, omissions, effective date, explanation of numbering system and other matters pertaining to the use, construction and interpretation of this Code are contained in the adopting ordinance and preface which are to be found in the preliminary pages of this volume.

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