SUPPLEMENT NO. 20
June 2026

# CODE OF ORDINANCES

## Town of

## PORTER, INDIANA

### Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 2026-01, adopted January 27, 2026.**

See the Code Comparative Table—Ordinances for further information.

| *Remove Old Pages* | *Insert New Pages* |
|---|---|
| xiii—xviii | xiii—xviii |
| Checklist of up-to-date pages | Checklist of up-to-date pages (following Table of Contents) |
| SH:5 | SH:5 |
| CD14:7—CD14:16 | CD14:7—CD14:16 |
| CD38:4.1, CD38:4.2 | CD38:4.1, CD38:4.2 |
| CD58:13, CD58:14 | CD58:13, CD58:14 |
| CD58:19, CD58:20 | CD58:19, CD58:20 |
| CD58:22.1—CD58:24 | CD58:23—CD58:24.2 |
| CCT:17 | CCT:17 |

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SUPPLEMENT NO. 19
September 2025

# CODE OF ORDINANCES

## Town of

## PORTER, INDIANA

### Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 2025-05, adopted May 27, 2025.**

See the Code Comparative Table for further information.

| *Remove Old Pages* | *Insert New Pages* |
|---|---|
| xiii—xviii | xiii—xviii |
| Checklist of up-to-date pages | Checklist of up-to-date pages (following Table of Contents) |
| SH:3, SH:4 | SH:3—SH:5 |
| CD66:1—CD66:4 | CD66:1—CD66:4 |
| CD66:13—CD66:18 | CD66:13—CD66:18 |
| CD66:23—CD66:26 | CD66:23—CD66:26.1 |
| CCT:17 | CCT:17 |
| CDi:1—CDi:77 | CDi:1—CDi:77 |

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SUPPLEMENT NO. 18
July 2025

# CODE OF ORDINANCES

## Town of

## PORTER, INDIANA

### Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 2024-17, adopted January 14, 2025.**

See the Code Comparative Table for further information.

| *Remove Old Pages* | *Insert New Pages* |
|---|---|
| xiii—xviii | xiii—xviii |
| Checklist of up-to-date pages | Checklist of up-to-date pages (following Table of Contents) |
| SH:3, SH:4 | SH:3, SH:4 |
| CD14:1, CD14:2 | CD14:1, CD14:2 |
| CD14:13—CD14:22 | CD14:13—CD14:22.2 |
| CD26:1—CD26:4 | CD26:1—CD26:4 |
| CD26:17—CD26:41 | CD26:17—CD26:65 |
| CD54:1 | CD54:1 |
| CD54:5, CD54:6 | CD54:5, CD54:6 |
| CD66:12.1—CD66:20.3 | CD66:13—CD66:20.3 |
| CD70:1, CD70:2 | CD70:1, CD70:2 |
| CD70:5—CD70:18 | CD70:5—CD70:18.2 |
| CDB:7, CDB:8 | CDB:7, CDB:8 |
| CCT:15, CCT:16 | CCT:15—CCT:17 |
| SLT:1—SLT:3 | SLT:1—SLT:3 |
| CDi:1—CDi:77 | CDi:1—CDi:77 |

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SUPPLEMENT NO. 17
September 2024

# CODE OF ORDINANCES

## Town of

## PORTER, INDIANA

### Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 2024-08, adopted July 9, 2024.**

See the Code Comparative Table for further information.

| *Remove Old Pages* | *Insert New Pages* |
|---|---|
| xiii—xviii | xiii—xviii |
| Checklist of up-to-date pages | Checklist of up-to-date pages (following Table of Contents) |
| SH:3, SH:4 | SH:3, SH:4 |
| CD26:1—CD26:4 | CD26:1—CD26:4 |
| CD26:5—CD26:8 | CD26:5—CD26:8.3 |
| CDA:3, CDA:4 | CDA:3, CDA:4 |
| CDA:57—CDA:62 | CDA:57—CDA:62 |
| CCT:15, CCT:16 | CCT:15, CCT:16 |
| SLT:1—SLT:3 | SLT:1—SLT:3 |
| CDi:1—CDi:77 | CDi:1—CDi:77 |

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SUPPLEMENT NO. 16
May 2024

# CODE OF ORDINANCES

## Town of

## PORTER, INDIANA

### Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 2023-12, adopted November 28, 2023.**

See the Code Comparative Table for further information.

| *Remove Old Pages* | *Insert New Pages* |
|---|---|
| xiii—xviii | xiii—xviii |
| Checklist of up-to-date pages | Checklist of up-to-date pages (following Table of Contents) |
| SH:3 | SH:3, SH:4 |
| CD1:11—CD1:18 | CD1:11—CD1:18 |
| CD2:1—CD2:3 | CD2:1—CD2:3 |
| CD2:12.3—CD2:14.1 | CD2:13—CD2:14.4 |
| CD10:1 | CD10:1 |
| CD10:3—CD10:21 | CD10:3—CD10:24 |
| CD14:17, CD14:18 | CD14:17, CD14:18 |
| CD66:1—CD66:3 | CD66:1—CD66:4 |
| CD66:15—CD66:20 | CD66:15—CD66:20.3 |
| CCT:15 | CCT:15, CCT:16 |
| SLT:1—SLT:3 | SLT:1—SLT:3 |
| CDi:1—CDi:75 | CDi:1—CDi:77 |

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SUPPLEMENT NO. 15
December 2022

# CODE OF ORDINANCES

## Town of

## PORTER, INDIANA

### Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 2022-08, adopted September 27, 2022.**

See the Code Comparative Table for further information.

| *Remove Old Pages* | *Insert New Pages* |
|---|---|
| xiii—xviii | xiii—xviii |
| Checklist of up-to-date pages | Checklist of up-to-date pages (following Table of Contents) |
| SH:3 | SH:3 |
| CD30:3 | CD30:3 |
| CD66:23—CD66:30 | CD66:23—CD66:30 |
| CD70:5—CD70:10.1 | CD70:5—CD70:10 |
| CDA:41, CDA:42 | CDA:41, CDA:42 |
| CDA:83, CDA:84 | CDA:83—CDA:84.1 |
| CCT:15 | CCT:15 |

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SUPPLEMENT NO. 14
September 2022

# CODE OF ORDINANCES

## Town of

## PORTER, INDIANA

### Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 2021-21, adopted December 14, 2021.**

See the Code Comparative Table for further information.

| *Remove Old Pages* | *Insert New Pages* |
|---|---|
| Title page | Title page |
| xiii—xviii | xiii—xviii |
| Checklist of up-to-date pages | Checklist of up-to-date pages (following Table of Contents) |
| SH:3 | SH:3 |
| CD1:11—CD1:17 | CD1:11—CD1:18 |
| CD14:5—CD14:10 | CD14:5—CD14:10 |
| CD18:1—CD18:8.1 | CD18:1—CD18:8.1 |
| CD66:3 | CD66:3 |
| CD66:15—CD66:26.1 | CD66:15—CD66:25 |
| CD74:3—CD74:5 | CD74:3—CD74:5 |
| CDA:1—CDA:7 | CDA:1—CDA:7 |
| CDA:33—CDA:38 | CDA:33—CDA:38.1 |
| CDA:99—CDA:106 | CDA:99—CDA:106.1 |
| CCT:15 | CCT:15 |
| SLT:1—SLT:3 | SLT:1—SLT:3 |
| CDi:10.1—CDi:14 | CDi:11—CDi:14.1 |
| CDi:59—CDi:60.1 | CDi:59—CDi:60.1 |
| CDi:73—CDi:75 | CDi:73—CDi:75 |

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SUPPLEMENT NO. 13
April 2021

# CODE OF ORDINANCES

## Town of

## PORTER, INDIANA

### Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 2020-12, adopted October 27, 2020.**

See the Code Comparative Table for further information.

| *Remove Old Pages* | *Insert New Pages* |
|---|---|
| xiii—xviii | xiii—xviii |
| Checklist of up-to-date pages | Checklist of up-to-date pages (following Table of Contents) |
| SH:1, SH:2 | SH:1—SH:3 |
| CD2:1—CD2:3 | CD2:1—CD2:3 |
| CD2:6.1—CD2:12 | CD2:7—CD2:12.3 |
| CDA:1—CDA:7 | CDA:1—CDA:7 |
| CDA:37—CDA:76.1 | CDA:37—CDA:76.1 |
| CDA:109, CDA:110 | CDA:109—CDA:110.1 |
| CCT:13, CCT:14 | CCT:13—CCT:15 |
| CDi:37, CDi:38 | CDi:37, CDi:38 |
| CDi:51, CDi:52 | CDi:51, CDi:52 |
| CDi:65—CDi:75 | CDi:65—CDi:75 |

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SUPPLEMENT NO. 12
February 2020

# CODE OF ORDINANCES

## Town of

## PORTER, INDIANA

### Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 2019-12, adopted November 12, 2019.**

See the Code Comparative Table for further information.

| *Remove Old Pages* | *Insert New Pages* |
|---|---|
| xiii—xviii | xiii—xviii |
| Checklist of up-to-date pages | Checklist of up-to-date pages (following Table of Contents) |
| SH:1, SH:2 | SH:1, SH:2 |
| CD2:5, CD2:6 | CD2:5—CD2:6.1 |
| CD14:1—CD14:4 | CD14:1—CD14:4 |
| CD14:17, CD14:18 | CD14:17—CD14:18.1 |
| CD54:5, CD54:6 | CD54:5, CD54:6 |
| CD66:23—CD66:26.1 | CD66:23—CD66:26.1 |
| CDA:43—CDA:48 | CDA:43—CDA:48.1 |
| CDA:57, CDA:58 | CDA:57—CDA:58.1 |
| CDA:107, CDA:108 | CDA:107, CDA:108 |
| CCT:13, CCT:14 | CCT:13, CCT:14 |
| CDi:9—CDi:10.1 | CDi:9—CDi:10.1 |

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SUPPLEMENT NO. 11
March 2019

# CODE OF ORDINANCES

## Town of

## PORTER, INDIANA

### Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 2018-14, adopted October 9, 2018.**

See the Code Comparative Table for further information.

| *Remove Old Pages* | *Insert New Pages* |
|---|---|
| xiii—xviii | xiii—xviii |
| Checklist of up-to-date pages | Checklist of up-to-date pages (following Table of Contents) |
| SH:1, SH:2 | SH:1, SH:2 |
| CD2:1—CD2:3 | CD2:1—CD2:3 |
| CD2:6.1—CD2:10.1 | CD2:7—CD2:10.1 |
| CD18:9—CD18:12 | CD18:9—CD18:12.1 |
| CD58:9, CD58:10 | CD58:9—CD58:10.1 |
| CD66:3 | CD66:3 |
| CD66:23—CD66:26.1 | CD66:23—CD66:26.1 |
| CD66:31, CD66:32 | CD66:31—CD66:33 |
| CCT:13, CCT:14 | CCT:13, CCT:14 |
| CDi:1—CDi:2.1 | CDi:1—CDi:2.1 |
| CDi:57—CDi:60 | CDi:57—CDi:60.1 |

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SUPPLEMENT NO. 10
March 2018

# CODE OF ORDINANCES

## Town of

## PORTER, INDIANA

### Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 2017-01, adopted February 14, 2017.**

See the Code Comparative Table for further information.

| *Remove Old Pages* | *Insert New Pages* |
|---|---|
| Checklist of up-to-date pages | Checklist of up-to-date pages (following Table of Contents) |
| SH:1, SH:2 | SH:1, SH:2 |
| CD66:23—CD66:26 | CD66:23—CD66:26.1 |
| CDA:7 | CDA:7 |
| CDA:141 | CDA:141—CDA:143 |
| CCT:13, CCT:14 | CCT:13, CCT:14 |
| CDi:9, CDi:10 | CDi:9—CDi:10.1 |
| CDi:67—CDi:68.1 | CDi:67—CDi:68.1 |

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SUPPLEMENT NO. 9
February 2017

# CODE OF ORDINANCES

## Town of

## PORTER, INDIANA

### Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 2016-14, adopted December 13, 2016.**

See the Code Comparative Table for further information.

| *Remove Old Pages* | *Insert New Pages* |
|---|---|
| Title page | Title page |
| v | v |
| xiii—xviii | xiii—xviii |
| Checklist of up-to-date pages | Checklist of up-to-date pages (following Table of Contents) |
| SH:1, SH:2 | SH:1, SH:2 |
| CD1:13—CD1:17 | CD1:13—CD1:17 |
| CD2:1—CD2:6 | CD2:1—CD2:3 |
| | CD2:5—CD2:6.1 |
| CD2:19, CD2:20 | CD2:19—CD2:20.1 |
| CD14:3, CD14:4 | CD14:3, CD14:4 |
| CD14:39—CD14:43 | CD14:39—CD14:44 |
| CD38:4.1—CD38:4.3 | CD38:4.1—CD38:4.3 |
| CD42:1—CD42:7 | CD42:1 |
| | CD42:3—CD42:8 |
| CD46:1 | CD46:1 |
| CD46:7 | CD46:7, CD46:8 |
| CD54:5, CD54:6 | CD54:5, CD54:6 |
| CD66:23—CD66:26 | CD66:23—CD66:26 |
| CD70:5, CD70:6 | CD70:5, CD70:6 |
| CD70:9, CD70:10 | CD70:9—CD70:10.1 |
| CDB:1, CDB:2 | CDB:1, CDB:2 |
| CDB:9, CDB:10 | CDB:9—CDB:10.1 |
| CCT:13 | CCT:13, CCT:14 |
| SLT:1—SLT:3 | SLT:1—SLT:3 |
| CDi:10.1—CDi:20 | CDi:11—CDi:20.1 |
| CDi:25—CDi:40 | CDi:25—CDi:40.2 |

| *Remove Old Pages* | *Insert New Pages* |
|---|---|
| CDi:44.1—CDi:46 | CDi:45—CDi:46.1 |
| CDi:51—CDi:52.1 | CDi:51—CDi:52.1 |

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SUPPLEMENT NO. 8
April 2016

# CODE OF ORDINANCES

## Town of

## PORTER, INDIANA

## Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 2015-14, adopted December 29, 2015.**

See the Code Comparative Table—Ordinances for further information.

| *Remove Old Pages* | *Insert New Pages* |
|---|---|
| v | v |
| xiii—xviii | xiii—xviii |
| Checklist of up-to-date pages | Checklist of up-to-date pages (following Table of Contents) |
| SH:1, SH:2 | SH:1, SH:2 |
| CD2:8.1—CD2:10 | CD2:9—CD2:10.1 |
| CD30:3 | CD30:3 |
| CD38:1 | CD38:1 |
| CD38:4.1, CD38:4.2 | CD38:4.1—CD38:4.3 |
| CD58:3 | CD58:3 |
| CD58:21, CD58:22 | CD58:21—CD58:22.1 |
| CD78:3 | CD78:3 |
| CDA:1—CDA:7 | CDA:1—CDA:7 |
| CDA:75, CDA:76 | CDA:75—CDA:76.1 |
| CCT:13 | CCT:13 |
| CDi:31, CDi:32 | CDi:31—CDi:32.1 |
| CDi:51, CDi:52 | CDi:51—CDi:52.1 |
| CDi:67, CDi:68 | CDi:67—CDi:68.1 |

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SUPPLEMENT NO. 7
March 2015

# CODE OF ORDINANCES

## Town of

## PORTER, INDIANA

## Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 2014-08, adopted November 10, 2014.**

See the Code Comparative Table—Ordinances for further information.

| *Remove Old Pages* | *Insert New Pages* |
|---|---|
| v | v |
| xiii—xviii | xiii—xviii |
| Checklist of up-to-date pages | Checklist of up-to-date pages (following Table of Contents) |
| SH:1, SH:2 | SH:1, SH:2 |
| CD2:1—CD2:3 | CD2:1—CD2:3 |
| CD2:17—CD2:23 | CD2:17—CD2:23 |
| CD38:3, CD38:4 | CD38:3, CD38:4 |
| CD70:11—CD70:14.1 | CD70:11—CD70:14.1 |
| CCT:13 | CCT:13 |
| SLT:3 | SLT:3 |
| CDi:23—CDi:30 | CDi:23—CDi:30.1 |
| CDi:37, CDi:38 | CDi:37, CDi:38 |

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SUPPLEMENT NO. 6
March 2014

# CODE OF ORDINANCES

## Town of

## PORTER, INDIANA

## Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 2013-20, adopted January 14, 2014.**

See the Code Comparative Table—Ordinances for further information.

| *Remove Old Pages* | *Insert New Pages* |
|---|---|
| Title page | Title page |
| | v |
| xiii—xviii | xiii—xviii |
| Checklist of up-to-date pages | Checklist of up-to-date pages (following Table of Contents) |
| SH:1 | SH:1, SH:2 |
| CD1:1 | CD1:1 |
| CD1:15 | CD1:15—CD1:17 |
| CD2:5, CD2:6 | CD2:5, CD2:6 |
| CD2:21, CD2:22 | CD2:21—CD2:23 |
| CD42:1 | CD42:1 |
| CD42:5—CD42:7 | CD42:5—CD42:7 |
| CD46:1 | CD46:1 |
| CD46:3—CD46:7 | CD46:3—CD46:7 |
| CD58:1, CD58:2 | CD58:1, CD58:2 |
| CD58:13, CD58:14 | CD58:13, CD58:14 |
| CD66:15, CD66:16 | CD66:15, CD66:16 |
| CD66:23—CD66:30 | CD66:23—CD66:30.1 |
| CD70:1, CD70:2 | CD70:1, CD70:2 |
| CD70:5, CD70:6 | CD70:5, CD70:6 |
| CD70:9—CD70:14.1 | CD70:9—CD70:14.1 |
| CCT:13 | CCT:13 |
| SLT:1—SLT:3 | SLT:1—SLT:3 |
| CDi:5—CDi:8 | CDi:5—CDi:8 |
| CDi:15—CDi:18.1 | CDi:15—CDi:18 |
| CDi:33—CDi:44 | CDi:33—CDi:44.1 |
| CDi:50.1—CDi:64.1 | CDi:51—CDi:64 |

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SUPPLEMENT NO. 5
March 2013

# CODE OF ORDINANCES

## Town of

## PORTER, INDIANA

## Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 2012-13, adopted December 11, 2012.**

See the Code Comparative Table—Ordinances for further information.

| *Remove Old Pages* | *Insert New Pages* |
|---|---|
| xiii—xviii | xiii—xviii |
| Checklist of up-to-date pages | Checklist of up-to-date pages (following Table of Contents) |
| SH:1 | SH:1 |
| CD2:1—CD2:3 | CD2:1—CD2:3 |
| CD2:7, CD2:8 | CD2:7—CD2:8.1 |
| CD2:21—CD2:24 | CD2:21, CD2:22 |
| CD2:31 | CD2:31—CD2:34 |
| CD14:3, CD14:4 | CD14:3, CD14:4 |
| CD14:13—CD14:16 | CD14:13—CD14:16 |
| CD14:41, CD14:42 | CD14:41—CD14:43 |
| CD18:7, CD18:8 | CD18:7—CD18:8.1 |
| CD54:5, CD54:6 | CD54:5, CD54:6 |
| CD70:1, CD70:2 | CD70:1, CD70:2 |
| CD70:13, CD70:14 | CD70:13—CD70:14.1 |
| CCT:13 | CCT:13 |
| SLT:1—SLT:3 | SLT:1—SLT:3 |
| CDi:1, CDi:2 | CDi:1—CDi:2.1 |
| CDi:9, CDi:10 | CDi:9—CDi:10.1 |
| CDi:17, CDi:18 | CDi:17—CDi:18.1 |
| CDi:23—CDi:38.1 | CDi:23—CDi:38.1 |
| CDi:57, CDi:58 | CDi:57, CDi:58 |
| CDi:63, CDi:64 | CDi:63—CDi:64.1 |

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SUPPLEMENT NO. 4
February 2012

# CODE OF ORDINANCES

## Town of

## PORTER, INDIANA

## Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 2011-07, adopted June 14, 2011.**

See the Code Comparative Table for further information.

| *Remove Old Pages* | *Insert New Pages* |
|---|---|
| xiii—xviii | xiii—xviii |
| Checklist of up-to-date pages | Checklist of up-to-date pages (following Table of Contents) |
| SH:1 | SH:1 |
| CD2:1—CD2:3 | CD2:1—CD2:3 |
| CD2:9, CD2:10 | CD2:9, CD2:10 |
| CD2:13, CD2:14 | CD2:13—CD2:14.1 |
| CD2:23, CD2:24 | CD2:23, CD2:24 |
| CD2:27—CD2:30 | CD2:27—CD2:30 |
| CD18:7—CD18:14 | CD18:7—CD18:14 |
| CD38:4.1, CD38:4.2 | CD38:4.1, CD38:4.2 |
| CD42:3, CD42:4 | CD42:3, CD42:4 |
| CD46:3, CD46:4 | CD46:3, CD46:4 |
| CD54:5, CD54:6 | CD54:5, CD54:6 |
| CCT:11, CCT:12 | CCT:11—CCT:13 |
| CDi:57, CDi:58 | CDi:57, CDi:58 |

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SUPPLEMENT NO. 3
March 2011

# CODE OF ORDINANCES

## Town of

## PORTER, INDIANA

## Looseleaf Supplement

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**Ordinance No. 2010-12, adopted November 9, 2010.**

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| *Remove Old Pages* | *Insert New Pages* |
|---|---|
| xiii—xviii | xiii—xviii |
| Checklist of up-to-date pages | Checklist of up-to-date pages (following Table of Contents)<br>SH:1 (Following Checklist of up-to-date pages) |
| CD1:11—CD1:14 | CD1:11—CD1:15 |
| CD10:13, CD10:14 | CD10:13, CD10:14 |
| CD38:1—CD38:4.1 | CD38:1—CD38:4.2 |
| CD58:3 | CD58:3 |
| CD58:27 | CD58:27—CD58:29 |
| CD70:5—CD70:10 | CD70:5—CD70:10 |
| CDA:7 | CDA:7 |
| CDA:129, CDA:130 | CDA:129, CDA:130 |
| CDA:137, CDA:138 | CDA:137—CDA:141 |
| CCT:11, CCT:12 | CCT:11, CCT:12 |
| SLT:1—SLT:3 | SLT:1—SLT:3 |
| CDi:19—CDi:38 | CDi:19—CDi:38.1 |
| CDi:45—CDi:50 | CDi:45—CDi:50.1 |
| CDi:63, CDi:64 | CDi:63, CDi:64 |
| CDi:69, CDi:70 | CDi:69—CDi:70.1 |

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SUPPLEMENT NO. 3, REVISION
April 2011

# CODE OF ORDINANCES

## Town of

## PORTER, INDIANA

## Looseleaf Supplement

This Supplement No. 3, Revision, is printed to revise pages appearing in Supplement No. 3, and should be inserted as directed below.

| *Remove Old Pages* | *Insert New Pages* |
|---|---|
| CD70:7, CD70:8 | CD70:7, CD70:8 |

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SUPPLEMENT NO. 2
February 2010

# CODE OF ORDINANCES

## Town of

## PORTER, INDIANA

## Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 2009-25, adopted December 8, 2009.**

See the Code Comparative Table for further information.

| *Remove old pages* | *Insert new pages* |
|---|---|
| xiii—xviii | xiii—xviii |
| Checklist of up-to-date pages | Checklist of up-to-date pages (following Table of Contents) |
| CD1:11—CD1:13 | CD1:11—CD1:14 |
| CD2:19, CD2:20 | CD2:19, CD2:20 |
| CD38:1—CD38:4 | CD38:1—CD38:4.1 |
| CD70:5, CD70:6 | CD70:5, CD70:6 |
| CDA:7 | CDA:7 |
| CDA:125—CDA:130 | CDA:125—CDA:138 |
| CDB:1—CDB:29 | CDB:1—CDB:27 |
| CCT:11, CCT:12 | CCT:11, CCT:12 |
| SLT:1—SLT:3 | SLT:1—SLT:3 |
| CDi:51—CDi:54 | CDi:51—CDi:54 |
| CDi:67, CDi:68 | CDi:67, CDi:68 |
| CDi:71, CDi:72 | CDi:71—CDi:72.1 |

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SUPPLEMENT NO. 1
October 2009

# CODE OF ORDINANCES

## Town of

## PORTER, INDIANA

## Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 2008-20, adopted December 30, 2008.**

See the Code Comparative Table for further information.

| *Remove old pages* | *Insert new pages* |
|---|---|
| xiii—xviii | xi—xviii |
| | Checklist of up-to-date pages (following Table of Contents) |
| CD2:5, CD2:6 | CD2:5, CD2:6 |
| CD2:9—CD2:14 | CD2:9—CD2:14 |
| CD18:7, CD18:8 | CD18:7, CD18:8 |
| CD26:7, CD26:8 | CD26:7, CD26:8 |
| CD26:13, CD26:14 | CD26:13, CD26:14 |
| CD26:17, CD26:18 | CD26:17, CD26:18 |
| CD38:3—CD38:8 | CD38:3—CD38:8 |
| CD54:5, CD54:6 | CD54:5, CD54:6 |
| CD66:11, CD66:12 | CD66:11—CD66:12.1 |
| CD66:15, CD66:16 | CD66:15, CD66:16 |
| CD66:19, CD66:20 | CD66:19, CD66:20 |
| CD66:23—CD66:26 | CD66:23—CD66:26 |
| CD66:27, CD66:28 | CD66:27—CD66:28.1 |
| CD70:1, CD70:2 | CD70:1, CD70:2 |
| CD70:5—CD70:10 | CD70:5—CD70:10 |
| CCT:9—CCT:12 | CCT:9—CCT:12 |
| SLT:1—SLT:3 | SLT:1—SLT:3 |
| CDi:5, CDi:6 | CDi:5, CDi:6 |
| CDi:27, CDi:28 | CDi:27, CDi:28 |
| CDi:33, CDi:34 | CDi:33, CDi:34 |
| CDi:63, CDi:64 | CDi:63, CDi:64 |

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# CODE OF ORDINANCES

## Town of

## PORTER, INDIANA

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| *Remove old pages* | *Insert new pages* |
|---|---|
| xv, xvi | xv, xvi |
| CD66:23—CD66:25 | CD66:23—CD66:26 |

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OC, CORRECTION
October 2008

# CODE OF ORDINANCES

## Town of

## PORTER, INDIANA

## Looseleaf Supplement

This OC, Correction is printed to revise pages appearing in the original Code and should be removed and inserted as directed below.

| *Remove old pages* | *Insert new pages* |
|---|---|
| CD66:1, CD66:2 | CD66:1, CD66:2 |
| CD66:15—CD66:18 | CD66:15, CD66:16 |
| CD66:23—CD66:26 | CD66:23—CD66:25 |
| CDi:55, CDi:56 | CDi:55, CDi:56 |
| CDi:59, CDi:60 | CDi:59, CDi:60 |

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# PORTER

# TOWN CODE

Published in 2008 by Order of the Town Council

Adopted: October 28, 2008

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OFFICIALS

of the

TOWN OF

PORTER, INDIANA

AT THE TIME OF THIS RECODIFICATION

---

Jon Granat, President
Michele Bollinger, Vice-President
David Babcock
Michael Genger
Todd Martin
*Town Council*

---

Patrick Lyp
*Town Attorney*

---

Carol Pomeroy
*Town Clerk-Treasurer*

CURRENT OFFICIALS

of the

TOWN OF

PORTER, INDIANA

---

Greg Stinson, President
William Lopez, Vice-President
Erik Wagner
Ross LeBleu
Brian Finley
*Town Council*

---

Gregg Sobkowski
*Town Attorney*

---

Carol Pomeroy
*Town Clerk-Treasurer*

---

# PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the Town of Porter, Indiana.

Source materials used in the preparation of the Code were the 1991 Code, which Code was current through November 28, 1989, and ordinances subsequently adopted by the town council. 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 any section of the 1991 Code, and any subsequent ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

## *Chapter and Section Numbering System*

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

## *Page Numbering System*

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of

the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

| | |
|---|---|
| CODE | CD1:1 |
| CODE APPENDIX | CDA:1 |
| CODE COMPARATIVE TABLES | CCT:1 |
| STATE LAW REFERENCE TABLE | SLT:1 |
| CODE INDEX | CDi:1 |

*Index*

The index has been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which the user is interested.

*Looseleaf Supplements*

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up-to-date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

*Acknowledgments*

This publication was under the direct supervision of Roger D. Merriam, Senior Code Attorney and David D. Beach, Code Attorney, and Beth Tat-

tershall, Editor, of the Municipal Code Corporation, 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 Carol Pomeroy, Town Clerk-Treasurer, Brenda Brueckheimer, Public Works Superintendent, and Patrick Lyp, 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 of Porter, Indiana 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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ORDINANCE NO. 2008-17

AN ORDINANCE ADOPTING BY RESTATEMENT UNDER INDIANA CODE § 36-1-5-6 THE CODIFICATION OF THE TOWN ORDINANCES FOR THE TOWN OF PORTER

**Whereas,** on December 29, 2005 The Town of Porter entered into a contract with **Municipal Code Corporation**. The purpose of the Contract was to have all Ordinances within the Town of Porter codified into an organized format as required under Indiana Code § 36-1-5-3 which provides that a "legislative body of a unit shall codify, revise, rearrange, or compile the ordinances of the unit into a complete, simplified code excluding formal parts of the ordinances."

**Whereas,** on **October 14, 2008,** a complete codification of the Town of Porter Ordinances (Omnibus Codification) was presented to the Council for final review. It was explained that all department heads had reviewed and some provisions were changed to add better clarity.

**Whereas,** as provided under Indiana Code § 36-1-5-6, "if the legislative body determines, and declares in a provision of a code, that the provision is a restatement or reenactment of an original ordinance or amendment thereof, then the legal conditions for the effectiveness of an original ordinance need not be met. Such a restated or reenacted provision shall be considered reordained by the adoption of the code." **Whereas,** on **October 14, 2008,** the Omnibus Codification was passed on first reading by a vote of 5 - 0. **Whereas,** on **October 28, 2008,** the Omnibus Codification was presented for final reading and was adopted by a vote of 5 - 0.

**NOW, THEREFORE, BE IT ORDAINED** by the Porter Town Council, Porter County, Indiana, that the Ordinance Codification prepared by Municipal Code Corporation and present to the Town Council on October 14 and October 28, 2008 is hereby adopted as the Town Code for the Town of Porter.

**ALL OF WHICH IS PASS AND ADOPTED** by the Porter Town Council, Porter, County, Indiana, this **28TH** day of **October,** 2008.

/s/ _____
Jon Granat, President

/s/ _____
Michele Bollinger, Vice President

/s/ _____
David Babcock

/s/ _____
Micheal Genger

/s/ _____
Todd Martin

ATTEST:

/s/ _____
Carol Pomeroy, Clerk/Treasurer

TABLE OF CONTENTS


Page

Officials of the Town at the Time of this Recodification ..... iii

Current Officials ..... v

Preface ..... vii

Adopting Ordinance ..... xi

Checklist of Up-to-Date Pages ..... [1]

Supplement History Table ..... SH:1


CODE OF ORDINANCES


Chapter

1. General Provisions ..... CD1:1

2. Administration ..... CD2:1
   - Art. I. In General ..... CD2:5
   - Art. II. Town Clerk-Treasurer ..... CD2:9
   - Art. III. Inspectors and Town Staff ..... CD2:10
   - Art. IV. Town Officers and Employee Benefits ..... CD2:11
   - Art. V. Boards, Commissions, and Departments ..... CD2:12.2
   - Art. VI. Funds ..... CD2:14.4
   - Art. VII. Charges and Fees for Copying of Documents, Books and Any Public Records ..... CD2:20
   - Art. VIII. Alcohol and Drug Testing ..... CD2:21
   - Art. IX. Town Council ..... CD2:21
   - Art. X. Policy Concerning Nepotism and Contracting with the Town ..... CD2:31

3—5. Reserved ..... CD3:1

6. Alcoholic Beverages ..... CD6:1
   - Art. I. In General ..... CD6:3
   - Art. II. Alcoholic Beverage Use on Town Property ..... CD6:3

7—9. Reserved ..... CD7:1

10. Animals ..... CD10:1
   - Art. I. In General ..... CD10:3
   - Art. II. Animal Control ..... CD10:4

11—13. Reserved ..... CD11:1

| Chapter | | Page |
|---|---|---|
| 14. | Buildings and Building Regulations | CD14:1 |
| | Art. I. In General | CD14:5 |
| | Art. II. Rules and Regulations Governing Construction and Alteration of Buildings | CD14:5 |
| | Div. 1. Generally | CD14:5 |
| | Div. 2. Building Code | CD14:5 |
| | Div. 3. Construction, Alteration, and Remodeling Regulations | CD14:9 |
| | Div. 4. Application and Permit Fees | CD14:13 |
| | Div. 5. Building Permit and Securing Bond Regulations | CD14:16 |
| | Art. III. Licensing of Contractors | CD14:19 |
| | Div. 1. Generally | CD14:19 |
| | Div. 2. Licensing | CD14:19 |
| | Art. IV. Gas Regulations | CD14:24 |
| | Art. V. Unsafe Building Law | CD14:25 |
| | Div. 1. Generally | CD14:25 |
| | Div. 2. Unsafe Buildings and Premises | CD14:26 |
| | Art. VI. Property Maintenance Code | CD14:40 |
| | Art. VII. Smoke and Carbon Monoxide Detectors | CD14:40 |
| | Art. VIII. Manufactured Building Materials | CD14:42 |
| 15—17. | Reserved | CD15:1 |
| 18. | Businesses | CD18:1 |
| | Art. I. In General | CD18:3 |
| | Art. II. Licenses, Permits and Miscellaneous Business Regulations | CD18:4 |
| | Art. III. Specific Licensing or Permit Regulations | CD18:7 |
| | Div. 1. Generally | CD18:7 |
| | Div. 2. Transient or Itinerant Merchants, Commercial Solicitors, Peddlers and Hawkers | CD18:8 |
| | Div. 3. Taxicabs and Taxi Drivers | CD18:13 |
| | Art. IV. Tax Abatement Procedures | CD18:16 |
| 19—21. | Reserved | CD19:1 |
| 22. | Civil Emergencies | CD22:1 |
| | Art. I. In General | CD22:3 |
| | Art. II. Emergency Preparedness | CD22:3 |
| 23—25. | Reserved | CD23:1 |
| 26. | Environment | CD26:1 |
| | Art. I. In General | CD26:5 |
| | Art. II. Nuisances | CD26:5 |
| | Div. 1. Generally | CD26:5 |
| | Div. 2. Unsanitary Buildings or Premises | CD26:8.1 |
| | Div. 3. Fireworks | CD26:8.2 |
| | Art. III. Air Pollution | CD26:9 |
| | Art. IV. Noise | CD26:10 |
| | Art. V. Abandoned and Junk Vehicles | CD26:12 |

| Chapter | | Page |
|---|---|---|
| | Art. VI. Stormwater Management | CD26:18 |
| | Div. 1. General Information | CD26:18 |
| | Div. 2. Prohibited Discharges and Connections | CD26:22 |
| | Div. 3. Stormwater Quantity Management | CD26:26 |
| | Div. 4. Stormwater Pollution Prevention for Construction Sites | CD26:29 |
| | Div. 5. Stormwater Quality Management for Post-Construction | CD26:32 |
| | Div. 6. Permit Requirements and Procedures | CD26:36 |
| | Div. 7. Compliance and Enforcement | CD26:46 |
| | Div. 8. Abbreviations and Definitions | CD26:52 |
| 27—29. | Reserved | CD27:1 |
| 30. | Floods | CD30:1 |
| 31—33. | Reserved | CD31:1 |
| 34. | Human Relations | CD34:1 |
| | Art. I. In General | CD34:3 |
| | Art. II. Discrimination | CD34:3 |
| | Div. 1. Generally | CD34:3 |
| | Div. 2. Fair Housing | CD34:3 |
| 35—37. | Reserved | CD35:1 |
| 38. | Law Enforcement | CD38:1 |
| | Art. I. In General | CD38:3 |
| | Art. II. Town Board of Metropolitan Police Commissioners | CD38:4.2 |
| | Art. III. Police Reserve Unit | CD38:6 |
| | Art. IV. Licensing of Handguns | CD38:7 |
| 39—41. | Reserved | CD39:1 |
| 42. | Offenses and Miscellaneous Provisions | CD42:1 |
| | Art. I. In General | CD42:3 |
| | Art. II. Specific Activities Prohibited | CD42:5 |
| | Art. III. Curfew for Minors | CD42:7 |
| 43—45. | Reserved | CD43:1 |
| 46. | Parks and Recreation | CD46:1 |
| | Art. I. In General | CD46:3 |
| | Art. II. Department of Parks and Recreation | CD46:3 |
| | Art. III. Park Rules and Regulations | CD46:4 |
| 47—49. | Reserved | CD47:1 |
| 50. | Planning | CD50:1 |
| 51—53. | Reserved | CD51:1 |
| 54. | Solid Waste | CD54:1 |
| | Art. I. In General | CD54:3 |
| | Art. II. Recycling Containers, Cost and Content | CD54:3 |

| Chapter | | Page |
|---|---|---|
| | Art. III. Collection and Disposal | CD54:3 |
| 55—57. | Reserved | CD55:1 |
| 58. | Streets, Sidewalks and Other Public Places | CD58:1 |
| | Art. I. In General | CD58:5 |
| | Art. II. Parades, Assemblages and Pickets | CD58:5 |
| | Div. 1. Generally | CD58:5 |
| | Div. 2. Permit | CD58:8 |
| | Art. III. Numbering Required of All Structures Designed for Human Habitation | CD58:11 |
| | Art. IV. Regulations Governing Drive Entrance Culverts | CD58:13 |
| | Art. V. Poles and Wires | CD58:14 |
| | Art. VI. Sand, Soil, and Earth Removal | CD58:18 |
| | Art. VII. Streets and Sidewalks | CD58:21 |
| | Div. 1. Generally | CD58:21 |
| | Div. 2. Excavations | CD58:22 |
| | Div. 3. New Street Construction | CD58:24.1 |
| | Art. VIII. Golf Carts | CD58:27 |
| 59—61. | Reserved | CD59:1 |
| 62. | Telecommunications | CD62:1 |
| | Art. I. In General | CD62:3 |
| | Art. II. CATV Franchise Code | CD62:3 |
| | Art. III. Other Franchise Agreements | CD62:18 |
| 63—65. | Reserved | CD63:1 |
| 66. | Traffic and Vehicles | CD66:1 |
| | Art. I. In General | CD66:5 |
| | Art. II. Bicycle Regulations | CD66:6 |
| | Art. III. Traffic Regulations | CD66:7 |
| | Art. IV. Pedestrians | CD66:9 |
| | Art. V. Snow Removal, Emergency, Repair Regulations | CD66:10 |
| | Art. VI. Weight Restrictions | CD66:12 |
| | Art. VII. Parking, Stopping and Standing | CD66:14 |
| | Div. 1. Generally | CD66:14 |
| | Div. 2. Beach Parking | CD66:20.3 |
| | Subdiv. I. In General | CD66:20.3 |
| | Subdiv. II. Payments and Collections | CD66:22 |
| | Subdiv. III Parking | CD66:22 |
| | Subdiv. IV. Parking Permits | CD66:23 |
| | Subdiv. V. Enforcement | CD66:26 |
| | Art. VIII. Speeding and No Passing Regulations | CD66:26 |
| | Art. IX. Sign Designations | CD66:30 |
| | Art. X. Town Inventory of Roads and Streets | CD66:33 |
| 67—69. | Reserved | CD67:1 |
| 70. | Utilities | CD70:1 |
| | Art. I. In General | CD70:3 |
| | Art. II. Sewage Works | CD70:3 |
| | Div. 1. Generally | CD70:3 |

Chapter Page

Div. 2. Usage Rates and Charges . . . . . CD70:6
Div. 3. Commercial and Industrial Installations . . CD70:16
Div. 4. Reserved . . . . . CD70:17
Art. III. Connection Charges to Sewage Works Within the Town . . . . . CD70:17
Art. IV. Septic System Repair or Modification . . . . . CD70:18
Art. V. Sewage and Sewer Use Regulations . . . . . CD70:18.1
Art. VI. Sewer Connection and Repair Standards . . . . CD70:18.1

71—73. Reserved . . . . . CD71:1

74. Vegetation . . . . . CD74:1
Art. I. In General . . . . . CD74:3
Art. II. Weeds and Rank Vegetation . . . . . CD74:3

75—77. Reserved . . . . . CD75:1

78. Waterways . . . . . CD78:1
Art. I. In General . . . . . CD78:3
Art. II. Beach Regulations . . . . . CD78:3

Appendix

A. Zoning . . . . . CDA:1
Art. I. In General . . . . . CDA:9
Art. II. OS Open Space Districts . . . . . CDA:37
Art. III. R-1 and R-2 Single-Family Residential Districts CDA:40
Art. IV. R-3 Single- to Four-Family Residential Districts CDA:45
Art. V. R-4 Multiple-Family Residential and PUD Districts . . . . . CDA:47
Art. VI. PB Professional Business District . . . . . CDA:49
Art. VII. B-1 Neighborhood Business District . . . . . CDA:52
Art. VIII. B-2 Central Business District . . . . . CDA:56
Art. IX. B-3 General Business Districts . . . . . CDA:59
Art. X. I-1 Light Industrial Districts . . . . . CDA:62
Art. XI. I-2 Heavy Industrial Districts . . . . . CDA:70
Art. XII. F-1 Flood Plain Districts . . . . . CDA:75
Art. XIII. Planned Unit Developments Districts . . . . . CDA:77
Art. XIV. Mobile Homes and Mobile Home Parks . . . . . CDA:84
Art. XV. Off-Street Parking, Loading and Landscaping CDA:88
Art. XVI. Signs . . . . . CDA:100
Art. XVII. Nonconforming Uses and Nonconforming Buildings . . . . . CDA:106.1
Art. XVIII. Site Plan Review . . . . . CDA:109
Art. XIX. Regulations for Cellular Antenna Towers and Cellular Telecommunication Services . . CDA:113
Art. XX. Administration and Enforcement . . . . . CDA:121
Art. XXI. Board of Zoning Appeals . . . . . CDA:123
Art. XXII. Schedule of Fees . . . . . CDA:127
Art. XXIII. Amendments . . . . . CDA:128
Art. XXIV. Porter Beach Overlay . . . . . CDA:129

| Appendix | Page |
|---|---|
| Art. XXV. Invasive Species Control | CDA:137 |
| Art. XXVI. Enforcement, Violation and Penalties | CDA:140 |
| Art. XXVII. Fence and Wall Restrictions | CDA:141 |
| B. Subdivisions | CDB:1 |
| Sec. 1. General Requirements | CDB:5 |
| Sec. 2. Approval Procedure | CDB:8 |
| Sec. 3. Primary Plat | CDB:10 |
| Sec. 4. Secondary Plat | CDB:12 |
| Sec. 5. Design Requirements and Principles | CDB:16 |
| Sec. 6. Streets and Private Service Roads | CDB:18 |
| Sec. 7. Required Improvements | CDB:21 |
| Sec. 8. Definitions | CDB:25 |
| Code Comparative Table—1968 Code | CCT:1 |
| Code Comparative Table—1991 Code | CCT:3 |
| Code Comparative Table—Ordinances | CCT:5 |
| State Law Reference Table | SLT:1 |
| Code Index | CDi:1 |

## Checklist of Up-to-Date Pages

**(This checklist will be updated with the printing of each Supplement)**

From our experience in publishing Looseleaf Supplements on a page-for-page substitution basis, it has become evident that through usage and supplementation many pages can be inserted and removed in error.

The following listing is included in this Code as a ready guide for the user to determine whether the Code volume properly reflects the latest printing of each page.

In the first column all page numbers are listed in sequence. The second column reflects the latest printing of the pages as they should appear in an up-to-date volume. The letters "OC" indicate the pages have not been reprinted in the Supplement Service and appear as published for the original Code. When a page has been reprinted or printed in the Supplement Service, this column reflects the identification number or Supplement Number printed on the bottom of the page.

In addition to assisting existing holders of the Code, this list may be used in compiling an up-to-date copy from the original Code and subsequent Supplements.

| Page No. | Supp. No. | Page No. | Supp. No. |
|---|---|---|---|
| Title page | 14 | CD2:1, CD2:2 | 16 |
| iii | OC | CD2:3 | 16 |
| v | 9 | CD2:5, CD2:6 | 12 |
| vii, viii | OC | CD2:7, CD2:8 | 13 |
| ix | OC | CD2:9, CD2:10 | 13 |
| xi, xii | 1 | CD2:11, CD2:12 | 13 |
| xiii, xiv | 20 | CD2:12.1, CD2:12.2 | 13 |
| xv, xvi | 20 | CD2:13, CD2:14 | 16 |
| xvii, xviii | 20 | CD2:14.1, CD2:14.2 | 16 |
| SH:1, SH:2 | 13 | CD2:14.3, CD2:14.4 | 16 |
| SH:3, SH:4 | 19 | CD2:15, CD2:16 | OC |
| SH:5 | 20 | CD2:17, CD2:18 | 7 |
| CD1:1 | 6 | CD2:19, CD2:20 | 9 |
| CD1:3, CD1:4 | OC | CD2:20.1 | 9 |
| CD1:5, CD1:6 | OC | CD2:21, CD2:22 | 7 |
| CD1:7, CD1:8 | OC | CD2:23 | 7 |
| CD1:9, CD1:10 | OC | CD2:25, CD2:26 | OC |
| CD1:11, CD1:12 | 16 | CD2:27, CD2:28 | 4 |
| CD1:13, CD1:14 | 16 | CD2:29, CD2:30 | 4 |
| CD1:15, CD1:16 | 16 | CD2:31, CD2:32 | 5 |
| CD1:17, CD1:18 | 16 | CD2:33, CD2:34 | 5 |

| Page No. | Supp. No. | Page No. | Supp. No. |
|---|---|---|---|
| CD3:1 | OC | CD14:39, CD14:40 | 9 |
| CD6:1 | OC | CD14:41, CD14:42 | 9 |
| CD6:3, CD6:4 | OC | CD14:43, CD14:44 | 9 |
| CD6:5 | OC | CD15:1 | OC |
| CD7:1 | OC | CD18:1, CD18:2 | 14 |
| CD10:1 | 16 | CD18:3, CD18:4 | 14 |
| CD10:3, CD10:4 | 16 | CD18:5, CD18:6 | 14 |
| CD10:5, CD10:6 | 16 | CD18:7, CD18:8 | 14 |
| CD10:7, CD10:8 | 16 | CD18:8.1 | 14 |
| CD10:9, CD10:10 | 16 | CD18:9, CD18:10 | 11 |
| CD10:11, CD10:12 | 16 | CD18:11, CD18:12 | 11 |
| CD10:13, CD10:14 | 16 | CD18:12.1 | 11 |
| CD10:15, CD10:16 | 16 | CD18:13, CD18:14 | 4 |
| CD10:17, CD10:18 | 16 | CD18:15, CD18:16 | OC |
| CD10:19, CD10:20 | 16 | CD19:1 | OC |
| CD10:21, CD10:22 | 16 | CD22:1 | OC |
| CD10:23, CD10:24 | 16 | CD22:3, CD22:4 | OC |
| CD11:1 | OC | CD22:5, CD22:6 | OC |
| CD14:1, CD14:2 | 18 | CD23:1 | OC |
| CD14:3, CD14:4 | 12 | CD26:1, CD26:2 | 18 |
| CD14:5, CD14:6 | 14 | CD26:3, CD26:4 | 18 |
| CD14:7, CD14:8 | 20 | CD26:5, CD26:6 | 17 |
| CD14:9, CD14:10 | 20 | CD26:7, CD26:8 | 17 |
| CD14:11, CD14:12 | 20 | CD26:8.1, CD26:8.2 | 17 |
| CD14:13, CD14:14 | 20 | CD26:8.3 | 17 |
| CD14:15, CD14:16 | 20 | CD26:9, CD26:10 | OC |
| CD14:17, CD14:18 | 18 | CD26:11, CD26:12 | OC |
| CD14:19, CD14:20 | 18 | CD26:13, CD26:14 | 1 |
| CD14:21, CD14:22 | 18 | CD26:15, CD26:16 | OC |
| CD14:22.1, CD14:22.2 | 18 | CD26:17, CD26:18 | 18 |
| CD14:23, CD14:24 | OC | CD26:19, CD26:20 | 18 |
| CD14:25, CD14:26 | OC | CD26:21, CD26:22 | 18 |
| CD14:27, CD14:28 | OC | CD26:23, CD26:24 | 18 |
| CD14:29, CD14:30 | OC | CD26:25, CD26:26 | 18 |
| CD14:31, CD14:32 | OC | CD26:27, CD26:28 | 18 |
| CD14:33, CD14:34 | OC | CD26:29, CD26:30 | 18 |
| CD14:35, CD14:36 | OC | CD26:31, CD26:32 | 18 |
| CD14:37, CD14:38 | OC | CD26:33, CD26:34 | 18 |

| Page No. | Supp. No. | Page No. | Supp. No. |
|---|---|---|---|
| CD26:35, CD26:36 | 18 | CD46:1 | 9 |
| CD26:37, CD26:38 | 18 | CD46:3, CD46:4 | 6 |
| CD26:39, CD26:40 | 18 | CD46:5, CD46:6 | 6 |
| CD26:41, CD26:42 | 18 | CD46:7, CD46:8 | 9 |
| CD26:43, CD26:44 | 18 | CD47:1 | OC |
| CD26:45, CD26:46 | 18 | CD50:1 | OC |
| CD26:47, CD26:48 | 18 | CD50:3 | OC |
| CD26:49, CD26:50 | 18 | CD51:1 | OC |
| CD26:51, CD26:52 | 18 | CD54:1 | 18 |
| CD26:53, CD26:54 | 18 | CD54:3, CD54:4 | OC |
| CD26:55, CD26:56 | 18 | CD54:5, CD54:6 | 18 |
| CD26:57, CD26:58 | 18 | CD55:1 | OC |
| CD26:59, CD26:60 | 18 | CD58:1, CD58:2 | 6 |
| CD26:61, CD26:62 | 18 | CD58:3 | 8 |
| CD26:63, CD26:64 | 18 | CD58:5, CD58:6 | OC |
| CD26:65 | 18 | CD58:7, CD58:8 | OC |
| CD27:1 | OC | CD58:9, CD58:10 | 11 |
| CD30:1 | OC | CD58:10.1 | 11 |
| CD30:3 | 15 | CD58:11, CD58:12 | OC |
| CD31:1 | OC | CD58:13, CD58:14 | 20 |
| CD34:1 | OC | CD58:15, CD58:16 | OC |
| CD34:3, CD34:4 | OC | CD58:17, CD58:18 | OC |
| CD34:5, CD34:6 | OC | CD58:19, CD58:20 | 20 |
| CD34:7, CD34:8 | OC | CD58:21, CD58:22 | 8 |
| CD35:1 | OC | CD58:23, CD58:24 | 20 |
| CD38:1 | 8 | CD58:24.1, CD58:24.2 | 20 |
| CD38:3, CD38:4 | 7 | CD58:25, CD58:26 | OC |
| CD38:4.1, CD38:4.2 | 20 | CD58:27, CD58:28 | 3 |
| CD38:4.3 | 9 | CD58:29 | 3 |
| CD38:5, CD38:6 | 1 | CD59:1 | OC |
| CD38:7, CD38:8 | 1 | CD62:1 | OC |
| CD38:9 | OC | CD62:3, CD62:4 | OC |
| CD39:1 | OC | CD62:5, CD62:6 | OC |
| CD42:1 | 9 | CD62:7, CD62:8 | OC |
| CD42:3, CD42:4 | 9 | CD62:9, CD62:10 | OC |
| CD42:5, CD42:6 | 9 | CD62:11, CD62:12 | OC |
| CD42:7, CD42:8 | 9 | CD62:13, CD62:14 | OC |
| CD43:1 | OC | CD62:15, CD62:16 | OC |

| Page No. | Supp. No. | Page No. | Supp. No. |
|---|---|---|---|
| CD62:17, CD62:18 | OC | CD74:3, CD74:4 | 14 |
| CD63:1 | OC | CD74:5 | 14 |
| CD66:1, CD66:2 | 19 | CD75:1 | OC |
| CD66:3, CD66:4 | 19 | CD78:1 | OC |
| CD66:5, CD66:6 | OC | CD78:3 | 8 |
| CD66:7, CD66:8 | OC | CDA:1, CDA:2 | 14 |
| CD66:9, CD66:10 | OC | CDA:3, CDA:4 | 17 |
| CD66:11, CD66:12 | 1 | CDA:5, CDA:6 | 14 |
| CD66:13, CD66:14 | 19 | CDA:7 | 14 |
| CD66:15, CD66:16 | 19 | CDA:9, CDA:10 | OC |
| CD66:17, CD66:18 | 19 | CDA:11, CDA:12 | OC |
| CD66:19, CD66:20 | 18 | CDA:13, CDA:14 | OC |
| CD66:20.1, CD66:20.2 | 18 | CDA:15, CDA:16 | OC |
| CD66:20.3 | 18 | CDA:17, CDA:18 | OC |
| CD66:21, CD66:22 | 14 | CDA:19, CDA:20 | OC |
| CD66:23, CD66:24 | 19 | CDA:21, CDA:22 | OC |
| CD66:25, CD66:26 | 19 | CDA:23, CDA:24 | OC |
| CD66:26.1 | 19 | CDA:25, CDA:26 | OC |
| CD66:27, CD66:28 | 15 | CDA:27, CDA:28 | OC |
| CD66:29, CD66:30 | 15 | CDA:29, CDA:30 | OC |
| CD66:30.1 | 6 | CDA:31, CDA:32 | OC |
| CD66:31, CD66:32 | 11 | CDA:33, CDA:34 | 14 |
| CD66:33 | 11 | CDA:35, CDA:36 | 14 |
| CD67:1 | OC | CDA:37, CDA:38 | 14 |
| CD70:1, CD70:2 | 18 | CDA:38.1 | 14 |
| CD70:3, CD70:4 | OC | CDA:39, CDA:40 | 13 |
| CD70:5, CD70:6 | 18 | CDA:41, CDA:42 | 15 |
| CD70:7, CD70:8 | 18 | CDA:43, CDA:44 | 13 |
| CD70:9, CD70:10 | 18 | CDA:45, CDA:46 | 13 |
| CD70:11, CD70:12 | 18 | CDA:47, CDA:48 | 13 |
| CD70:13, CD70:14 | 18 | CDA:49, CDA:50 | 13 |
| CD70:15, CD70:16 | 18 | CDA:51, CDA:52 | 13 |
| CD70:17, CD70:18 | 18 | CDA:53, CDA:54 | 13 |
| CD70:18.1, CD70:18.2 | 18 | CDA:55, CDA:56 | 13 |
| CD70:19, CD70:20 | OC | CDA:57, CDA:58 | 17 |
| CD70:21, CD70:22 | OC | CDA:59, CDA:60 | 17 |
| CD71:1 | OC | CDA:61, CDA:62 | 17 |
| CD74:1 | OC | CDA:63, CDA:64 | 13 |

| Page No. | Supp. No. | Page No. | Supp. No. |
|---|---|---|---|
| CDA:65, CDA:66 | 13 | CDA:133, CDA:134 | 2 |
| CDA:67, CDA:68 | 13 | CDA:135, CDA:136 | 2 |
| CDA:69, CDA:70 | 13 | CDA:137, CDA:138 | 3 |
| CDA:71, CDA:72 | 13 | CDA:139, CDA:140 | 3 |
| CDA:73, CDA:74 | 13 | CDA:141, CDA:142 | 10 |
| CDA:75, CDA:76 | 13 | CDA:143 | 10 |
| CDA:76.1 | 13 | CDB:1, CDB:2 | 9 |
| CDA:77, CDA:78 | OC | CDB:3 | 2 |
| CDA:79, CDA:80 | OC | CDB:5, CDB:6 | 2 |
| CDA:81, CDA:82 | OC | CDB:7, CDB:8 | 18 |
| CDA:83, CDA:84 | 15 | CDB:9, CDB:10 | 9 |
| CDA:84.1 | 15 | CDB:10.1 | 9 |
| CDA:85, CDA:86 | OC | CDB:11, CDB:12 | 2 |
| CDA:87, CDA:88 | OC | CDB:13, CDB:14 | 2 |
| CDA:89, CDA:90 | OC | CDB:15, CDB:16 | 2 |
| CDA:91, CDA:92 | OC | CDB:17, CDB:18 | 2 |
| CDA:93, CDA:94 | OC | CDB:19, CDB:20 | 2 |
| CDA:95, CDA:96 | OC | CDB:21, CDB:22 | 2 |
| CDA:97, CDA:98 | OC | CDB:23, CDB:24 | 2 |
| CDA:99, CDA:100 | 14 | CDB:25, CDB:26 | 2 |
| CDA:101, CDA:102 | 14 | CDB:27 | 2 |
| CDA:103, CDA:104 | 14 | CCT:1 | OC |
| CDA:105, CDA:106 | 14 | CCT:3, CCT:4 | OC |
| CDA:106.1 | 14 | CCT:5, CCT:6 | OC |
| CDA:107, CDA:108 | 12 | CCT:7, CCT:8 | OC |
| CDA:109, CDA:110 | 13 | CCT:9, CCT:10 | 1 |
| CDA:110.1 | 13 | CCT:11, CCT:12 | 4 |
| CDA:111, CDA:112 | OC | CCT:13, CCT:14 | 13 |
| CDA:113, CDA:114 | OC | CCT:15, CCT:16 | 18 |
| CDA:115, CDA:116 | OC | CCT:17 | 20 |
| CDA:117, CDA:118 | OC | SLT:1, SLT:2 | 18 |
| CDA:119, CDA:120 | OC | SLT:3 | 18 |
| CDA:121, CDA:122 | OC | CDi:1, CDi:2 | 19 |
| CDA:123, CDA:124 | OC | CDi:3, CDi:4 | 19 |
| CDA:125, CDA:126 | 2 | CDi:5, CDi:6 | 19 |
| CDA:127, CDA:128 | 2 | CDi:7, CDi:8 | 19 |
| CDA:129, CDA:130 | 3 | CDi:9, CDi:10 | 19 |
| CDA:131, CDA:132 | 2 | CDi:11, CDi:12 | 19 |

| Page No. | Supp. No. |
|---|---|
| CDi:13, CDi:14 | 19 |
| CDi:15, CDi:16 | 19 |
| CDi:17, CDi:18 | 19 |
| CDi:19, CDi:20 | 19 |
| CDi:21, CDi:22 | 19 |
| CDi:23, CDi:24 | 19 |
| CDi:25, CDi:26 | 19 |
| CDi:27, CDi:28 | 19 |
| CDi:29, CDi:30 | 19 |
| CDi:31, CDi:32 | 19 |
| CDi:33, CDi:34 | 19 |
| CDi:35, CDi:36 | 19 |
| CDi:37, CDi:38 | 19 |
| CDi:39, CDi:40 | 19 |
| CDi:41, CDi:42 | 19 |
| CDi:43, CDi:44 | 19 |
| CDi:45, CDi:46 | 19 |
| CDi:47, CDi:48 | 19 |
| CDi:49, CDi:50 | 19 |
| CDi:51, CDi:52 | 19 |
| CDi:53, CDi:54 | 19 |
| CDi:55, CDi:56 | 19 |
| CDi:57, CDi:58 | 19 |
| CDi:59, CDi:60 | 19 |
| CDi:61, CDi:62 | 19 |
| CDi:63, CDi:64 | 19 |
| CDi:65, CDi:66 | 19 |
| CDi:67, CDi:68 | 19 |
| CDi:69, CDi:70 | 19 |
| CDi:71, CDi:72 | 19 |
| CDi:73, CDi:74 | 19 |
| CDi:75, CDi:76 | 19 |
| CDi:77 | 19 |

## SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code and are considered "Included." Ordinances that are not of a general and permanent nature are not codified in the Code and are considered "Omitted."

| Ord. No. | Included/Omitted | Supp. No. |
|---|---|---|
| 2010-3 | Omitted | 3 |
| 2010-04 | Included | 3 |
| 2010-06 | Omitted | 3 |
| 2010-07 | Included | 3 |
| 2010-08 | Included | 3 |
| 2010-09 | Included | 3 |
| 2010-12 | Included | 3 |
| 2011-03 | Included | 4 |
| 2011-04 | Included | 4 |
| 2011-5 | Omitted | 4 |
| 2011-07 | Included | 4 |
| 2012-03 | Included | 5 |
| 2012-04 | Included | 5 |
| 2012-05 | Omitted | 5 |
| 2012-06 | Included | 5 |
| 2012-07 | Included | 5 |
| 2012-08 | Included | 5 |
| 2012-11 | Included | 5 |
| 2012-12 | Included | 5 |
| 2012-13 | Included | 5 |
| 2013-02 | Included | 6 |
| 2013-03 | Included | 6 |
| 2013-04 | Included | 6 |
| 2013-05 | Included | 6 |
| 2013-07 | Included | 6 |
| 2013-08 | Included | 6 |
| 2013-10 | Included | 6 |
| 2013-11 | Included | 6 |
| 2013-13 | Included | 6 |
| 2013-14 | Included | 6 |
| 2013-16 | Included | 6 |
| 2013-18 | Omitted | 6 |
| 2013-20 | Included | 6 |
| 2014-01 | Included | 7 |

| Ord. No. | Included/Omitted | Supp. No. |
|---|---|---|
| 2014-03 | Included | 7 |
| 2014-04 | Included | 7 |
| 2014-06 | Included | 7 |
| 2014-08 | Included | 7 |
| 2015-02 | Omitted | 8 |
| 2015-03 | Omitted | 8 |
| 2015-04 | Omitted | 8 |
| 2015-05 | Included | 8 |
| 2015-06 | Included | 8 |
| 2015-08 | Included | 8 |
| 2015-10 | Included | 8 |
| 2015-13 | Included | 8 |
| 2015-14 | Included | 8 |
| 2015-15 | Omitted | 8 |
| Policy of 1-26-2016 | Included | 9 |
| 2016-01 | Included | 9 |
| 2016-02 | Included | 9 |
| 2016-03 | Included | 9 |
| 2016-03(Res.) | Omitted | 9 |
| 2016-05(Res.) | Omitted | 9 |
| 2016-05 | Included | 9 |
| 2016-06(Res.) | Included | 9 |
| 2016-07 | Included | 9 |
| 2016-08 | Included | 9 |
| 2016-13 | Included | 9 |
| 2016-14 | Included | 9 |
| 2015-01 | Included | 10 |
| 2017-01 | Included | 10 |
| 2018-01 | Included | 11 |
| 2018-03 | Included | 11 |
| 2018-04 | Included | 11 |
| 2018-05 | Included | 11 |
| 2018-07 | Included | 11 |
| 2018-09 | Omitted | 11 |
| 2018-14 | Included | 11 |
| 2019-02 | Included | 12 |
| 2019-05 | Included | 12 |
| 2019-06 | Omitted | 12 |
| 2019-07 | Omitted | 12 |
| 2019-09 | Included | 12 |
| 2019-10 | Included | 12 |
| 2019-12 | Included | 12 |
| 2019-13 | Omitted | 12 |
| 2020-01 | Omitted | 13 |
| 2020-02 | Omitted | 13 |
| 2020-02(Res.) | Omitted | 13 |
| 2020-03 | Included | 13 |

SUPPLEMENT HISTORY TABLE

| Ord. No. | Included/Omitted | Supp. No. |
|---|---|---|
| 2020-03(Res.) | Omitted | 13 |
| 2020-04 | Included | 13 |
| 2020-04(Res.) | Included | 13 |
| 2020-09 | Omitted | 13 |
| 2020-09(Res.) | Omitted | 13 |
| 2020-12 | Included | 13 |
| 2020-14 | Omitted | 13 |
| 2021-01 | Omitted | 14 |
| 2021-02 | Included | 14 |
| 2021-03 | Included | 14 |
| 2021-06 | Omitted | 14 |
| 2021-07 | Omitted | 14 |
| 2021-08 | Omitted | 14 |
| 2021-10 | Included | 14 |
| 2021-11 | Included | 14 |
| 2021-12 | Included | 14 |
| 2021-13 | Included | 14 |
| 2021-15 | Omitted | 14 |
| 2021-17 | Omitted | 14 |
| 2021-18 | Omitted | 14 |
| 2021-19 | Omitted | 14 |
| 2021-21 | Included | 14 |
| 2022-01 | Omitted | 15 |
| 2022-02 | Included | 15 |
| 2022-03 | Omitted | 15 |
| 2022-04 | Included | 15 |
| 2022-05 | Included | 15 |
| 2022-06 | Included | 15 |
| 2022-07 | Included | 15 |
| 2022-08 | Included | 15 |
| 2022-09 | Omitted | 15 |
| 2022-10 | Omitted | 15 |
| 2022-10 | Omitted | 16 |
| 2022-01(Res.) | Omitted | 16 |
| 2022-02(Res.) | Omitted | 16 |
| 2022-03(1) | Omitted | 16 |
| 2022-03(Res.) | Omitted | 16 |
| 2022-11 | Omitted | 16 |
| 2022-14 | Omitted | 16 |
| 2023-01 | Omitted | 16 |
| 2023-01(Res.) | Omitted | 16 |
| 2023-02 | Omitted | 16 |
| 2023-02(Res.) | Omitted | 16 |
| 2023-03 | Omitted | 16 |
| 2023-04 | Included | 16 |
| 2023-05 | Included | 16 |
| 2023-05(Res.) | Omitted | 16 |

| Ord. No. | Included/Omitted | Supp. No. |
|---|---|---|
| 2023-07 | Omitted | 16 |
| 2023-08 | Included | 16 |
| 2023-10 | Included | 16 |
| 2023-11 | Omitted | 16 |
| 2023-12 | Included | 16 |
| 2023-14 | Omitted | 16 |
| 2024-01 | Omitted | 17 |
| 2024-01(Res.) | Omitted | 17 |
| 2024-02 | Omitted | 17 |
| 2024-02(Res.) | Omitted | 17 |
| 2024-03 | Omitted | 17 |
| 2024-03(Res.) | Omitted | 17 |
| 2024-04 | Omitted | 17 |
| 2024-04(Res.) | Omitted | 17 |
| 2024-05 | Omitted | 17 |
| 2024-05(Res.) | Omitted | 17 |
| 2024-06 | Included | 17 |
| 2024-08 | Included | 17 |
| 2020-07 | Included | 18 |
| 2024-06(Res.) | Omitted | 18 |
| 2024-07(Res.) | Omitted | 18 |
| 2024-07 | Included | 18 |
| 2024-08(Res.) | Omitted | 18 |
| 2024-09 | Omitted | 18 |
| 2024-09(Res.) | Omitted | 18 |
| 2024-10 | Omitted | 18 |
| 2024-10(Res.) | Omitted | 18 |
| 2024-11 | Included | 18 |
| 2024-11(Res.) | Omitted | 18 |
| 2024-12 | Omitted | 18 |
| 2024-12(Res.) | Omitted | 18 |
| 2024-13 | Included | 18 |
| 2024-13(Res.) | Omitted | 18 |
| 2024-14 | Included | 18 |
| 2024-15 | Included | 18 |
| 2024-16 | Included | 18 |
| 2024-17 | Included | 18 |
| 2024-18 | Omitted | 18 |
| 2025-01 | Omitted | 19 |
| 2025-01(Res.) | Omitted | 19 |
| 2025-02 | Included | 19 |
| 2025-02(Res.) | Omitted | 19 |
| 2025-03 | Omitted | 19 |
| 2025-03(Res.) | Omitted | 19 |
| 2025-04 | Omitted | 19 |
| 2025-04(Res.) | Omitted | 19 |
| 2025-05 | Included | 19 |

SUPPLEMENT HISTORY TABLE

| Ord. No. | Included/Omitted | Supp. No. |
|---|---|---|
| 2025-05(Res.) | Omitted | 19 |
| 2025-06 | Omitted | 19 |
| 2025-06(Res.) | Omitted | 19 |
| 2025-07 | Omitted | 19 |
| 2025-07(Res.) | Omitted | 19 |
| 2025-08(Res.) | Omitted | 19 |
| 2025-09(Res.) | Omitted | 19 |
| 2025-08 | Omitted | 20 |
| 2025-09 | Included | 20 |
| 2025-10 | Omitted | 20 |
| 2025-10(Res.) | Omitted | 20 |
| 2025-11 | Omitted | 20 |
| 2025-11(Res.) | Omitted | 20 |
| 2025-12 | Omitted | 20 |
| 2025-12(Res.) | Omitted | 20 |
| 2025-13(Res.) | Omitted | 20 |
| 2025-14(Res.) | Omitted | 20 |
| 2025-15(Res.) | Omitted | 20 |
| 2026-01 | Included | 20 |
| 2026-01(Res.) | Omitted | 20 |

# CODE OF ORDINANCES

## Chapter 1

## GENERAL PROVISIONS


Sec. 1-1. Designation and citation of Code.
Sec. 1-2. Definitions and rules of construction.
Sec. 1-3. Miscellaneous actions, ordinances and resolutions not affected by Code.
Sec. 1-4. Code application.
Sec. 1-5. Repeal shall not revive ordinances.
Sec. 1-6. Effective date of ordinances.
Sec. 1-7. Construction and severability of Code.
Sec. 1-8. General penalties.
Sec. 1-9. Effect of history note.
Sec. 1-10. Editor's notes and references.
Sec. 1-11. Catchlines and other headings.
Sec. 1-12. Amendments to Code.
Sec. 1-13. Supplementation of Code.
Sec. 1-14. Recordation and publication of ordinances.
Sec. 1-15. Unauthorized alterations or tampering with Code.
Sec. 1-16. Incorporation of material into Code.
Sec. 1-17. Town seal.
Sec. 1-18. Schedule of fines for first offense Code violations.
Sec. 1-19. Enforcement of ordinances through administrative proceedings.

**Sec. 1-1. Designation and citation of Code.**

The ordinances contained in the following chapters, articles, divisions, and sections shall constitute and be designated as the "Porter Town Code," and may be cited as the "Town Code" or, in the provisions which follow, as "this Code."
(Code 1968, § 1-1; Code 1991, § 1-1)

**State law reference—**Codification of ordinances, IC 36-1-5-1—36-1-5-6.

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

(a) 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. The rules of construction and definitions set out in this section shall not be applied to any section of this Code that shall contain any express provisions excluding such construction, or where the subject matter or context of such section may be repugnant thereto.

*Clerk-treasurer.* The term "clerk-treasurer" means the clerk and fiscal officer of the Town of Porter.

*Code.* The term "Code" means the local government code of the Town of Porter.

*Computation of time.* The time within which an act required to be done and is to be computed by excluding the first day and including the last day, unless the last day is a Sunday or a holiday, in which case it shall also be excluded.

*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:

(1) "And" indicates that all the connected terms, conditions, provisions or events apply.

(2) "Or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.

(3) "Either . . . or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

*County.* The term "county" means Porter County.

*Et seq.* The abbreviation "et seq." means the Latin phrase meaning "and the following."

*Gender.* Words used in the masculine gender shall include the feminine and neuter.

*IC*. The abbreviation "IC" shall refer to state law found in the Indiana Code.

*Interpretation*. In the interpretation and application of any provision, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort,

convenience and general welfare. Where any provision imposes greater restrictions upon the subject matter than the general provisions imposed by this Code, the provision imposing the greater restriction or regulation shall be controlling.

*Joint authority.* All words purporting to give a joint authority to three or more town officers or other persons shall be construed as giving such authority to a majority of such officers or other person, unless it shall be otherwise expressly declared in the provisions giving the authority.

*May*. The term "may" is permissive.

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

*Must* and *shall*. The terms "must" and "shall" are each mandatory.

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

*Oath*. The term "oath" includes an affirmation of declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

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

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

*Person*. The term "person" means any individual, firm, corporation, association, fiduciary, or governmental entity.

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

*Preceding* and *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, cemetery, schoolyard or open space adjacent thereto, and any lake or stream.

*Real property*. The term "real property" includes lands, tenements, and hereditaments (things capable of being inherited).

*Reasonable time*. The term "reasonable time" means in all cases where any provision shall require any act to be done in a "reasonable time" or "reasonable notice" to be given 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.

*Sidewalk*. The term "sidewalk" means that portion of the street between the curbline and the adjacent property line intended for the use of pedestrians.

*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.

*Street*. The term "street" means all streets, highways, avenues, boulevards, lanes, courts, squares, roads, alleys, viaducts, or other public ways in the town which have been or may hereafter be dedicated and open to public use.

*Substantial property interest*. The term "substantial property interest" means any right in real property that may be affected in a substantial way by actions authorized by planning and development laws of the state, including a fee interest, a life estate interest, a future interest, a present possessory interest (mortgage interest), or an equitable interest of a contract purchaser.

**State law reference—**Unsafe Building Law, definitions, IC 36-7-9-2.

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

*Tenses*. The use of any verb in the present tense shall include the future tense when applicable.

*Town*. The term "town" means the Town of Porter, Indiana, or the area within the territorial limits of the Town of Porter, Indiana, and such territory, if any, outside of the town over which the town has jurisdiction or control by virtue of any constitutional or statutory provision.

*Town council*. The term "town council" means and includes all references to the former town board of trustees.

**Editor's note—**On March 30, 1989, House Enrolled Act No. 1042 became effective, which officially changed the term "board of trustees" to "town council."

*Written*. The term "written" includes printed, typewritten, or otherwise reproduced in permanent visible form.

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

(b) The articles, sections, and provisions of this Code shall be interpreted in favor of the health, safety, comfort, morals, convenience, and general welfare of the public. All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the town council may be fully carried out. Where any provision of the Code imposes greater restrictions upon the subject matter than another more general provision imposed by the Code or other law, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

(Code 1968, § 1-2; Code 1991, § 1-3)

**State law reference—**Local government, definitions of general applicability, IC 36-1-2-1—36-1-2-24.

**Sec. 1-3. Miscellaneous actions, ordinances and resolutions not affected by Code.**

Nothing in this Code or the ordinance adopting this Code shall affect any of the following:

(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 accepting gifts and dedications of real estate;

(3) Any ordinance or resolution promising or guaranteeing the payment of money by the town or authorizing the issuance of bonds of the town;

(4) Any other evidence of the town's indebtedness, or any contract or obligation assumed by the town;

(5) The administrative ordinances or resolutions of the town council not in conflict or inconsistent with the provisions of this Code;

(6) The salaries of the officers and employees of the town, fixed by ordinances or resolutions;

(7) Appropriation or transfer ordinances;

(8) Any ordinance concerning annexation or disannexation of territories to and from the town;

(9) Any ordinances changing or concerning the names of streets, or opening and closing streets, or adding traffic control signs or signals to streets;

(10) Ordinances commonly known as zoning map amendments;

(11) Any ordinance accepting, releasing or abandoning easements;

(12) Any right or franchise conferred by any ordinance or resolution of the town council to any person or corporation;

(13) Any prosecution, suit or proceeding pending on the effective date of this Code, except that the proceedings thereof shall conform as far as possible to the provisions of this Code;

and all such actions and ordinances are recognized as continuing in full force and effect to the same extent as if set out at length in this Code.
(Code 1991, § 1-2)

**State law reference—**Adoption of ordinance, order or resolution, publication, IC 36-5-2-10.

**Sec. 1-4. Code application.**

This Code shall refer only to the omission or commission of acts within the territorial limits of the town and to that territory outside the town, if any, over which the town has jurisdiction or control by virtue of any constitutional provision or law.
(Code 1991, § 1-4)

**Sec. 1-5. Repeal shall not revive ordinances.**

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

(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.
(Code 1991, § 1-6)

**Sec. 1-6. Effective date of ordinances.**

All ordinances passed by the town council, requiring publication by acts of the Indiana General Assembly shall take effect from and after the publication thereof as provided by statute. Ordinances not requiring publication by acts of the Indiana General Assembly shall take effect from and after their passage by the town council, unless otherwise expressly provided, and shall not be required to be published.
(Code 1991, § 1-7)

**Sec. 1-7. Construction and severability of Code.**

(a) If any chapter, article, division, section, subsection, sentence, clause or phrase of this Code is for any reason declared to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Code.

(b) Whenever reference is made to any provision of this Code or statute of the state, such reference applies to all amendments and additions now or hereafter enacted.
(Code 1991, § 1-8)

**Sec. 1-8. General penalties.**

(a) In this section, the term "violation of this Code" shall mean any of the following:

(1) Doing an act that is prohibited or made or declared unlawful, an offense, a violation or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.

(2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.

(3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.

(b) Except as otherwise provided by law or ordinance, with respect to violations of this Code that are continuous with respect to time, each day a violation of this Code is committed or permitted to continue shall constitute a separate offense. In this section, the term "violation of this Code" does not include the failure of a town officer or town employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished.

(c) Except as otherwise provided by law or ordinance, a person convicted of a violation of this Code shall be punished by:

(1) A fine of not more than $2,500.00 for a first violation of an ordinance; and

(2) Except for violations of ordinances that apply to traffic regulation or parking, a fine of not more than $7,500.00 for a second or subsequent violation of an ordinance.

(d) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise, or other administrative sanctions.

(e) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief.

(f) 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.
(Code 1991, § 1-9)

**State law references—**Home rule, powers specifically withheld, IC 36-1-3-8; real property, action to bring compliance, IC 36-1-6-2; injunction, IC 36-1-6-4.

### Sec. 1-9. Effect of history note.

The presence of a history note, such as "(Ord. No. 10-1992, § 11, 9-8-1992)," at the end of any section of this Code shall denote the historical derivation of the Code section. The history notes are not intended to have any legal effect.

**State law reference—**Restatement or reenactment of provisions, IC 36-1-5-6.

### Sec. 1-10. Editor's notes and references.

The editor's notes and state law references in this Code are not intended to have any legal effect but are merely intended to assist the user of this Code. Any reference made herein to state law shall be construed as meaning the most current edition of the Indiana Code, including any amendments or revisions thereto as adopted by the state legislature.

### Sec. 1-11. Catchlines and other headings.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. No provision of this Code shall be held invalid by reason of deficiency in any such catchline or in any heading or title to any chapter, article or division.

**Sec. 1-12. Amendments to Code.**

(a) All ordinances passed 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; or in the case of repealed chapters, sections and subsections or any part thereof, such chapters, sections or subsections, by subsequent ordinances, may be excluded from the Code by omission from reprinted affected pages. Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the council to make them a part of this Code, shall be deemed to be incorporated in this Code, so that a reference to the Code shall be understood and intended to include such additions and amendments.

(b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section ____ of the Porter Town Code is hereby amended to read as follows: . . .." The new provisions shall then be set out in full as enacted.

(c) If a new section not heretofore existing in the Code is to be added, the following language may be used: "That the Porter Town Code is hereby amended by adding a section, to be numbered ____, which section reads as follows: . . .." The new section shall then be set out in full as enacted.

(d) All sections, divisions, articles, chapters or other provisions desired to be repealed shall be specifically repealed by section, division, article or chapter number, as the case may be.

**Sec. 1-13. Supplementation of Code.**

(a) By contract or by town personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the town council. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made by the supplement to the Code. The pages of a 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; and 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 the preparation of a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by their omission from reprinted pages.

(c) When preparing a supplement to this Code, the codifier, meaning the person, agency or organization authorized to prepare the supplement, may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement and make changes in such catchlines, headings, and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections ____ through ____," inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated into the Code; and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

**Sec. 1-14. Recordation and publication of ordinances.**

All ordinances hereafter passed and adopted by the town council shall be recorded by the clerk-treasurer in a book of ordinances. The original shall be filed in the clerk-treasurer's office, and the clerk-treasurer shall obtain and file therewith the proof of publication from the publisher for all ordinances hereafter published.

**Sec. 1-15. Unauthorized alterations or tampering with Code.**

It shall be unlawful for any person in the town to change or amend, by additions or deletions, any part or portion of this Code, or to insert or delete pages, or portions of pages, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the town to be misrepresented.

**Sec. 1-16. Incorporation of material into Code.**

The town council may incorporate by reference into an ordinance or code any material. However, the ordinance or Code must state that two copies of the material are on file in the office of the clerk-treasurer for the town for public inspection, and the copies must be on file, as stated, for public inspection.

**State law reference—**Incorporation of materials by reference, IC 36-1-5-4.

**Sec. 1-17. Town seal.**

The clerk-treasurer shall be the custodian of the town's seal and affix it to such documents and instruments as required.

(Code 1991, § 1-10)

**Sec. 1-18. Schedule of fines for first offense Code violations.**

(a) The clerk-treasurer is the violations clerk. The violations clerk and his/her staff, acting as his/her agents, shall accept:

(1) Written appearances;

(2) Waivers of trial;

(3) Admissions of violations; and

(4) Payment of civil penalties which do not exceed the amount specified in IC 33-36-2-3 as amended from time to time.

(b) A person charged with violating an ordinance or this Code which is subject to admission before the ordinance violations bureau may elect to admit the violation, waive the right to trial and pay the civil penalty to the violations clerk without assessment of court costs. Payments may be made in person or by mail to the clerk-treasurer's office. Payments must be made or postmarked within 30 days of issuance of a citation, except where otherwise provided for by ordinance or this Code.

(c) Upon admission of violation, and the payment of the civil penalties, the violator shall have five business days to achieve compliance with the original violation notice. Failure to comply within the allowed time shall allow the town to take further action in accordance with state law.

(d) If a person charged with a violation wants to exercise the right to trial, the person shall appear before the violations clerk and deny the violation or enter a written denial with the violations clerk.

(e) If a person denies an ordinance violation or violation of this Code subject to the jurisdiction of the ordinance violations bureau, fails to satisfy a civil penalty after entering an admission of violation, or fails to deny or admit the violation, the violations clerk will report this fact to the town attorney. Proceedings in court will then be initiated against the person for the alleged ordinance violation or violation of this Code.

(f) The following schedule of ordinance and Code provisions shall be subject to the jurisdiction of the ordinance violations bureau (see exhibit A at the end of this section). The schedule identifies the amount of civil penalty to be assessed to a person who elects to admit a violation under this section.

(1) Any person, corporation or organization who commits more than one violation of any offense listed in the schedule within any 30-day period will be subject to an increased fine as set forth in section 1-8 for each and every violation. Every day, or part of a day, that a violation is committed or continues in existence is a separate violation for which civil penalties may be imposed. The increased fine up to the maximum permitted by IC 33-36-2-3 as amended from time to time may be collected by the violations clerk.

(2) The schedule establishes civil penalties to be assessed against a violator who elects to admit to an ordinance or Code violation but shall in no way impair the ability of the town to bring suit to seek imposition of any fine greater than that provided for by the schedule that is otherwise provided for by an ordinance, this Code and/or state law.

(3) The imposition of a penalty under this section does not prevent revocation or suspension of a license, permit or franchise or other administrative action.

(4) The schedule shall in no way impair the ability of the town to enforce ordinances and provisions of this Code outside the jurisdiction of the ordinance violations bureau.

(5) The police department and/or building commissioner/development director, as prosecuting officer, may issue citations for violations as prescribed by the schedule.

**EXHIBIT A**

| *Town Code Violation* | *Offense Description* | *Fine for First Offense* |
|---|---|---|
| *Alcoholic Beverage Violations* | | |
| 6-21 | Open containers on town property | $75.00 |
| 6-22 | Permit procedure | $75.00 |
| *Animal Violations* | | |
| 10-2 to 10-45 | Animal Control Ordinance 2006-06 | $75.00 |
| | Except for section 10-33, animal bites | $100.00 |
| *Building Code Violations* | | |
| 14-40 to 14-390 | Building codes | $75.00 |
| 14-78 | Permit for construction, remodeling | $75.00 |
| 14-186 | License required for contractors | $75.00 |
| 14-1 to 14-384 | Building code violations | $75.00 |
| 14-386 | Smoke detectors | $75.00 |
| *Failure to Pay Fees, Acquire Licenses, Permits* | | |
| 18-1 to 18-96 | Licenses and permits | $75.00 |
| 18-23 | Business permit | $75.00 |
| 18-55 | Peddler, solicitor, transient merchant license required | $75.00 |
| 18-86 | Taxicab license required | $75.00 |
| *Environment* | | |
| 26-1 to 26-450 | Environment | $75.00 |
| 26-52 | Dog declared a nuisance | $75.00 |

| *Town Code Violation* | *Offense Description* | *Fine for First Offense* |
|---|---|---|
| 26-82 | Accumulation regulations in containers | $75.00 |
| 26-83 | Dumping prohibited | $75.00 |
| 26-85 | Unsanitary conditions | $75.00 |
| 26-121 | Fireworks permitted between 5:00 p.m. and 2 hrs. after sunset<br>6/29—7/3 and 7/5—7/9<br>10:00 a.m.—Midnight July 4<br>10:00 a.m. on 12/31 to 1:00 a.m. Jan. 1 | $75.00 |
| 26-122 | Fireworks unsafe use or serious annoyance | $100.00 |
| 26-123 | Parental responsibility for minor-fireworks | $100.00 |
| 26-149 | Open burning | $75.00 |
| 26-171 | Noise before 7:00 a.m. and after 7:00 p.m. | $75.00 |
| 26-210 | Abandoned or junked vehicles | $75.00 |
| 26-320 | Erosion and sediment control | $75.00 |
| 26-450 | Illicit discharge | $75.00 |
| *Offenses* | | |
| 42-1 to 42-64 | Miscellaneous | $75.00 |
| 42-1 | Discharge of firearms or missiles | $75.00 |
| 42-20 | Disturbing the peace | $75.00 |
| 42-22 | Criminal trespass | $75.00 |
| 42-23 | Disorderly conduct | $75.00 |
| 42-24 | Congregating in public place five or more | $75.00 |
| 42-26 | Interfering with public officer | $75.00 |
| 42-27 | Posting notices on utility poles | $75.00 |
| 42-64 | Curfew or parent allowing violation (10:00 p.m. to 5:00 a.m.) | $75.00 |
| *Parks and Recreation* | | |
| 46-56—46-65 | Park regulation | $75.00 |
| 46-57 | Prohibited acts | $75.00 |
| 46-58 | Hours of operation | $75.00 |

| *Town Code Violation* | *Offense Description* | *Fine for First Offense* |
|---|---|---|
| 46-61(b) | Driving/parking in unauthorized area of park | $75.00 |
| 46-61(c) | Dogs on leash six feet or less | $75.00 |
| 46-61(d) | Unlawful sales | $75.00 |
| *Streets, Sidewalks and other Public Places* | | |
| 58-1 to 58-254 | Miscellaneous | $75.00 |
| 58-2 | Littering | $75.00 |
| 58-28 | Parades, assemblage or pickets must have permits | $75.00 |
| 58-65 | Apartments must have numbers | $75.00 |
| 58-66 | New houses must have numbers | $75.00 |
| 58-67 | Existing houses must have numbers | $75.00 |
| 58-97 | Driveway culverts | $75.00 |
| 58-98 | Ditch blockage | $75.00 |
| 58-100 | Driveway entrance must have culvert permit | $75.00 |
| 58-141 | Inspection of any electrical wire | $75.00 |
| 58-180 | Permit to excavate or remove sand, soil or earth | $75.00 |
| 58-209 | Snow fall parking restrictions | $75.00 |
| 58-210 | Removal of snow and ice from sidewalks | $75.00 |
| *Traffic and Vehicles* | | |
| 66-1 to 66-386 | Miscellaneous | $75.00 |
| 66-29 | Bicycle lights and reflectors at night visible 500 feet front and rear | $75.00 |
| 66-32 | Riding bicycle on sidewalk | $75.00 |
| 66-57 | Failure to comply with law order of police or fire officer | $75.00 |
| 66-61 | Driving over fire hose | $75.00 |
| 66-62 | Driving on sidewalk | $75.00 |
| 66-85 | Driver must yield to pedestrians | $75.00 |
| 66-86 | Yielding to vehicles on roadway | $75.00 |
| 66-117 | Parking—Prohibited signs | $75.00 |

| *Town Code Violation* | *Offense Description* | *Fine for First Offense* |
|---|---|---|
| 66-124 | Parking prohibited after one inch snow on Lincoln from Francis to Wagner | $75.00 |
| 66-147 | Trucks five tons or more prohibited on streets | $75.00 |
| 66-149 | Trucks seven tons or more on Wagner Road | $75.00 |
| 66-150 | Frost law weight violation without permit | $75.00 |
| 66-173 | No parking zones | $75.00 |
| 66-174 | Parking on Oak Hill Rd. from Hwy 49 to Hwy 12 | $75.00 |
| 66-175(b) | Parking with no permit | $75.00 |
| 66-177 | Parking in prohibited places | $75.00 |
| 66-178 | Parking as to obstruct traffic | $75.00 |
| 66-179 | Parking on sidewalk | $75.00 |
| 66-180 | Parking on street in restricted subdivisions | $75.00 |
| 66-181 | 15-minute parking zone | $75.00 |
| 66-183 | Storing vehicles on street for more than 72 hours | $75.00 |
| 66-184 | Angle parking | $75.00 |
| 66-186(e) | Disabled parking spaces | $75.00 |
| 66-187 | Parking of vehicles in Residential Districts | $75.00 |
| 66-189 | Failure to parallel park within 12 inchs of curb | $75.00 |
| 66-190 | Obstruction of mailbox | $75.00 |
| 66-272 | Beach parking violations/ handicap parking violations | $75.00 |
| 66-354 | No passing zone | $75.00 |
| 66-356 to 66-361 | Speeding | $75.00 |
| 66-384 to 66-385 | Stop/yield restrictions | $75.00 |
| *Vegetation* | | |
| 74-19 to 74-28 | Miscellaneous | $75.00 |
| 74-19 | Noxious vegetation prohibited | $75.00 |
| *Waterways* | | |
| 78-19 | Motorboats and jet skis prohibited | $75.00 |

| *Town Code Violation* | *Offense Description* | *Fine for First Offense* |
|---|---|---|
| 78-20 | Use, consumption or possession of alcoholic beverage on lakefront beach property owned by town | $75.00 |
| 78-21 | Pets on lakefront beach property owned by town | $75.00 |
| 78-22 | Horses prohibited on town beaches | $75.00 |
| *Zoning* | | |
| Ord. No. 2002-02 | Sections 1—267 | $75.00 |

The fines as set forth in this schedule shall be only applicable in the event of a first violation by the defendant. Any subsequent violations of the same ordinance shall be subject to the general penalty provisions of this Code, found in section 1-8, which provide for a fine of not more than $2,500.00 for a second or subsequent violation of an ordinance, with the exception of violations of ordinances that apply to traffic regulation or parking. Any code violation that is not listed above or without fees stated in the Town of Porter Code Book will have a minimum fine of $50.00 for the first offense.

(Ord. No. 92-03-810, § 1, 7-28-1992; Ord. No. 93-18, § 1, 7-27-1993; Ord. No. 97-04, § 4, 8-12-1997; Ord. No. 2004-16, 10-26-2004; Ord. No. 2006-07, 5-9-2006; Ord. No. 2006-23, 11-28-2006; Ord. No. 2009-10, § 1, 6-23-2009; Ord. No. 2010-04, § 1, 5-25-2010; Ord. No. 2016-02, § 1, 2-23-2016; Ord. No. 2021-13, § 1, 6-22-2021; Ord. No. 2023-05, § 1, 6-27-2023)

**Sec. 1-19. Enforcement of ordinances through administrative proceedings.**

(a) The town establishes and designates the Porter Administrative Body for the Enforcement of Ordinances as the administrative body for enforcement of ordinances that restrict or prohibit actions harmful to the land, air, or water, govern use of the public way, or govern the standing or parking of vehicles.

(b) The Porter Administrative Body for the Enforcement of Ordinances shall be comprised of three members appointed by the town council to three-year staggered terms.

(c) The following ordinances may be enforced by administrative proceedings before the Porter Administrative Body for the Enforcement of Ordinances:

(1) Chapter 14, Buildings and Building Regulations:

a. Sec. 14-86—Control of soil erosion during construction

(2) Chapter 26, Environment:

a. Sec. 26-50 - Depositing unwholesome substances prohibited

b. Sec. 26-82 - Accumulation of garbage on premises

c. Sec. 26-83 - Dumping prohibited

d. Sec. 26-84 - Duties of owners and occupants

e. Sec. 26-85 - Unsanitary conditions prohibited

f. Sec. 26-124 - Liability for fire and other damage

g. Sec. 26-149 - Burning regulations

h. Sec. 26-151 - Certain conditions apply

i. Sec. 26-215 - Abandoned vehicles and parts prohibited

j. Sec. 26-319 - Stop work order and revocation of permit

k. Sec. 26-320 - Violation and penalties

l. Sec. 26-349 - Industrial or construction activity discharges

m. Sec. 26-350 - Requirements to prevent, control and reduce stormwater pollutants by the use of best management practices

n. Sec. 26-351 - Watercourse protection

o. Sec. 26-352 - Notification of spills

p. Sec. 26-367 - Prohibition of illegal discharges; exempt discharges

q. Sec. 26-368 - Prohibition of illicit connections

r. Sec. 26-369 - Violation

s. Sec. 26-384 - Suspension due to illicit discharges in emergency situations

t. Sec. 26-385 - Suspension due to the detection of illicit discharge

(3) Chapter 46, Parks and Recreation:

a. Sec. 46-57(2) and (3) - Prohibited acts

(4) Chapter 58, Streets, Sidewalks, and Other Public Places:

a. Article II - Parades, Assemblages and Pickets

b. Article VII - Streets and Sidewalks

c. Article VIII - Golf Carts

d. Sec. 58-2 - Littering

e. Sec. 58-97 - Driveway culvert regulations

f. Sec. 58-98 - Ditch blockage prohibited

g. Sec. 58-180 - Permit required

(5) Chapter 66, Traffic and Vehicles:

a. Article II - Bicycle Regulations

b. Article IV - Pedestrians

c. Article V - Snow Removal, Emergency, Repair Regulations

d. Article VI - Weight Restrictions

e. Article VII - Parking, Stopping and Standing

(6) Chapter 74, Vegetation:

a. Sec. 74-19 - Noxious vegetation prohibited

(d) In a proceeding to enforce an ordinance before the Porter Administrative Body for the Enforcement of Ordinances, a violation of the ordinance must be proven by a preponderance of the evidence. Imposition of a penalty for violation of the ordinances in subsection (c)(3) shall not exceed $2,500.00 for a first violation of the ordinance; and, except for violations of an ordinance regulating traffic or parking, no more than $7,500.00 for a second subsequent violation of the ordinance.

(e) A person who receives a penalty under subsection (d) may file an appeal of the order imposing the penalty to a court of record in Porter County, not more than 60 days after the day on which the order was entered.

(Ord. No. 2013-20, § 1, 1-14-2014)

**Editor's note—**Ord. No. 2013-20, § 1, adopted Jan. 14, 2014, set out provisions intended for use as § 1-18. Inasmuch as a § 1-18 already exists, these provisions have been included as § 1-19.

**State law reference—**Enforcement of ordinances through administrative proceedings, IC 36-1-6-9.

Chapter 2

# ADMINISTRATION

## Article I. In General

Sec. 2-1. Preapproved payment of claims.
Sec. 2-2. Stormwater management user fee.
Sec. 2-3. Fee for unpaid or dishonored check, draft, etc.
Sec. 2-4. Registration to vote required.
Sec. 2-5. Recovery of fire protection costs.
Sec. 2-6. Promotion of economic development and tourism.
Sec. 2-7. Small purchase policy.
Sec. 2-8. CARES Act reimbursements.
Secs. 2-9—2-24. Reserved.

## Article II. Town Clerk-Treasurer

Sec. 2-25. Term of office.
Sec. 2-26. Powers and duties.
Sec. 2-27. Compensation.
Sec. 2-28. Deputies and employees.
Secs. 2-29—2-59. Reserved.

## Article III. Inspectors and Town Staff

Sec. 2-60. Plumbing and building inspector.
Sec. 2-61. Electrical inspector.
Sec. 2-62. Town planner.
Secs. 2-63—2-82. Reserved.

## Article IV. Town Officers and Employee Benefits

Sec. 2-83. Town appointments.
Sec. 2-84. Compensation and salary.
Sec. 2-85. Official surety bonds.
Sec. 2-86. Personnel manual adopted by reference.
Sec. 2-87. Insurance.
Sec. 2-88. Stay home pay during a declared emergency.
Secs. 2-89—2-119. Reserved.

## Article V. Boards, Commissions, and Departments

Sec. 2-120. Town department of development and town economic development commission.
Sec. 2-121. Economic development task force.
Sec. 2-122. Department of parks and recreation.
Sec. 2-123. Department of public works.
Sec. 2-124. Department of redevelopment.
Sec. 2-125. Redevelopment authority.

Sec. 2-126. Board of zoning appeals.
Sec. 2-127. Plan commission.
Sec. 2-128. Department of stormwater management.
Sec. 2-129. Environmental sustainability commission.
Secs. 2-130—2-154. Reserved.

**Article VI. Funds**

Sec. 2-155. Cumulative capital improvement fund.
Sec. 2-156. Motor vehicle highway fund (MVHF).
Sec. 2-157. Traffic accident report account.
Sec. 2-158. Continuing education fund.
Sec. 2-159. State political subdivision risk management fund.
Sec. 2-160. Fire fund.
Sec. 2-161. Major moves construction fund.
Sec. 2-162. Rainy day fund.
Sec. 2-163. Redevelopment fund.
Sec. 2-164. Cumulative capital development fund.
Sec. 2-165. Health insurance fund.
Sec. 2-166. Fund 257, LOIT special distribution fund.
Secs. 2-167—2-222. Reserved.

**Article VII. Charges and Fees for Copying of Documents, Books and Any Public Records**

Sec. 2-223. Public access to documents; books; public records.
Sec. 2-224. Fees.
Sec. 2-225. Town officials exempt.
Sec. 2-226. Compliance with state law.
Secs. 2-227—2-245. Reserved.

**Article VIII. Alcohol and Drug Testing**

Sec. 2-246. Omnibus Transportation Employee Testing Act adopted.
Secs. 2-247—2-270. Reserved.

**Article IX. Town Council**

Sec. 2-271. Membership.
Sec. 2-272. Election districts.
Sec. 2-273. Town districts.
Sec. 2-274. President—Selection and term.
Sec. 2-275. Same—Duties.
Sec. 2-276. Conflict of interest.
Sec. 2-277. Quorum and votes to pass.
Sec. 2-278. Powers.
Sec. 2-279. Regular meetings.
Sec. 2-280. Special meetings.
Sec. 2-281. Adjourned meetings.
Sec. 2-282. Agenda.

Sec. 2-283. Call to order; reading and adopting minutes.
Sec. 2-284. Maintaining order and decorum.
Sec. 2-285. Form of questioning.
Sec. 2-286. Members to be present and vote.
Sec. 2-287. Questions of privilege.
Secs. 2-288, 2-289. Reserved.
Sec. 2-290. Ordinances which amend the town Code.
Sec. 2-291. Reading ordinances aloud.
Sec. 2-292. Enactment of ordinances.
Sec. 2-293. Proponents and opponents to be heard.
Sec. 2-294. Adoption of ordinance; publication.
Sec. 2-295. Validity of provisions.
Sec. 2-296. Article provisions deemed supplemental.
Sec. 2-297. Compensation.
Secs. 2-298—2-309. Reserved.

**Article X. Policy Concerning Nepotism and Contracting with the Town**

Sec. 2-310. Definitions.
Sec. 2-311. Employment of relatives.
Sec. 2-312. Exclusions from section 2-311.
Sec. 2-313. Contracting with relatives of current elected officials.
Sec. 2-314. Certification requirement.
Sec. 2-315. Incorporation by reference.

## ARTICLE I. IN GENERAL

### Sec. 2-1. Preapproved payment of claims.

(a) The fiscal officer for the town may make claim payments in advance of a board allowance for the following types of expenses:

(1) Property or services purchased or leased from:

a. The United States government; or

b. An agency or a political subdivision of the United States government.

(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; and

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 that must be paid because of emergency circumstances.

(13) Any claim that will incur a late charge if due date falls before a scheduled council meeting.

(14) Sign deposit refund.

(15) Park deposit refund.

(16) Park cancellation refund.

(17) Routine progress payments pursuant to construction contracts.

(b) Each payment of expense under this section must be supported by a fully itemized invoice or bill and certification by the fiscal officer.

(c) Any such claim payment made shall be reviewed by the council or the board having jurisdiction over the allowance of the claim at its next regular or special meeting following the preapproved payment of the expense.

(Ord. No. 2000-04, 4-11-2000; Ord. No. 2004-11, 8-10-2004; Ord. No. 2013-10, §§ 1, 2, 7-23-2013)

**Sec. 2-2. Stormwater management user fee.**

(a) Effective January 1, 2017, and for each and every month thereafter until modified by the town council, there should be, and there is hereby established and enacted, a town stormwater management user fee in the amount of $6.00 per month per equivalent residential unit (ERU), to be assessed against each and every individual residential parcel of real estate located within the boundaries of the town. This applies to both vacant and developed residential parcels. Parcel designation shall be performed in compliance with the records of the county auditor and assessor.

(b) Commercial/industrial property is assessed by multiplying the calculated ERU (Q/Qavg) for each property by $6.00 per month, using the Standard Rational Method for stormwater runoff volume (Q = CiA) where:

- Q = total stormwater runoff
- C = coefficient of runoff (0.25 for pervious areas and 0.90 for impervious areas)
- i = rainfall intensity in inches per hour (100 year/1-hour storm = 2.66)
- A = total area of property in acres
- Qavg = the average stormwater flow rate per ERU for the Town of Porter has been calculated as 0.5068 cubic feet per second (cfs)

(c) Delinquent stormwater management user fees shall be subject to a penalty of ten percent per annum on the total uncollected balance.

(d) Upon approval of the submitted budget, the board of directors of the stormwater management board shall be authorized and empowered to spend the funds upon proper proof and approval of claims.

(e) The board of directors of the stormwater management board shall implement policies and procedures governing the expenditure of the stormwater management user fee so as to remain in full and complete compliance with IC 8-1.5-5-1 et seq., as well as any and all other applicable statutory requirements.

(Ord. No. 2005-10, §§ 1—6, 11-22-2005; Ord. No. 2016-13, § 1, 12-13-2016)

**State law reference—**Department of stormwater management, IC 8-1.5-5-1 et seq.

**Sec. 2-3. Fee for unpaid or dishonored check, draft, etc.**

(a) Any person or entity presenting a check, electronic check, draft, credit card payment or order payable to the town, or the office of the clerk treasurer, the town police department or the town park department or the person for whose benefit the instrument was given, which is returned to the town marked "unpaid" or is otherwise dishonored, shall be assessed the additional sum allowable by state law for each returned or dishonored instrument. The charge shall not be considered an interest charge, a finance charge, a time price differential, or any charge of similar nature.

(b) If a payment is dishonored or returned unpaid for any reason, the person who owes the payment shall pay it with cash or a money order within ten days.

(c) After two checks, electronic checks, drafts, credit card payments or other payments are dishonored or returned for insufficient funds the town will only accept payments from that payer in cash or by money order. After two electronic or on-line payments have been dishonored or returned for insufficient funds, electronic or on-line payments from that payer will no longer be accepted.
(Ord. No. 2006-21, 12-26-2006; Ord. No. 2013-07, § 1, 6-25-2013; Ord. No. 2019-05, § 1, 4-19-2019)

**Sec. 2-4. Registration to vote required.**

(a) It shall be a prerequisite to voting in all primary and general elections of the town for every voter to be first duly and properly registered to vote with the voter's registration board of the county.

(b) Any person voting in any primary or general town election in violation of the terms and provisions of this section shall be deemed guilty of an ordinance offense and upon conviction, be liable to for a penalty of up to $1,000.00.
(Code 1991, § 6-97; Ord. No. 634, §§ 1, 2, 2-28-1979)

**Sec. 2-5. Recovery of fire protection costs.**

(a) Pursuant to IC 8-1-2-103(d), the costs for the production, storage, transmission, sale, delivery, or furnishing of water for public fire protection purposes ("fire protection costs") shall be included in the basic rates and charges of all customers of Indiana American Water Company, Inc. ("IAMC") located within the Town of Porter, in the manner and to the extent permitted by statute.

(b) Effective upon the date of this change in the manner of recovering fire protection costs, IAWC shall cease directly billing the Town of Porter for the fire protection costs, other than charges for the construction cost for new hydrants installed on and after the date of the change, as provided in IC 8-1-2-103(d).

(c) Notwithstanding this change in the recovery of fire protection costs, the construction cost of any fire hydrants installed at the request of the Town of Porter shall continue to be paid for by or on behalf of the Town of Porter.
(Ord. No. 2012-12, § 1, 12-11-2012)

**Sec. 2-6. Promotion of economic development and tourism.**

(a) The town establishes the promotion of business account and authorizes the spending of funds for expenses incurred in the best interests of the town.

(b) Such expenses may include, but not necessarily be limited to, rental of meeting places, meals, decorations, signs, memorabilia, awards, expenses incurred in promoting industrial, commercial, and residential development, expenses incurred in developing relations with

other units of government, contributions to town residents involved in a national or international competition or event, and any other expenses of a civic or governmental nature deemed by the town council to be in the interest of the town.
(Ord. No. 2018-07, § 1, 8-14-2018)

**Sec. 2-7. Small purchase policy.**

(a) Town department heads are designated as purchasing agents with authority to make purchases costing less than $50,000.00.

(b) In making purchases under this policy, each purchasing agent:

(1) Shall act in accordance with good business practices with the primary purpose of serving the needs and best interests of the residents of the town; and

(2) Shall not artificially divide purchases so that they will become subject to this policy or so that the purchases will be less than $10,000.00.

(c) All purchases costing more than $10,000.00 made by purchasing agents pursuant to this policy shall be approved in advance by the town council president or his/her designee(s).

(d) For purchases of more than $10,000.00 but less than $50,000.00, the purchasing agent shall invite quotes from at least three persons known to deal in the lines or classes of supplies to be purchased. The invitation need not be in writing. If the invitation is in writing it shall be sent to prospective vendors in any manner deemed appropriate by the purchasing agent. The invitation must give prospective vendors at least 48 hours to respond.

(e) Purchasing agents may make purchases of $10,000.00 or less in any manner deemed appropriate by the purchasing agent consistent with the purposes of this policy. Purchasing agents are not required to invite quotes from at least three persons known to deal in the lines or classes of supplies to be purchased prior to making a purchase costing $10,000.00 or less. However, purchasing agents are encouraged to take appropriate action to ensure that the price paid is reasonable.
(Res. No. 2020-04, 7-14-2020)

**Sec. 2-8. CARES Act reimbursements.**

The following alternative process shall be followed for the reimbursement of public health and public safety payroll costs from CARES Act grant proceeds:

(1) A COVID CARES Act Grant (fund) is hereby established. The fund will be used to record the receipt of the CARES Act grant proceeds and the transfers of the proceeds to the appropriate funds that reimbursable expenses were originally made from. The fund shall remain in existence until all of the grant proceeds are transferred into the funds that the reimbursable expenses were originally made from.

(2) Instead of moving expenses, a claim shall be created against the fund for the public health and/or public safety payroll expenses to be reimbursed. This claim must be supported by the public health and/or public safety payroll expenses that have been expensed from the general fund or other funds of the town.

(3) The amount of the claim described in subsection (2) above shall be receipted into the fund to be reimbursed. Once the amount is receipted into the appropriate fund, normal appropriation procedures shall apply.

(Ord. No. 2020-12, § 1, 10-27-2020)

**Editor's note—**Ord. No. 2020-12, § 1, adopted October 27, 2020, set out provisions intended for use as § 2-6. Inasmuch as § 2-6 already exists, and § 2-7 was added at the editor's discretion from Res. No. 2020-04, adopted July 14, 2020, these provisions have been included above as § 2-8.

**Secs. 2-9—2-24. Reserved.**

## ARTICLE II. TOWN CLERK-TREASURER

### Sec. 2-25. Term of office.

(a) The town clerk-treasurer is an elected position whose term of office is for four years, beginning at 12:00 noon on January 1 after his election and continuing until a successor is elected and qualified.

(b) The town clerk-treasurer shall be elected by the voters of the whole town.

(Code 1991, § 2-1)

**State law references—**Term of office of clerk-treasurer, IC 36-5-6-3; election of the clerk-treasurer, IC 36-5-6-4.

### Sec. 2-26. Powers and duties.

(a) The town clerk-treasurer may administer oaths, take depositions, and take acknowledgments of instruments as required by law.

(b) The town clerk-treasurer is the clerk of the town council and whenever the town council has an even number of members, the clerk-treasurer is an ex officio member for the purpose of casting the deciding vote to break a tie.

(c) The town clerk-treasurer may perform all duties prescribed by law, which include but are not limited to the following:

(1) Receive and care for all town monies, and pay them out upon order of the town council;

(2) Keep accounts of all town monies;

(3) File monthly reports with the town council showing all receipts and disbursements of the town treasury for the preceding month;

(4) Maintain records which are open for inspection by the town council;

(5) Collect fines resulting from ordinance violations;

(6) Issue all licenses; and

(7) Attend all town council meetings and maintain a recording of its proceedings.

(d) The clerk-treasurer is both the town clerk and town fiscal officer pursuant to IC 36-5-6-2.
(Code 1991, § 2-2)

**State law references—**Oaths, depositions and acknowledgments, IC 36-5-6-5; town clerk-treasurer as clerk, ex officio member for casting tie-breaking vote, IC 36-5-2-8; powers and duties of the town clerk-treasurer, IC 36-5-6-6.

**Sec. 2-27. Compensation.**

The compensation for the services of the person holding the office of clerk-treasurer shall be fixed by the town council.
(Code 1991, § 2-3)

**State law reference—**Compensation for the town clerk-treasurer, IC 36-5-3-2.

**Sec. 2-28. Deputies and employees.**

(a) The clerk-treasurer may appoint the number of deputies and employees authorized by the town council.

(b) Deputies and employees so hired serve at the pleasure of the clerk-treasurer.
(Code 1991, § 2-4)

**State law reference—**Deputies and employees, IC 36-5-6-7.

**Secs. 2-29—2-59. Reserved.**

## ARTICLE III. INSPECTORS AND TOWN STAFF

**Sec. 2-60. Plumbing and building inspector.**

(a) The plumbing and building inspector shall be appointed by the town council and shall serve at the council's pleasure.

(b) The plumbing and building inspector shall have all power and authorities granted to him under specific chapters of this Code, as well as any other duties specifically assigned by the town council.

(c) The plumbing and building inspector shall have the right to enter buildings and premises at all reasonable times for the purpose of carrying out his duties.
(Code 1991, § 2-12)

**Sec. 2-61. Electrical inspector.**

(a) *Appointment.* The electrical inspector shall be appointed by the town council.

(b) *Tenure of office; removal.* The electrical inspector shall serve at the pleasure of the town council, and may be removed by the town council at any time.

(c) *Duties.*

(1) It shall be the duty of the electrical inspector to inspect all new electrical work while in the process of installation.

(2) He shall periodically inspect, in collaboration with the appropriate state agencies or office, existing electrical installations in commercial, industrial and institutional, and residential buildings that have been vacated during an interim in change of occupancy, or whenever a violation of, or failure to comply with, any ordinance, law or regulation comes to the attention of the town officials.

(d) *Right of entry.* For the purpose of carrying out his duties, the electrical inspector shall have the right, at all reasonable times, to enter buildings and premises for the purposes of inspecting the same and ascertaining whether or not there is compliance with applicable ordinances, laws and regulations.

(e) *Supervision.* The electrical inspector shall perform his duties under the supervision and control of the town council.
(Code 1968, §§ 8-14—8-17; Code 1991, § 2-13; Ord. No. 406, §§ 8—10)

**Sec. 2-62. Town planner.**

(a) A town planner may be hired by the town council to perform planning duties deemed in the best interest of the town.

(b) The town planner shall serve at the pleasure of the town council and perform duties assigned by the town council and applicable ordinances, state and federal laws.
(Code 1991, § 2-14)

**Secs. 2-63—2-82. Reserved.**

## ARTICLE IV. TOWN OFFICERS AND EMPLOYEE BENEFITS

**Sec. 2-83. Town appointments.**

(a) The town council may employ such persons to effectively carry out the needs and services of the town.

(b) Positions which the town council may appoint include but shall not be limited to the following:

(1) Town manager.

(2) Town attorney.

(3) Town engineer.

(4) Town marshal or chief of police.

(5) Volunteer fire chief.

(6) Street commissioner.

(7) Other officers and employees deemed necessary.

(c) Duties shall be set forth for each position by the town council and applicable state law.
(Code 1991, § 2-21)

**State law references—**Service as street commissioner, chief of fire department or both, IC 36-5-7-5; town manager, IC 36-5-5-1—36-5-5-9.

### Sec. 2-84. Compensation and salary.

The town council shall fix the compensation or salary of all town employees and officers by appropriate ordinance.
(Code 1991, § 2-22)

**State law reference—**Compensation for officers and employees, IC 36-5-3-2.

### Sec. 2-85. Official surety bonds.

(a) Individual official surety bonds required by IC 5-4-1-18, as it may be amended from time to time, shall be provided by the town. A blanket bond may be obtained to cover the faithful performance of all other employees, commission members, and persons acting on behalf of the town, so required to be covered.

(b) When any person shall be elected or appointed to any office or position where a bond shall be required to be given for the faithful performance of his duties, such official shall furnish a bond which shall be written and executed by a bonding or surety company which shall be acceptable to, and approved by the town council.

(c) No member of the town council, or other town officer, shall become surety on a bond of any town officer, contractor, appointee or other person required by law or by order of the town council to give a bond, payable to the state or the town, for the faithful performance of any duty, office, trust or obligation on account of the town.

(d) The town may purchase a crime insurance policy that provides coverage for criminal acts or omissions committed by officers, employees, contractors, commission members, and persons acting on behalf of the town.
(Code 1968, §§ 2-12, 2-672; Code 1991, § 2-23; Ord. No. 272, §§ 1, 7, 4-2-1935; Ord. No. 2015-13, § 1, 12-8-2015)

### Sec. 2-86. Personnel manual adopted by reference.

(a) The town council is responsible for establishing the conditions under which the town employees are expected to work.

(b) The benefits for holidays, vacations and other paid leaves listed in the benefits section of the Town of Porter Employee Manual dated March 21, 2018, are adopted and incorporated into this Code by reference. Two copies of the material incorporated by reference are on file in the office of the town's clerk-treasurer for public inspection during regular business hours.
(Code 1991, § 2-24; Res. No. 78-11, 9-26-1978; Ord. No. 684, 4-27-1982; Ord. No. 97-01, 4-12-1994; Ord. No. 2011-03, 3-22-2011; Ord. No. 2018-05, § 1, 5-22-2018)

**Sec. 2-87. Insurance.**

The town will pay for each fulltime employee or elected official a percentage of the applicable premium for an individual plan (single plan) under the group health insurance and will also pay a percentage of an additional premium over and above the premium for an individual plan for any plan under the group policy other than an individual plan. The percentage of payment to be made by the town will be determined from time to time by the town council.
(Code 1991, § 2-26; Ord. No. 743, § 1, 12-29-1987; Ord. No. 94-04, § 1, 2-22-1994)

**Sec. 2-88. Stay home pay during a declared emergency.**

The town council president may declare an emergency requiring some or all employees to refrain from coming to their work stations during such declared emergency. As part of such declaration, the town council president may provide that employees directed to refrain from coming to work receive pay (hourly and/or salaried) for their regularly scheduled non-overtime work hours ("emergency stay home pay"), subject to the following conditions:

(1) If some or all of the employee's job functions can be performed from home, the employee is expected to perform those job functions from home during the employee's regularly scheduled non-overtime work hours;

(2) During the employee's regularly scheduled non-overtime work hours during the emergency, the employee is considered "on-call" and, therefore, must be available by phone to respond to calls from other town officials and must be available to return to their work station within two hours of notice from their supervisor or his/her designee;

(3) The employee may not work or earn compensation from any other source during the employee's regularly scheduled non-overtime work hours (i.e. for which the employee would earn emergency stay home pay); and

(4) Emergency stay home pay may not exceed two weeks (ten business days) without approval of a majority of the town council.

(Ord. No. 2020-04, § 1, 3-24-2020)

**Secs. 2-89—2-119. Reserved.**

## ARTICLE V. BOARDS, COMMISSIONS, AND DEPARTMENTS

### Sec. 2-120. Town department of development and town economic development commission.

(a) *Purpose.* It is found that a need exists for the financing of economic development and pollution control facilities as authorized pursuant to IC 36-7-12-1 et seq.

(b) *Creation.* There is created the town department of development and the town economic development commission, which commission shall consist of three members.

(c) *Membership.* Members of the economic development commission shall be nominated and appointed and shall serve for the terms all as provided in IC 36-7-12-6.

(d) *Notice.* The clerk-treasurer is directed to notify the town council, the president thereof and the county board of commissioners of their duty to nominate and select and/or appoint members to the economic development commission as required by IC 36-7-12-6.

(e) *Meetings.* The economic development commission shall meet upon call of the members of the economic development commission.

(f) *Powers.* The commission and the department shall have all powers and duties granted to it by applicable law.

(Code 1991, § 2-30; Ord. No. 592, §§ 1—5, 7-27-1976)

**State law reference—**Economic development and pollution control, IC 36-7-12-1—36-7-12-39.

### Sec. 2-121. Economic development task force.

(a) *Establishment.* The town establishes the town economic development task force.

(b) *Purpose.* The economic development task force shall promote commercial growth and development within the town as is consistent with the comprehensive plan for the town, adopted September 1978.

(c) *Membership.* The task force shall be comprised of seven members to be appointed by the president of the town council as follows:

(1) Three members shall be appointed annually for a term of one year, each from local government.

(2) Upon the initial appointment of the task force, four members shall be appointed having terms of one year, two years, three years, and four years, respectively. Thereafter, upon the expiration of each of such terms, a successor shall be appointed by the president of the town council for a term of four years. In making these appointments, due consideration shall be given to appointing members of the local business community.

(d) *Meetings.* The economic development task force shall meet monthly and at such other times as may be required from time to time.

(e) *Officers.* At its first meeting of each calendar year, the members of the task force shall meet and elect from their members a chairman and a secretary to serve for a period of one year each.

(f) *Vacancies.* As vacancies shall occur in the membership of the task force, the president of the town council shall appoint a successor to complete the unexpired term of the member leaving the task force.

(g) *Reporting.* The chairman of the task force shall report quarterly to the town council on the activities of the task force.
(Code 1991, § 2-31; Ord. No. 697, §§ 1—7, 10-11-1983)

**Sec. 2-122. Department of parks and recreation.**

(a) There is created a department of parks and recreation of the town, as a part of the governmental organization of the town, as authorized by the Parks and Recreation Law of the state.

(b) Specific rules and regulations governing the department may be found in chapter 46, pertaining to parks and recreation.
(Code 1968, § 18-31; Code 1991, § 2-32; Ord. No. 535, § 1, 4-10-1973)

**State law reference—**General Park and Recreation Law, IC 36-10-3-1 et seq.

**Sec. 2-123. Department of public works.**

The department of public works shall be headed by the public works director.
(Code 1991, § 2-33)

**Sec. 2-124. Department of redevelopment.**

(a) The town council hereby establishes the town department of redevelopment. The department shall be controlled by a board of five members known as the redevelopment commission.

(b) Pursuant to IC 36-7-14, a portion of the territory within the corporate boundaries of the town will be a taxing district to be known as the redevelopment (TIF) district of the town, for the purpose of levying and collecting special benefit taxes for redevelopment purposes as provided in said Act. The town council considered to be benefited by the redevelopment projects and economic development projects carried out under the Act to the extent of the special taxes levied under the Act. The Porter Town Clerk has the current TIF District Map on file at the Porter Town Hall.

(c) The town council shall appoint two councilmembers as members of the redevelopment commission for terms of one year expiring on January 1 of each succeeding year and after a successor is appointed and qualified. The remaining three members shall be appointed by

the president of the town council as the municipal executive. The terms of the presidential appointees shall expire on January 1 of each succeeding year and after a successor is appointed and qualified.
(Code 1991, § 2-34; Ord. No. 763, §§ 1—3, 6-13-1989; Ord. No. 2011-03, 3-22-2011)

**State law reference—**Redevelopment of areas needing development, IC 36-7-14-1 et seq.

**Sec. 2-125. Redevelopment authority.**

(a) The town hereby creates a redevelopment authority under IC 36-7-14.5-1 et seq., ("the Act") to be known as the town redevelopment authority ("authority") as a separate body corporate and politic and as an instrumentality of the town.

(b) The authority is organized for the following purposes:

(1) Financing, constructing, and leasing local public improvements to the redevelopment commission, referred to hereafter as "the commission;"

(2) Financing and constructing additional improvements to local public improvements owned by the authority and leasing them to the commission;

(3) Acquiring all or a portion of one or more local public improvements from the commission by purchase or lease and leasing these local public improvements back to the commission, with any additional improvements that may be made to them;

(4) Acquiring all or a portion of one or more local public improvements from the commission by purchase or lease to fund or refund indebtedness incurred on account of those local public improvements to enable the commission to make a savings in debt service obligations or lease rental obligations or to obtain relief from covenants that the commission considers to be unduly burdensome; and

(5) Any other purposes permitted by the Act, including the issuance of bonds to finance local public improvements.

(c) The board of directors of the authority shall be composed of three members who are residents of the town and shall be appointed by the town council president for three-year terms.
(Ord. No. 784, §§ 1—3, 12-11-1990)

**State law reference—**Redevelopment authority, IC 36-7-14.5-1 et seq.

**Sec. 2-126. Board of zoning appeals.**

A five-member board of zoning appeals is established to carry out the duties charged to it by applicable state law.
(Code 1991, § 2-35)

**State law reference—**Board of zoning appeals, IC 36-7-4-901 et seq.

**Sec. 2-127. Plan commission.**

A seven-member plan commission and a nonvoting secretary is established to carry out duties charged to it by applicable state law.
(Code 1991, § 2-36; Ord. No. 2000-10, § 1, 11-14-2000; Ord. No. 2011-03, 3-22-2011)

**State law reference—**Local planning and zoning, IC 36-7-4-201 et seq.

**Sec. 2-128. Department of stormwater management.**

(a) IC 8-1.5-5, entitled "An Act to Amend the Indiana Code Concerning Stormwater Management" ("the Act") is hereby adopted by the town council, so as to make the Act and any and all amendments thereto effective and operative as to the town.

(b) Pursuant to the Act, a department of stormwater management ("department") shall be and is hereby created for the purpose of providing for the collection, disposal and drainage of stormwater and surface water and the relieving of sanitary sewers of such water in the district.

(c) The territory to be included initially in the district shall be all of that territory included at any time within the corporate limits of the town, and any territory, addition, or platted subdivision or unplatted lands lying outside the corporate limits of the town, which have been taken into or which have been connected with the public sanitation system of the town, in accordance with the provisions of any prior act, and the drainage of which discharge is into or through the storm sewer system of the town.

(d) The department shall be controlled by a board of directors. The directors shall be appointed by the town council president. The terms of the individual directors shall be staggered terms. All terms will be for a period of three years and until such time as a successor is appointed and qualified.

(e) Pursuant to the Act, there is hereby created a special taxing district which shall include all of the territory within the corporate boundaries of the town.
(Ord. No. 96-08, §§ 1—5, 6-25-1996; Ord. No. 2011-03, 3-22-2011)

**State law reference—**Department of stormwater management, IC 8-1.5-5-1 et seq.

**Sec. 2-129. Environmental sustainability commission.**

(a) *Establishment and organization.*

(1) Pursuant to IC 36-1-3-1 et seq. (Home Rule), there is hereby established a sustainability commission of the Town of Porter (hereinafter, the "commission").

(2) The commission shall be composed of seven members appointed as follows:

a. Five citizen members, all of whom are residents of the Town of Porter, shall be appointed by the town council president, with the advice of the town council.

b. Two members shall be students that represent a public and/or private middle school and/or high school located in Jackson Township, Westchester Township, Liberty Township and/or Pine Township in Porter County, Indiana. The student

members shall be nominated by the principal or a teacher or guidance counselor in their respective middle and/or high school and shall be appointed by the town council president.

(3) Citizen members appointed under section 2-129(a)(2)a. shall be appointed for terms of two years. Student members appointed under section 2-129(a)(2)b. shall be appointed for terms of one year. No person may serve more than three consecutive terms on the commission. A partial term served to fill an unexpired term caused by a vacancy shall not count towards the three consecutive term limit.

(4) A member's term under subsection (a)(3) expires on the first Monday in January of the first or second year, as applicable, after the year of the member's appointment. A member of the commission serves until the member's successor is duly appointed and qualified.

(5) A member of the commission can be removed by the appointing authority for cause during his/her term.

(6) The appointing authority shall fill any vacancy on the commission by appointing a new member for the unexpired term.

(7) All members shall serve without compensation.

(8) The commission shall elect from its membership a chairperson, a vice-chairperson and a secretary, who shall each serve for terms of one year and who may be re-elected. The chairperson shall establish the agenda and preside over meetings of the commission.

(9) Meetings of the commission must be open to the public and a public record shall be kept of the commission's proceedings in compliance with IC 5-14-1.5. The commission shall, by resolution, adopt rules establishing the time and place of regular meetings, which shall be at least monthly unless it has no business pending, and a procedure for the calling of special meetings. A majority of the commission members shall constitute a quorum for conducting meetings.

(b) *Purpose.* The purpose of the commission shall be to promote environmental sustainability and conservation of natural resources in the town for the public good, and in furtherance thereof, to:

(1) Inform and advise the town council, and the departments, agencies, boards and commissions of the town on matters relating to environmental sustainability and conservation of natural resources;

(2) Coordinate communication between departments, agencies, boards and commissions of the town working on issues relating to sustainability, conservation of natural resources, and education;

(3) Collaborate with town staff to draft new or amended policies to further sustainability and natural resource conservation efforts;

(4) Perform outreach and assist and coordinate with town staff in identifying and pursuing grant and funding opportunities to support sustainability and/or natural resource conservation projects in multiple areas;

(5) Facilitate and coordinate new and ongoing environmental sustainability and natural resource conservation initiatives among residents, businesses, governmental and nongovernmental agencies through education and outreach programs; and,

(6) Coordinate efforts for data gathering and analysis, including without limitation identifying and tracking metrics measuring the progress of environmental sustainability and natural resource conservation initiatives, and report on data collected to the town council.

(c) *Duties and responsibilities.* The commission shall have the duty and responsibility to carry out the purposes of the commission as set forth herein, to include without limitation the following:

(1) The commission shall have the power to make advisory recommendations to the town council and the departments, agencies, boards and commissions of the town on matters relating to environmental sustainability and conservation of natural resources. These recommendations may be made either at the request of the council or such department, board or commission or on the commission's own initiative. The commission's recommendations shall be advisory only and are not binding on the town council or the departments, agencies, boards and commissions of the town, but shall be taken into account in decision making as provided in subsection (d) of this section.

(2) The commission shall advise and assist in the development of broad sustainability metrics and annual and long-range environmental sustainability and resource conservation goals.

(3) The commission may prepare and implement educational programs to support and emphasis the importance of environmental sustainability and resource conservation among residents, businesses, public and private groups, and governmental agencies.

(4) The commission shall share information and facilitate and coordinate efforts, to the best of its ability, among private citizens, businesses, public and private groups and governmental agencies who are interested in promoting environmental sustainability and conservation of natural resources. This may include, without limitation: providing assistance with publicizing local environmental activities; providing information on environmental speakers and/or events to interest persons, schools and groups; promoting the development of environmental curricula in local schools; and/or encouraging and facilitating workshops, programs and/or events promoting environmental sustainability and natural resource conservation.

(5) The commission shall research and identify grants or other funding resources from public or private sources for improvement of environmental sustainability and resource conservation, and shall facilitate and assist with applying for and securing such funding for the town, subject to the approval of the town council.

(6) The commission shall propose and make recommendations to the town council concerning resolutions, ordinances and/or amendments to ordinances which would facilitate the purposes of environmental sustainability and conservation of natural resources, achievement of annual and/or long-range sustainability goals and objectives, and/or ensure the effectiveness of the commission and its purposes.

(7) The commission shall report to the town council on its activities in writing at least annually.

(d) *Intra-governmental cooperation.* All boards, councils, commissions and departments of the town are directed to work in cooperation with the town environmental sustainability commission and shall take into account the recommendations of the commission in conjunction with consideration of other relevant issues in making decisions.
(Ord. No. 2023-10, § 1, 9-26-2023)

**Secs. 2-130—2-154. Reserved.**

## ARTICLE VI. FUNDS

### Sec. 2-155. Cumulative capital improvement fund.

(a) *Established.* The cumulative capital improvement fund is established.

(b) *Purpose.* This special fund is established for the purpose of receiving cigarette taxes allocated to the town pursuant to applicable state law and said funds shall not revert to the general fund.

(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:

*Capital improvements* means the construction or improvement of any property owned by the town, including but not limited to streets, thoroughfares and sewers, and the retirement of general obligation bonds of the town issued, and the proceeds used for the purpose of constructing capital improvements. Such term shall not include salaries of any public officials or employees except those which are directly chargeable to a capital improvement.

(d) *Use of funds.* The cumulative capital improvement fund shall be a cumulative fund, and all of the monies deposited into such fund shall be appropriated and used solely for capital improvements.

(e) *Restriction on monies.* Monies may not revert to the general fund. None of the monies in the cumulative capital improvement fund shall revert to the general fund or be used for any purposes other than capital improvements.

(Code 1968, § 9-21; Code 1991, § 2-40; Ord. No. 431, § 1)

**State law reference—**Municipal cumulative building or sinking fund and cumulative capital improvement fund, IC 36-9-16-1—36-9-16-6.

**Sec. 2-156. Motor vehicle highway fund (MVHF).**

(a) *Established.* The motor vehicle highway fund is hereby established.

(b) *Purpose.* This fund is to be used for the construction, reconstruction, repair, maintenance, oiling, sprinkling, snow removal, weed and tree cutting and cleaning of highways, curbs, town's share of cost of the separation of the grades of crossing of public highways and railroads, the purchase or lease of highway construction and maintenance equipment, the purchase, erection, operation, and maintenance of traffic signs and signals, and safety zones and devices; and the painting of structures, objects, surfaces in highways for the purposes of safety and traffic regulation. All such funds shall be budgeted as provided by law.

(c) *Additional allocations.*

(1) The town may spend up to 15 percent of the monies allocated for law enforcement purposes.

(2) Monies allocated from this fund may also be expended for the payment of principal and interest on bonds sold primarily to finance road, street or thoroughfare projects.

(Code 1991, § 2-41)

**State law reference—**Motor Vehicle Highway Account Act, IC 8-14-1-5.

**Sec. 2-157. Traffic accident report account.**

(a) *Created.* There is hereby created a traffic accident report account for the town police department.

(b) *Source of funds.* The source of funds which are to be deposited into said fund are the fees, as fixed by ordinance, received for accident reports and information under IC 9-29-11-1.

(c) *Expenditures.* This fund may be expended at the discretion of the chief of police for any department purpose reasonably related to local law enforcement continuing education as established by IC 5-2-8-2.

(d) *Accounting and expenditure rules.* The rules for proper accounting and expenditure of monies collected and deposited into said fund shall be those established by the state board of accounts.

(Code 1991, § 2-42)

**State law references—**Accident report fee, fee fixed by ordinance, deposit of fee revenues, IC 9-29-11-1; local law enforcement continuing education program, IC 5-2-8-2.

**Sec. 2-158. Continuing education fund.**

(a) *Established.* A continuing education fund is established for the town police department.

(b) *Source of funds.* The source of funds which are to be deposited into this fund are the application fees collected for licenses to carry handguns under IC 35-47-2-3.

(c) *Purpose.* This fund is to be used by the police department and used exclusively for the purpose of local law enforcement continuing education as established by IC 5-2-8-2.

(d) *Accounting and expenditure rules.* The rules for proper accounting and expenditure of monies collected and deposited into said fund shall be those established by the state board of accounts.

(Code 1991, § 2-43; Ord. No. 673, § 2, 9-8-1981)

**State law references—**Application for license to carry handgun, procedure, IC 35-47-2-3; local law enforcement continuing education program, IC 5-2-8-2.

**Sec. 2-159. State political subdivision risk management fund.**

(a) The town council, a political subdivision as defined in IC 34-6-2-110, agrees to become a member of and accepts membership in the state political subdivision catastrophic fund (hereafter the "fund"), and further accepts and agrees to be hereafter bound by Indiana Insurance Code (IC 27-1-29-1 et seq.), as amended from time to time.

(b) The town accepts and agrees to be hereafter bound by the rules of the state political subdivision risk management commission, as promulgated and amended from time to time.

(c) The town accepts and agrees to hereafter comply with and be bound by the provisions of the state political subdivision catastrophic liability excess liability coverage document, as issued and amended from time to time.

(d) The town acknowledges that the fund is fully assessable (assessment limited to no more than 100 percent of premium during a calendar year) and hereby irrevocably pledges its full faith, credit and resources to the timely payment of any and all assessments by the fund.
(Code 1991, § 2-44; Ord. No. 767, § 1, 11-28-1989)

**State law reference—**Indiana Political Subdivision Risk Management Commission, IC 27-1-29-1 et seq.

**Sec. 2-160. Fire fund.**

(a) There shall be created and established the town fire fund.

(b) The town fire fund shall serve as the depository for any and all monies, from any source whatsoever, dedicated to said fund by the town council, such revenues potentially to include, but not necessarily limited to, general fund allocations, gifts and grants, or proceeds of monies received through contractual relationships with other units of local government.

(c) The decision to deposit monies in the town fire fund shall be made by a majority vote of the town council at a duly called public meeting.

(d) Monies may be appropriated and expended from the town fire fund at such time and under such circumstances as deemed appropriate and proper by the town council for the purpose of paying the costs associated with the operation of the town fire department, including capital expenditures, as from time to time may be deemed appropriate by the town council.

(e) Expenditures from the town fire fund shall be made pursuant to applicable state statutes concerning the appropriation and expenditure of funds.

(f) The town fire fund shall be nonreverting and any unappropriated and unexpended monies contained in said fund at the conclusion of any calendar year shall remain in said fund as an unappropriated balance.

(g) The town fire fund shall remain in existence until further action of the town council and if at a future date the town council should dissolve the town fire fund, all unappropriated and unexpended monies contained therein shall revert to the general fund of the town.
(Ord. No. 94-19, §§ 1—4, 9-13-1994)

**State law reference—**Home rule policy, IC 36-1-3-2.

**Sec. 2-161. Major moves construction fund.**

(a) *Established.* The town hereby establishes and creates a major moves construction fund. The fund is a special fund for the purposes which expenditures may be made as directed by state specifications of the major moves construction fund, Public Law 47, by appropriation by the town council.

(b) *Receipts.* The clerk-treasurer shall be required to issue a receipt for all monies received for the major moves construction fund. The clerk-treasurer shall receipt the money into the major moves construction fund and it shall be expended specifically for which it was designated. All expenditures made from this fund shall be processed, claimed and allowed in the same manner as other claims of the municipality.
(Ord. No. 2006-14, 9-26-2006)

**State law reference—**Major moves construction fund, IC 8-14-14-1 et seq.

**Sec. 2-162. Rainy day fund.**

(a) *Creation.* There is hereby established a rainy day fund to receive transfers of unused and unencumbered funds raised by a general or special tax levy on taxable property within the town whenever the purpose of such tax levy has been fulfilled and an unused and unencumbered balance remains.

(b) *Purpose.* The funds on deposit in the rainy day fund may be used for the operation of the town and its various departments, when the town does not have sufficient levies or funds to pay such costs, including, but not limited to, salaries and wages, costs of services, supplies, equipment, capital improvements, repairs and similar expenditures or to make temporary loans to other town funds.

(c) *Transfers.* The town council shall determine the amount, if any, of unused and unencumbered funds available to be transferred to the rainy day fund and shall make such transfers with the provisions set forth in IC 36-1-8-5 and 36-1-8-5.1, only upon adoption of an ordinance approving said transfers.

(d) *Appropriations.* The town council may authorize the expenditure of funds from the rainy day fund by appropriations made in the same manner as other funds are appropriated that receive tax monies, upon making a finding that the proposed use of the funds is consistent with the intent of the fund.
(Ord. No. 2006-24, §§ 1—4, 12-26-2006)

**Sec. 2-163. Redevelopment fund.**

(a) *Established.* The town council hereby establishes a redevelopment fund. The redevelopment fund is a special fund for the purpose of which expenditures may be made under IC 36-7-14 for the redevelopment commission.

(b) *Duties of treasurer.* The treasurer of the redevelopment commission is required to issue a receipt for all monies received for this fund. The treasurer for the redevelopment commission shall receipt the monies into the redevelopment commission fund and it shall be expended specifically for which it was designated. All expenditures made from this fund shall be processed, claimed and allowed in the same manner as other claims of the municipality.
(Ord. No. 2008-06, 2-26-2008)

**Sec. 2-164. Cumulative capital development fund.**

(a) A need now exists for the establishment of a cumulative capital development fund for the following purposes:

For all uses as set out in IC 36-9-15.5 and any other governmental purpose for which money is appropriated by the town council.

(b) The council will adhere to the provisions of IC 36-9-15.5. The proposed fund will not exceed $0.0500 on each $100.00 of assessed valuation. Said tax rate will be levied beginning with taxes for 2014 payable 2015.
(Ord. No. 2014-03, 6-10-2014)

**Editor's note—**Ord. No. 2014-03, adopted June 10, 2014, did not specifically amend the Code and has been codified as herein set out in § 2-164 at the editor's discretion.

**Sec. 2-165. Health insurance fund.**

(a) There is hereby created the Town of Porter Health Insurance Fund (Fund 504), which shall be a nonreverting fund. The town council shall determine the amount to be transferred to the fund each year.

(b) The money on deposit in the fund may be used to pay a portion of the health insurance deductible for town employees/officials, in the amount determined by the town council from time to time. Money deposited in the fund may be used for these purposes without further appropriation.

(c) The clerk-treasurer is hereby authorized to invest money in the fund with or separately from the remainder of the general fund in any suitable manner as is now provided by state statute and/or town ordinance.
(Ord. No. 2014-06, 9-23-2014)

**Editor's note—**Ord. No. 2014-06, adopted Sept. 23, 2014, did not specifically amend the Code and has been codified as herein set out in § 2-165 at the editor's discretion.

**Sec. 2-166. Fund 257, LOIT special distribution fund.**

(a) There is hereby established a special fund to be designated as Fund 257, LOIT Special Distribution Fund.

(b) At least 75 percent of the special distribution received by the town in accordance with SEA 67 shall be receipted into the town's LOIT special distribution fund

(c) At least 75 percent of the special distribution received shall be used exclusively for the purposes specified in IC 6.3.6-9-17(h)(1)(A).

(d) No more than 25 percent of the special distribution received in accordance with SEA 67 shall be receipted into the town's general fund or rainy day fund.
(Ord. No. 2016-08, 5-24-2016)

**Secs. 2-167—2-222. Reserved.**

## ARTICLE VII. CHARGES AND FEES FOR COPYING OF DOCUMENTS, BOOKS AND ANY PUBLIC RECORDS

### Sec. 2-223. Public access to documents; books; public records.

If a person is entitled, under state law, to a copy of a town-owned and -maintained document or file, and the town has reasonable access to a machine capable of reproducing such public record, the town shall provide at least one copy of the document or file to the person requesting same; however, if the town does not have access to a machine capable of reproducing the record, then the person shall be entitled only to inspect and manually transcribe the record.
(Ord. No. 2007-10, § 1, 6-26-2007)

### Sec. 2-224. Fees.

From the effective date of the ordinance from which this article is derived forward, the town shall charge the following fees for such records, which fees have been determined to be the actual cost of searching for, accessing, copying, duplicating and/or certifying said documents:

(1) Costs and expenses for inspection and searches. Pursuant to IC 5-14-3-8, no employee of the town shall charge any fee to any person to either inspect a public record or examine or review a record to determine whether the record may be disclosed.

(2) Copying of single-sided documents. $0.10 for each 8½-inch by 11-inch, 8½-inch by 14-inch, or 11-inch by 17-inch page to be copied for a single-sided document.

(3) Copying of double-sided documents. $0.20 for each 8½-inch by 11-inch, 8½-inch by 14-inch, or 11-inch by 17-inch page to be copied if a particular page has material on both sides of the paper.

(4) Copying of nonstandard-sized documents. All other public documents in sizes other than those listed above cannot be reasonably copied using office machines located within the offices of the town and which must be taken to an outside commercial copying facility for reproductions shall be charged at said commercial copying facility for reproductions at said commercial copying facilities rate.

(5) Town of Porter license plates: $6.00.

(6) Color zoning maps: $3.00.

(7) All town hardcover books, including, but not limited to: zoning book, subdivision regulations and comprehensive plan: $35.00.

(8) Town Code book: $75.00.

(9) Photo's: $10.00 each or $125.00 for all on digital CD or DVD.
(Ord. No. 2007-10, § 2, 6-26-2007; Ord. No. 2009-01, 2-24-2009)

**Sec. 2-225. Town officials exempt.**

Elected and appointed officials of the town are excluded from this requirement for documents requested and required in the normal exercise of their office/appointment.
(Ord. No. 2007-10, § 3, 6-26-2007)

**Sec. 2-226. Compliance with state law.**

Nothing contained in this article is intended to, nor shall any part of this article be construed as expanding, reducing, modifying or changing any state law regarding access to public document; the sole and exclusive purpose of this article is to establish a reasonable and uniform schedule of fees and charges associated with access to the town's public records.
(Ord. No. 2007-10, § 4, 6-26-2007)

**Secs. 2-227—2-245. Reserved.**

## ARTICLE VIII. ALCOHOL AND DRUG TESTING

### Sec. 2-246. Omnibus Transportation Employee Testing Act adopted.

The Omnibus Transportation Employee Testing Act of 1991, as amended (hereinafter referred to as "the Act"), is hereby adopted inasmuch as it applies to the town (hereinafter referred to as "the employer"), its officers and employees. Two copies of the Act are on file for inspection at the office of the clerk-treasurer.
(Ord. No. 96-09, § 1, 7-9-1996)

### Secs. 2-247—2-270. Reserved.

## ARTICLE IX. TOWN COUNCIL

### Sec. 2-271. Membership.

(a) The town council is the town legislative body.

(b) The town council consists of five members whose terms of office are four years, beginning at 12:00 noon on January 1 after election and continuing until successors are elected and qualified.
(Code 1991, § 3-1)

**State law references—**Town council, president, IC 36-5-2-2; term of office of members, IC 36-5-2-3.

### Sec. 2-272. Election districts.

(a) The town council finds that, pursuant to state law, it may create or eliminate districts for the purpose of conducting elections of town officers.

(b) Such districts shall be established by ordinance and a copy of such ordinance must be filed with the circuit court clerk of the county within 30 days of adoption.

**State law reference—**Town legislative body districts, standards, IC 36-5-2-4.1.

### Sec. 2-273. Town districts.

The town council divides the town into five districts which are composed of contiguous territory, which are reasonably compact, and which contain as nearly as possible equal population. The districts are as follows:

(1) *District 1:* Consists of all of that part of the town east of Waverly Road to the town limits.

(2) *District 2:* Consists of that part of the town beginning at the intersection of Waverly Road and Woodlawn Avenue, then west to 15th Street, then north on 15th Street to Lincoln Street, then west to Sexton Avenue, then north to West Beam Street, then east

to Wagner Road, then north on Wagner Road to U.S. Highway 20, then east on U.S. Highway 20 on the south side to Waverly Road, then south along the west side of Waverly Road to Woodlawn Avenue.

(3) *District 3:* Consists of all of that part of the town beginning at the intersection of South Babcock Road and the Prairie Duneland Bike Trail at the Town Limits, then north to Interstate 94, then east along the south side of I-94 to South Mineral Springs Road, then south along South Mineral Springs Road to Carlson Corners, then west on Carlson Corners to Pearson Road, then south on Pearson Road to the Prairie Duneland Bike Trail, then west along the north side of the Prairie Duneland Bike Trail to South Babcock Road.

(4) *District 4:* Consists of all of that part of the town beginning at the intersection of West Beam Street and Wagner Road then west to the town limits at North Babcock Road, north to town limits at the South Shore tracks, then east along south side of South Shore tracks to town limits, then north to Roskin Road, then east to town limits, then north to Lake Michigan, then east to Waverly Road, then south to U.S. Highway 20, then west on U.S. Highway 20 to Wagner Road, then south on Wagner Road to West Beam Street.

(5) *District 5:* Consists of all of that part of the town beginning at the west town limits at the intersection of Babcock Road and the north side of I-94, then north on North Babcock Road to Beam Street, then east on Beam Street to Sexton Avenue, then south on Sexton Avenue to Lincoln Street, then east on Lincoln Street to Wagner Road, then east along the NS RR to Francis Street, then south along Francis Street to Woodlawn Avenue and the town limit, then west along Woodlawn Avenue projected to CSX RR and the town limit, then east along the CSX RR and the town limit to 15th Street, then south along 15th Street and the town limit to the NS RR, then west along the NS RR and the town limit to Wagner Road and the Amtrak RR (former Michigan Central RR) then west along the Amtrak RR (former Michigan Central RR) and the town limit to 19th Street, then south on 19th Street to the town limits, then west along the town limits to Wood Street, then west on Wood Street to 23rd Street, then south on 23rd Street to town limits, then west along town limits to Pearson Road then north on Pearson Road to Carlson Corners, then east on Carlson Corners to South Mineral Springs Road, then north on South Mineral Springs Road to I-94, then west along the north side of I-94 to the west town limits at Babcock Road.

(Code 1991, § 3-2; Ord. No. 691, § 1, 12-30-1982; Ord. No. 92-15-822, § 1, 12-31-1992; Ord. No. 2012-13, § 1, 12-11-2012; Ord. No. 2013-14, § 1, 10-22-2013; Ord. No. 2014-08, § 1, 11-10-2014)

**State law references—**Representation by district, at large or both, IC 36-5-2-5; town legislative body districts, IC 36-5-2-4.1.

### Sec. 2-274. President—Selection and term.

(a) At the first meeting of the town council in each calendar year, the town council shall select one of its members to be its president for the remainder of the calendar year. The president shall serve in such capacity until such time as a successor is appointed and qualified.

(b) The president is the town executive.

(Code 1991, § 3-3; Ord. No. 2011-03, 3-22-2011)

**State law references—**President of legislative body, selection, term, IC 36-5-2-7; town council, president, IC 36-5-2-2.

**Sec. 2-275. Same—Duties.**

(a) It shall be the duty of the president of the town council to examine and correct the minutes of the meetings before the same are read, and after the minutes shall be adopted by the council, he shall sign the same.

(b) He shall vote on all matters voted on by the council, and shall sign all ordinances, commissions, deeds, contracts, licenses, permits, and all other papers ordered by the town council.

(c) He may name any member to perform the duties of the chair, said substitution however, shall not extend beyond adjournment.

(d) In his absence, or upon failure to make such appointment, the clerk-treasurer shall call the council to order, whence the members shall proceed immediately to the election of a chairman, who shall perform all duties prescribed for the president of the town council.

(Code 1991, § 3-4; Ord. No. 602, 7-12-1977)

**Sec. 2-276. Conflict of interest.**

Any financial dealings between the town and members of the town council shall be regulated and controlled by the conflict of interest provisions contained in IC 35-44-1-3.

(Code 1968, § 2-11; Code 1991, § 3-5; Ord. No. 2, § 9, 4-28-1908; Ord. No. 94-03, § 1, 2-22-1994)

**State law reference—**Conflict of interest, IC 35-44-1-3.

**Sec. 2-277. Quorum and votes to pass.**

(a) A majority of all elected members of the town council constitutes a quorum; however, a smaller number of members may meet, adjourn from time to time, and may compel the attendance of the members of the town council.

(b) Passage of ordinances, orders or resolutions shall be governed by applicable state statutes.

(Code 1968, § 2-12; Code 1991, § 3-6; Ord. No. 2, § 1, 4-28-1908)

**State law references—**Quorum of the council, IC 36-5-2-9.2; majority vote, two-thirds vote, IC 36-5-1-9.4; majority vote to pass ordinance, IC 36-5-2-9.6; two-thirds vote with unanimous consent of members present, IC 36-5-2-9.8.

**Sec. 2-278. Powers.**

The town council may:

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

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

(3) Adopt and use a common seal; and

(4) Exercise all powers that are needed for the effective operation of local government.

(Code 1991, § 3-7)

**State law references—**Powers of the legislative body, IC 36-5-2-9; home rule powers, IC 36-1-3-1 et seq.

**Sec. 2-279. Regular meetings.**

(a) The regular meetings of the town council shall hereafter be held on the second and fourth Tuesdays of each succeeding month, and the same shall be convened at the hour of 7:00 p.m., prevailing time.

(b) Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting shall be given at least 48 hours (excluding Saturdays, Sundays, and legal holidays) before the meeting.

(c) Public notice shall be given by the town council by:

(1) Posting a copy of the notice at the principal office of the town council or, if no such office exists, at the building where the meeting is to be held; and

(2) Delivering notice to all news media which deliver by January 1 an annual written request for such notices for the next succeeding calendar year to the town council. The town council shall give notice by one of the following methods:

a. Depositing the notice in the United States mail with postage prepaid.

b. Transmitting the notice by electronic mail.

c. Transmitting the notice by facsimile (fax).

(Code 1968, § 2-18; Code 1991, § 3-8; Ord. No. 166, § 1; Ord. No. 458, § 1, 1-23-1968)

**State law reference—**Public meetings (Open Door Law), IC 5-14-1.5-1 et seq.

**Sec. 2-280. Special meetings.**

(a) Called or special meetings of the town council shall be held pursuant to a call, in writing, in which the time, place and purpose of such special meeting shall be stated. If a meeting is called to deal with an emergency involving actual or threatened injury to a person or property, or actual or threatened disruption of the governmental activity under the jurisdiction of the public agency by any event, then the time requirements of notice under state statute shall not apply, but:

(1) News media which have requested notice of meetings must be given the same notice as is given to the members of the town council; and

(2) The public must be notified by posting a copy of the notice according to state statute.

(b) Such call shall be signed by the president or by at least two members of the town council and certified by the clerk-treasurer, and shall be personally served by the chief of police, his deputy or some person deputized for that purpose, upon each member whose duty it is to be present at such special meeting, provided such persons can be found, and return of such service made by the chief of police or his deputy at such special meeting held in pursuance to such call.

(c) No business shall be transacted at such special meeting unless the subject thereof is named in the call for such meeting.

(d) The minutes of the special meeting shall contain an accurate copy of the call for such meeting, together with the return made by the chief of police or such deputy, or other person specially authorized, with all the endorsements made thereon.
(Code 1968, § 2-19; Code 1991, § 3-9; Ord. No. 166, § 3)

**State law references—**Special meetings, IC 36-4-6-7; public notice of meetings, IC 5-14-1.5-5.

**Sec. 2-281. Adjourned meetings.**

(a) Any regular or special meeting may be adjourned to a future fixed day and hour, at which adjourned meeting it shall be lawful to transact any and all business which might have been transacted at the regular meeting of which said adjourned meeting is a continuation.

(b) At such adjourned meeting, the town council shall not be limited to the completion of the items of business which had been entered upon, and left unfinished at such meeting, but may transact any and all business which might have come up or been acted upon at such prior meeting, unless the order of adjournment shall expressly fix and limit the business to be transacted at such adjourned meeting.

(c) Such adjourned meeting may also be adjourned from time to time in the same manner as such regular or special meetings, and all business may be transacted at the meeting of which it is a continuation, consistent with IC 5-14-1.5-7 et seq.
(Code 1968, § 2-20; Code 1991, § 3-10; Ord. No. 166, § 2)

**State law reference—**Violations, remedies, limitations, IC 5-14-1.5-7.

**Sec. 2-282. Agenda.**

(a) The following agenda shall be followed at all regular or special meetings of the town council:

(1) Call to order and pledge to the flag;

(2) Roll call;

(3) Approval of the minutes of the preceding meeting;

(4) Consideration of claims;

(5) Petitions and comments from the floor;

(6) Reports from town officers and departments;

(7) Old business;

(8) New business;

(9) Comments from the council;

(10) Adjournment.

(b) Any matter requiring town council official action shall be submitted to the office of the town clerk-treasurer no later than 12:00 noon on the Friday immediately preceding any scheduled town council meeting. This requirement shall apply to town councilmembers as well as members of the general public. The town council, by a unanimous vote of its members, may waive this requirement.
(Code 1968, § 2-22; Code 1991, § 3-11; Ord. No. 93-07, § 1, 5-23-1993; Ord. No. 2001-01, 1-23-2001; Ord. No. 2004-01, § 1, 1-1-2004)

**Sec. 2-283. Call to order; reading and adopting minutes.**

(a) The president of the town council shall take the chair at the time fixed for the opening of the meeting.

(b) He shall immediately call the meeting to order, and when a quorum is present, he shall direct the clerk-treasurer to read the minutes of all preceding meetings of which the minutes have been adopted, in their regular order, unless the reading of the minutes shall be dispensed with, and the minutes of such meetings shall be read and adopted separately, in their regular order.
(Code 1968, § 2-23; Code 1991, § 3-12; Ord. No. 2, 4-28-1908)

**Sec. 2-284. Maintaining order and decorum.**

(a) The president of the town council shall preserve order and decorum and may speak to points of order in preference to other members.

(b) He shall decide all questions of order that may be raised, subject to an appeal to the council, by any member. No member shall speak on such appeal more than twice, without leave of the presiding officer.

(c) The question on such appeal shall be put thus: "Shall the decision of the chair stand as the decision of the council?"
(Code 1968, § 2-24; Code 1991, § 3-13; Ord. No. 2, §§ 3, 6, 4-28-1908)

**Sec. 2-285. Form of questioning.**

The president of the town council shall put questions which are in order, in the following form: As many as favor the adoption, etc., (as the question may be stating it properly) say "aye," and after the affirmative voice is expressed, as many as are opposed, etc., say "no."
(Code 1968, § 2-25; Code 1991, § 3-14; Ord. No. 2, § 4, 4-28-1908)

**Sec. 2-286. Members to be present and vote.**

Every member of the town council shall be present within the council room at the time fixed for meetings, unless excused or necessarily prevented, and shall vote on each question put unless he has a personal or pecuniary interest in the decision of such question.
(Code 1968, § 2-27; Code 1991, § 3-15; Ord. No. 2, § 8, 4-28-1908)

**Sec. 2-287. Questions of privilege.**

(a) Questions of privilege shall be:

(1) First, those affecting the town council collectively.

(2) Secondly, the safety, dignity and integrity of its proceedings or the rights, reputation and conduct of the members, individually, in their representative capacity.

(b) Questions of privilege shall have preference over all other questions except motions to adjourn.
(Code 1968, § 2-28; Code 1991, § 3-16; Ord. No. 2, § 10, 4-28-1908)

**Secs. 2-288, 2-289. Reserved.**

**Editor's note—**Ord. No. 2011-03, adopted Mar. 22, 2011, removed in its entirety § 2-288, which pertained to Robert's Rules of Order adopted and derived from Code 1991, § 3-17; Ord. No. 2, § 11, adopted Apr. 28, 1908.

**Sec. 2-290. Ordinances which amend the town Code.**

All ordinances which are of a general and permanent nature, and which would amend this Code, shall be in the following form:

Ordinance No. ____ (Year, last two digits) (Example: 90-1)

Chronological number of the Ordinance filed that year.

(Short Title)

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PORTER, INDIANA, AMENDING CHAPTER ____, ARTICLE ____, SECTION(S) ____, OF THE PORTER TOWN CODE BY THE INCLUSION/DELETION OF SECTION(S) ENTITLED _____.

WHEREAS, (background statements setting forth the purpose or background of the Ordinance)

WHEREAS,

WHEREAS,

NOW, THEREFORE, BE IT RESOLVED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PORTER, PORTER COUNTY, INDIANA, as follows:

SECTION 1. Chapter ____, Article ____, Section(s) ____, of the Porter Town Code, is/are hereby amended to read as follows:

(Set forth the particular language)

SECTION ____. This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

ADOPTED by the town council, of the Town of Porter County, Indiana, at their regular meeting on the _____ day of _____, 20____.

*Town council of the Town of*
*Porter, Indiana*

BY: _____
President

(Porter Town Seal) _____
Member

ATTEST: _____
Member

_____
Member

_____ _____
(Name) Clerk-Treasurer Member
(Code 1991, § 3-19)

**Sec. 2-291. Reading ordinances aloud.**

All ordinances proposed to be enacted by the enacted by the town council shall be read aloud by title by the clerk-treasurer at a regular or special meeting and shall again be read out loud at the meeting at which it is to be given second and final consideration. Upon request of any councilmember, the entire ordinance shall be read.
(Code 1968, § 2-51; Code 1991, § 3-20; Ord. No. 315, § 1; Ord. No. 2011-03, 3-22-2011)

**Sec. 2-292. Enactment of ordinances.**

Any ordinance may be enacted on final passage at the meeting at which it is introduced unless required by law to be posted after the meeting at which it is introduced and prior to the meeting on which final action is taken.
(Code 1968, § 2-52; Code 1991, § 3-21)

**Sec. 2-293. Proponents and opponents to be heard.**

Any person desiring to be heard for or against any proposed ordinance shall be given free and uninterrupted opportunity to speak at either the first or the second reading of such

ordinance; however, consistent with section 2-284, the president may place reasonable time restrictions on public comment and/or limit public comment to only the specific matter before the town council.
(Code 1968, § 2-53; Code 1991, § 3-22; Ord. No. 315, § 2; Ord. No. 2011-03, 3-22-2011)

**Sec. 2-294. Adoption of ordinance; publication.**

(a) An ordinance, order, or resolution passed by the town council is considered adopted when it is signed by the council president. If required by statute, an adopted ordinance, order, or resolution must be promulgated or published before it takes effect.

(b) An ordinance prescribing a penalty for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

(1) It is published under IC 36-1-5; or

(2) It declares an emergency requiring its immediate effectiveness and is posted in one public place in each district in the town.

(c) This section does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

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

(1) Be published:

a. One time in accordance with IC 5-3-1; and

b. Not later than 30 days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1; and

(2) Delay the implementation of the fee increase for 90 days after the date the ordinance is published according to subsection (d)(1) of this section.

(Code 1991, § 3-23)

**State law references—**Adoption of ordinance, order or resolution, publication, IC 36-5-2-10; requirements for publication, posting in lieu of publication, IC 5-3-1-2; codification of ordinances, IC 36-1-5-1 et seq.

**Sec. 2-295. Validity of provisions.**

Full compliance with each of the applicable provisions of this article shall be a necessary prerequisite for the validity and effectiveness of any ordinance enacted by the town council.
(Code 1968, § 2-55; Code 1991, § 3-24; Ord. No. 315, § 3)

**Sec. 2-296. Article provisions deemed supplemental.**

The provisions of this article shall be deemed supplemental to the requirements of state law relating to the enactment of ordinances by the town council.
(Code 1968, § 2-56; Code 1991, § 3-25; Ord. No. 315, § 3)

**Sec. 2-297. Compensation.**

(a) The town council shall, by ordinance, fix the compensation of its own members.

(b) The compensation of an elected town officer may not be changed in the year for which it is fixed, nor may it be reduced below the amount fixed for the previous year.

(c) The town council may provide that town officers and employees receive additional compensation for services that:

(1) Are performed for the town;

(2) Are not governmental in nature; and

(3) Are connected with the operation of a municipally owned utility or function.

Subject to the approval of the town council, the administrative agency operating the utility or function shall fix the amount of the additional compensation, which shall be paid from the revenues of the utility or function.
(Code 1991, § 3-26)

**State law reference—**Compensation for officers and employees, IC 36-5-3-2.

**Secs. 2-298—2-309. Reserved.**

## ARTICLE X. POLICY CONCERNING NEPOTISM AND CONTRACTING WITH THE TOWN

**Sec. 2-310. 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:]

*Direct line of supervision* means 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. The term does not include the responsibilities of the executive, legislative body, or fiscal body of the town, as provided by law, to make decisions regarding salary ordinances, budgets, or personnel policies of the town.

*Elected official* means the executive or a member of the executive body of the town; a member of the legislative body of the town; or a member of the fiscal body of the town.

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

*Member of the police department* means the police chief or a police officer appointed to the department.

*Relative* means any of the following:

(1) A spouse;

(2) A parent or stepparent;

(3) A child or stepchild;

(4) A brother, sister, stepbrother, or stepsister;

(5) A niece or nephew;

(6) An aunt or uncle; or

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

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

*Town* means the Town of Porter, Indiana.
(Ord. No. 2012-06, § 1, 6-26-2012)

**Sec. 2-311. Employment of relatives.**

(a) Individuals who are relatives may not be employed by the town in a position that results in one relative being in the direct line of supervision of the other relative.

(b) With regard to an individual who is employed by the town on the date the individual's relative begins serving a term of an elected office of the town may remain employed by the town and maintain the individual's position or rank even if the individual's employment would violate the prohibition against a relative being in the direct line of supervision of the other relative.

(c) An individual described in subsection (b) above shall not be promoted to a position, or in the case of an individual who is a member of a merit police department be promoted to a position that is not within the merit ranks;

if the new position would violate the prohibition against one relative being in the direct line of supervision of the other relative.
(Ord. No. 2012-06, § 1, 6-26-2012)

**Sec. 2-312. Exclusions from section 2-311.**

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

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

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

(b) This chapter does not abrogate or affect an employment contract with the town that:

(1) An individual is a party to; and

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

(Ord. No. 2012-06, § 1, 6-26-2012)

**Sec. 2-313. Contracting with relatives of current elected officials.**

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

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

(2) A business entity that is wholly or partially owned by a relative of an elected official; only if the requirements below are satisfied and the elected official does not violate IC 35-44-1-3.

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

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

a. Be in writing;

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

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

d. Be affirmed under penalty of perjury;

e. Be submitted to the town council and be accepted by the town council in a public meeting prior to final action on the contract or purchase; and

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

1. Indiana State Board of Accounts; and

2. The Clerk of the Circuit Court of Porter County;

(2) The appropriate agency of the town:

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

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

(3) The town satisfies any other requirements under IC 5-22 and IC 36-1-12.

(c) An elected official must also comply with the disclosure provisions of IC 35-44-1-3, if applicable.

(d) These provisions do not affect the initial term of a contract in existence at the time the term of office of the elected official begins.
(Ord. No. 2012-06, § 1, 6-26-2012)

**Sec. 2-314. Certification requirement.**

(a) Each elected official of the town must annually certify in writing, subject to the penalties for perjury, that the elected official:

(1) Has not violated the provisions of IC 36-1-20.2 concerning nepotism; and

(2) Is in compliance with the provisions of IC 36-1-21 concerning contracting with the town.

(b) The elected official must submit the certification to the town council president not later than December 31 of each year.
(Ord. No. 2012-06, § 1, 6-26-2012)

**Sec. 2-315. Incorporation by reference.**

This article is designed to comply with IC 36-1-20.2 and IC 36-1-21. To the extent not expressly stated herein, the requirements of IC 36-1-20.2 and IC 36-1-21 are incorporated by reference. To the extent required by IC 36-1-5-4, two copies of IC 36-1-20.2 and IC 36-1-21 are on file in the office of the town's clerk-treasurer for public inspection.
(Ord. No. 2012-06, § 1, 6-26-2012)

Chapters 3—5

**RESERVED**

Chapter 6

# ALCOHOLIC BEVERAGES

## Article I. In General

Secs. 6-1—6-18. Reserved.

## Article II. Alcoholic Beverage Use on Town Property


Sec. 6-19. Purpose.
Sec. 6-20. Definitions.
Sec. 6-21. Open containers on town property.
Sec. 6-22. Permit procedure.
Sec. 6-23. Official action on the permit.
Sec. 6-24. Appeal process.
Sec. 6-25. Violation and penalty.

## ARTICLE I. IN GENERAL

**Secs. 6-1—6-18. Reserved.**

## ARTICLE II. ALCOHOLIC BEVERAGE USE ON TOWN PROPERTY

### Sec. 6-19. Purpose.

The purpose of this article is to control the use and possession of alcoholic beverages on town property, and to preserve the privilege of responsible persons to use and possess alcoholic beverages on town property in a reasonable fashion thereby ensuring the safety of the public and the protecting of property.
(Ord. No. 2004-07, 6-29-2004)

### Sec. 6-20. 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:

*Alcohol* refers to the product of distillation of any fermented liquor, rectified either once or oftener, whatever may be the origin thereof, and includes ethyl alcohol and alcohol, which is considered nonpotable.

*Container* means any glass bottle, metal can, animal skin bag, or any other device of a nonporous or semiporous nature, which might be used to hold liquids.

*Malt beverage* means all fermented beverages of any name or description manufactured for sale from malt, wholly or in part, or from any substitute therefor, known as beer, porter, ale, stout, containing not less than one percent nor more than six percent of alcohol by volume at 60 degrees Fahrenheit.

*Open container* means a container other than one with an unbroken seal, or containing a vacuum or pressure seal obtained during original bottling by a licensed bottler.

*Persons* include a corporation, partnership, unincorporated association or any other legal entity.

*Possession* means having an entity in hand or on person, within immediate control, or relatively accessible for use.

*Spirits* means all beverages containing alcohol obtained by distillation, fortified wines and liquors and any other beverage containing more than 14 percent of alcohol by volume at 60 degrees Fahrenheit.

*Town property* means any street, highway, sidewalk, or any other place owned by, or under the authority and control of the town within the corporate limits of the town.

*Vinous beverages* includes all fermented beverages of any name or description manufactured or obtained for the sale from the natural sugar content of fruits, or other agricultural product, containing sugar, the alcoholic content of which is not less than one percent nor more than 14 percent by volume at 60 degrees Fahrenheit.
(Ord. No. 2004-07, 6-29-2004)

**Sec. 6-21. Open containers on town property.**

No person shall have in their possession an open container containing any malt or vinous beverage, or spirits, or alcohol while on town property or in any vehicle located on town property, unless a permit has been issued specifically authorizing the possession of malt or vinous beverage, or spirits, or alcohol on town property.
(Ord. No. 2004-07, 6-29-2004)

**Sec. 6-22. Permit procedure.**

(a) A person either on his own behalf or on behalf of a group of persons, wishing to possess any malt or vinous beverage, or spirits or alcohol while on town property shall file with the chief of police an application for a permit. The permit shall contain the following information:

(1) The name, address, and phone number of the applicant;

(2) The hour, date and estimated duration of the possession;

(3) The location of where possession will take place;

(4) The purpose of the activity, if any;

(5) The applicant's proposed arrangements to ensure the safety of the public and the persons covered under the permit, and the prevention from damage of public and the persons covered under the permit, and the prevention from damage of public and private property.

Applications may be obtained during working hours from the chief of police.

(b) The application shall be filed at least 15 days prior to the possession. However, the chief of police may waive this requirement if he determines upon receipt of the application that the applicant has satisfied satisfactorily the requirements of section 6-23.
(Ord. No. 2004-07, 6-29-2004)

**Sec. 6-23. Official action on the permit.**

(a) The chief of police shall determine whether the applicant has:

(1) Submitted a complete and accurate application;

(2) The purpose of possession is within the intent or purpose of this article;

(3) Those adequate arrangements to ensure the safety of the public and persons covered under the permit, and the prevention from damage of public and private property have been provided for.

(b) Upon consideration of all items in this section, the chief of police has the authority to approve or disapprove the application for a permit, in either case a decision must be made no later than five days after receipt of the application. If the chief of police fails to respond in the five-day period, then the application shall be deemed granted, subject to whatever terms were contained in the application. If the application is disapproved and the permit is denied, the chief of police shall provide written reasons to the applicant at the time of notification of disapproval of application and denial of permit.

(c) The chief of police may amend or revoke a permit if it appears that the arrangements contained in the permit will no longer prevent injury to a person or property due to a change in the circumstances under which the permit for possession was granted.
(Ord. No. 2004-07, 6-29-2004)

**Sec. 6-24. Appeal process.**

A person may appeal to the town council the denial of a permit by filing a written notice within five days of the denial of the permit. The town council shall forthwith consider the appeal at a hearing at which the applicant may be present. The town council may affirm or reverse the chief of police's decision, or attach such additional conditions to the permit as will, in their best judgment, protect the public safety and persons covered under the permit, and the prevention from damage of public and private property.
(Ord. No. 2004-07, 6-29-2004)

**Sec. 6-25. Violation and penalty.**

Any person who violates any of the provisions of this article shall be deemed guilty of a misdemeanor. Upon conviction, the violator shall be punished for the second offense, by a fine of not more than $1,000.00; and for the third offense and each subsequent offense, by a fine of not more than $2,500.00. Each day of a person's violation of this article shall constitute a distinct and separate offense.
(Ord. No. 2004-07, 6-29-2004)

Chapters 7—9

**RESERVED**

Chapter 10

# ANIMALS*

## Article I. In General

Sec. 10-1. Control over animals.
Sec. 10-2. Violations; penalties; enforcement.
Secs. 10-3—10-21. Reserved.

## Article II. Animal Control

Sec. 10-22. Definitions.
Sec. 10-23. General animal care requirements.
Sec. 10-24. Sale of animals as novelties or use as prize prohibited.
Sec. 10-25. Motor vehicle accidents involving animals.
Sec. 10-26. Animals in motor vehicles.
Sec. 10-27. Poisoning of animals.
Sec. 10-28. Trapping of animals restricted.
Sec. 10-29. Maximum numbers of domestic animals.
Sec. 10-30. Acreage requirements for certain domestic animals; prohibition of swine.
Sec. 10-31. Owners or agents responsible for removing animal waste and dead animals.
Sec. 10-32. Leash regulations.
Sec. 10-33. Animal bites.
Sec. 10-34. Mandatory vaccinations of dogs and cats.
Sec. 10-35. Interference with humane officers prohibited.
Sec. 10-36. Exclusion of service dog prohibited.
Sec. 10-37. Dangerous animals prohibited.
Sec. 10-38. Impoundment procedures.
Sec. 10-39. Protected animals.
Sec. 10-40. Keeping certain animals prohibited.
Sec. 10-41. Keeping wild animals.
Sec. 10-42. Serious injuries or death.
Sec. 10-43. Inspections.
Sec. 10-44. Reserved.
Sec. 10-45. Investigations and inspections.
Sec. 10-46. Honey bee restrictions.
Sec. 10-47. Chickens.

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***State law references—**"Domestic" animal defined, IC 15-2.1-2-15; rabies, IC 15-2.1-6-1 et seq.; impoundment of animals, IC 15-5-12-5; other powers not limited, IC 15-5-12-6; harboring a nonimmunized dog, IC 35-46-3-1; impoundment of animals, IC 35-46-3-6; animals, capture and destruction, shelters, IC 36-8-2-6.

## ARTICLE I. IN GENERAL

### Sec. 10-1. Control over animals.

A town may regulate the control of animals, and may establish animal shelters.
(Code 1991, § 6-5)

### Sec. 10-2. Violations; penalties; enforcement.

(a) *Warning notices for pet registration and permits.*

(1) Persons who fail to have their dogs or cats vaccinated and registered pursuant to section 10-34 may be served with a warning notice requesting immediate compliance. A police officer, code enforcement agent or animal control agency may serve this notice. Only one warning notice may be given per year to an individual who has failed to have a dog or cat vaccinated or properly registered. All other violations of this article are subject to the citations and fines stated herein.

(2) The warning notice shall contain the name and address of the violator, the section violated, the nature of the violation, the date, time and location of the violation, the name of the officer issuing the warning notice, and the telephone number of the officer to contact for information.

(b) *Citations.* Any person served with a warning notice for failure to have a dog or cat vaccinated or registered and who fails to comply within ten days, and any person who violates any other provision of this article shall be issued a citation. Citations shall contain the name and address of the violator, the ordinance section violated, the date, time, and nature of the violation, location of the violation, and the name of the person issuing the citation.

(c) *Fines.*

(1) Any person who violates any of the sections of this article shall be subject to a fine of $75.00 per violation, which shall be payable through the ordinance violations bureau, with the exception of dangerous animals, animal attacks, and biting animals.

(2) Repeat offenders shall be subject to successive doubling of fines.

(3) The owner of a biting animal may be subject to a fine of $100.00 per violation and be required to furnish evidence of a veterinary examination for that animal demonstrating proper vaccination, and confinement of the biting animal to the satisfaction of the police department, code enforcement agent or animal control officer.

(4) The owner of a dangerous animal causing serious injury or death shall be subject to a fine of $250.00 per violation, and the impoundment of the animal until such time an animal control officer is satisfied with the control of the animal or its humane euthanization.

(5) The ordinance violations bureau shall be responsible for all monies received and fees collected, with the exception of dangerous animals, animal attacks, and biting animals.

(d) *Violations; enforcement.*

(1) Each day the terms of this article are violated shall constitute a distinct and separate offense.

(2) Any person found to be violating any provision of this article may be served by a written notice stating the nature of the violation and providing a time limit for satisfactory correction thereof.

(3) Any person convicted of violating any of the provisions of this article shall be liable to the county for any expense, loss or damage occasioned the county by reason of violation.

(4) In addition to the civil enforcement remedies provided in this section, proceedings for injunctive relief may be initiated by the county.

(5) Any person, including the director of the county animal shelter or any police officer, may execute a verified complaint alleging that a person has committed a prohibited act under this section, thereby requiring the appearance of that person in the appropriate court.

(Ord. No. 2006-06, § 1(25), (27) 4-25-2006; Ord. No. 2023-12, § 1, 11-28-2023)

**Secs. 10-3—10-21. Reserved.**

## ARTICLE II. ANIMAL CONTROL

### Sec. 10-22. 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 deposit, leave, drop off or otherwise dispose of any live animal on public or private property without providing the requisite care prescribed under section 10-23.

*Agent* means any person 18 years of age or older who is authorized by the animal's owner to act on such owner's behalf with respect to his animal.

*Altered animal* means any animal that has been operated on to prevent it from procreating.

*Animal* means any live, nonhuman, vertebrate, or invertebrate creature that is domestic, wild, or exotic.

*Animal care facility* includes an animal control center, an animal shelter, or another animal impounding facility that has as its purpose the humane treatment of animals.

*Animal control agency* means any governmental or private entity charged with or contracted with and given authority for the enforcement of the provisions of this article for and on behalf of the town.

*Animal control officer* means a person authorized to carry out the provisions of this article.

*Animal performances or exhibitions* means any spectacle, performance, display, act, exhibition, or event in which an animal or animals are used.

*Animal shelter* means the facility established by the county board of commissioners and operated by the designated animal control authority or its authorized agents or a private entity, for the temporary care, confinement, detention, and humane treatment of animals held under the authority of this article or state law.

*Apiary* means the assembly of one or more hives or colonies of honey bees at a single location.

*At large*. An animal is considered at large if it 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.

*Auction* means any place or facility where animals are regularly bought, sold, or traded by means of auction sale, except for the facilities otherwise defined in this article or state law.

*Bite* means to seize, tear, wound, or cut with the teeth, resulting in a break in the skin.

*Breeder* means any person or for-profit business or corporation which harbors or keeps dogs or cats, and allows or causes those animals to procreate, for the purpose of selling the offspring.

*Circus* means any performances, which are given for a fee, by traveling companies on vacant lots, using tents or some other kind of temporary enclosure for sheltering the public.

*Colony* means the entire honey bee family or social unit living together including the queen, workers and drones.

*Commercial animal establishment* means any pet shop, grooming shop, auction, riding school or stable, zoological park, circus, performing animal exhibition or kennel.

*Confined* means the restriction of an animal at all times by the owner or his agent to an escape-proof building or other enclosure away from other animals and the public.

*Controlled animal* means any animal not defined as a domestic animal in this article with the exception of small, nonpoisonous aquatic or amphibious animals, nonpoisonous reptilian animals, and small cage birds. Such controlled animals shall include but not be limited to the following:

(1) All venomous and poisonous animals, including rear-fang snakes;

(2) Apes: chimpanzees, gibbons, gorillas, orangutans, and siamangs;

(3) Baboons;

(4) Bears;

(5) Bison;

(6) Cheetahs;

(7) Crocodilians;

(8) Constrictor snakes, such as boa, python, and anaconda;

(9) Coyotes;

(10) Deer, including all members of the deer family, such as white-tailed deer, elk, antelope, and moose;

(11) Elephants;

(12) Gamecocks and other fighting birds;

(13) Hippopotami;

(14) Hyenas;

(15) Jaguars;

(16) Leopards;

(17) Lions;

(18) Lynxes;

(19) Monkeys;

(20) Ostriches;

(21) Pumas, also known as cougars, mountain lions and panthers;

(22) Rhinoceroses;

(23) Sharks;

(24) Snow leopards;

(25) Spiders and insects which are poisonous;

(26) Tigers;

(27) Wolves.

*Criminal trespass.*

(1) The term "criminal trespass" means:

a. Not having a contractual interest in the property, knowingly or intentionally entering the real property of another person after having been denied entry by the other person or his agent;

b. Not having a contractual interest in the property, knowingly or intentionally refusing to leave the real property of another person after having been asked to leave by the other person or his agent;

c. Accompanying another person in a vehicle, with knowledge that the other person knowingly or intentionally is exerting unauthorized control over the other vehicle;

d. Knowingly or intentionally interfering with the possession or use of the property of another person without his consent; or

e. Not having a contractual interest in the property, knowingly or intentionally entering the dwelling of another person without consent.

(2) For purposes of this article, a person has been denied entry if the denial was by means of personal communication, oral or written, or by putting or exhibiting a notice at the main entrance in a manner that is either prescribed by law or likely to come to the attention of the public.

*Dangerous animal.*

(1) The term "dangerous animal" means any animal which:

a. Has attacked and bitten another domestic animal, causing severe injury or death while off the property of its owner, its owner's agent, or its keeper;

b. Has attacked and seriously injured any human being, without provocation, whether on or off the property of its owner, its owner's agent, or its keeper;

c. Has history, documented with a public agency or its designee, of attacking any humans or domestic animals;

d. Has a known propensity, tendency, or disposition to attack, to cause injury, or to otherwise threaten or endanger the safety of humans or domestic animals.

(2) No animal shall be considered a dangerous animal if the animal causes injury or damage to a person while that person is:

a. Committing or attempting to commit a criminal offense against the owner or agent of the owner;

b. Committing a criminal trespass upon the premises occupied by the owner, agent, or keeper of the animal; or

c. Teasing, tormenting, abusing, or assaulting the animal.

(3) No K-9 patrol dogs or police dogs owned or kept by a law enforcement agency shall be considered a dangerous animal when used in the line of duty or for law enforcement purposes.

*Designee* means a person, organization, or entity selected, appointed or nominated for a particular purpose or duty.

*Director* means the person appointed to be responsible for the administration, operation and programs of the shelter and its personnel, as established by the animal control authority.

*Domestic animal* means livestock or animals belonging to species normally kept, harbored, and maintained by persons as pets, irrespective of the particular reason for which the animal is kept or maintained. Such animals include but are not limited to the following species:

(1) Dog;

(2) Cat;

(3) Cattle;

(4) Horse;

(5) Donkey;

(6) Sheep;

(7) Goat;

(8) Rabbit;

(9) Mouse;

(10) Rat;

(11) Guinea pig;

(12) Hamster;

(13) Gerbil;

(14) Cow or ox;

(15) Pigeon, homing or racing;

(16) Chicken, turkey, goose, or duck;

(17) Swine;

(18) Chinchilla;

(19) Mink;

(20) Ferret;

(21) Bison;

(22) Llama; and

(23) All other animals defined in I.C. 15-17-2-26.

*Exotic animal* means any animal whose normal native habitat is not indigenous to the continental United States, excluding Alaska and Hawaii. The term "exotic animal" does not include fish, fur-bearing animals commercially bred for the furrier trade, and birds protected under federal laws and regulations.

*Exposed to rabies* means any human or nonhuman, warm-blooded mammal has been exposed to rabies if it has been bitten or exposed to any other animal known or reasonably suspected to have been infected with rabies.

*Fight* means a conflict between two or more animals that is intentionally organized for such purpose.

*Flyway barriers* means fencing, dense hedging or a combination of the two which provide a shield or protective barrier from the direction in which honey bees fly when approaching or leaving a hive. The flyway barrier forces bees to fly upward to avoid contact with people and reduce the risk of stinging.

*For-profit* means all other types of businesses, associations or entities.

*Fowl* means any kind of wild or domestic bird, excluding homing or racing pigeons, canaries, parrots, or similar types of birds normally kept in cages.

*Harboring* means the actions of any person that permit an animal habitually to remain, to be lodged or to be fed within one's home, store, enclosure, yard, or place of business or any premises on which such person resides or controls. An animal shall be presumed harbored if it is fed or sheltered for three consecutive days or more.

*Hive* means a frame or structure used or employed as a domicile for honey bees which meet state requirements.

*Hobby kennel* means any establishment housing 15 or fewer dogs and having four or less litters per year.

*Home confinement* means confinement within an escape-proof enclosure or exercised on a leash by the owner.

*Honey bee* means the common domestic honey bee, limited to Apis melliflera species, specifically excluding the African honey bee, Apis mollifer scutellata or Africanized honey bee, or any hybrid thereof.

*Humane officer* means any person or agency designated by the state or the town as a person who is qualified to perform the duties required by the law of the town and the state regarding animals.

*Impounded* means if any animal pursuant to this article or any state statute has been received into custody of any animal shelter, the animal will have been impounded, as that term is used in this article.

*K-9 patrol dogs* or *police dogs* means professionally trained dogs used by law enforcement officers for law enforcement purposes and activities.

*Keeper* means any person, other than the owner, who has actual or constructive possession of an animal for the purpose of managing, controlling, or caring for such animal. A person shall be construed as a keeper of an animal even if he does not have the owner's permission.

*Kennel* means any premises wherein any person engages in the business of boarding, breeding, buying, letting, or keeping cats and dogs for the purpose of hire, training for a fee, or selling.

*Leash* means a cord, chain, rope, strap, or other such physical restraint.

*Livestock* means horses, stallions, colts, mares, geldings, sheep, rams, lambs, bullocks, steers, heifers, cows, calves, bulls, mules, jacks, jennets, burros, goats, kids, swine, and fur-bearing animals being raised in captivity.

*Muzzle* means a device constructed of strong, soft material or metal, designed to fasten over the mouth of an animal, without interfering with its vision or respiration or causing injury to the animal, to prevent the animal from biting any person or other animal.

*Nip* means to pinch or squeeze with the teeth without breaking the skin or damaging any tissue.

*Not-for-profit* means a business, association, or entity established or organized as a not-for-profit by the Internal Revenue Service or the state department of revenue.

*Off property* means beyond the legal boundaries of the real property on which the owner, agent or keeper resides.

*Owner* means any person having a right of property in a dog or other animal, or who keeps or harbors a dog or other animal, or who has it in his care, or acts as its custodian, or who knowingly permits a dog or other domestic animal to remain on or about any premises occupied by him.

*Performing animal exhibition* means any spectacle, display, act, exhibit or event other than a circus, in which performing animals are used.

*Pet* means any animal kept for pleasure rather than utility.

*Pet shop* means any person, group of persons, partnership, or corporation, whether operated separately or in connection with another business enterprise which sells or barters animals.

*Private kennel* means any premises housing four or more adult dogs not for sale.

*Provoked* means deliberately aroused, incited, or excited.

*Public nuisance* means any animal that endangers the life or health of persons or other animals, or substantially interferes with the rights of citizens, other than their owners, to enjoyment of life or property. The term "public nuisance" shall include, but shall not be limited to:

(1) Any animal found running at large;

(2) Any animal, whether or not on the property of its owner, that without provocation, molests, attacks, or otherwise interferes with the freedom of movement of persons in the public right-of-way;

(3) Any animal that chases or interferes with motor vehicles in the public right-of-way;

(4) Any animal that attacks other animals;

(5) Any animal that damages, soils, defiles, or defecates on any property other than that of its owner;

(6) Any animal that makes disturbing noises, including but not limited to continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;

(7) Any animal that causes fouling of the air by noxious or offensive odors and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;

(8) Any animal in heat that is not confined or restrained so as to prevent attraction or contact with other animals;

(9) Any animal in any section of a public park, playground, schoolyard or other recreational area that is found running at large;

(10) Any animal that causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;

(11) Any animal that trespasses on private property of persons other than the owner of the animal; or

(12) Any animal determined to be a dangerous animal.

*Rabies vaccination* means an injection licensed by the USDA and approved by the state board of health, given to a dog, cat, or other animal by a licensed veterinarian to prevent the spread of rabies.

*Restraint* means the securing of an animal by a leash or lead, or confining it within the real property limits of its owner or agent.

*Riding school or stable* means any place that provides, for a fee, boarding and/or riding instructions for a horse, pony, donkey, mule, or burro.

*Rodeo* means a performance featuring bronco riding, steer wrestling, calf roping, greased pig contests, or bull riding.

*Serious injury or death.*

(1) The term "serious injury or death" means any bodily injury, which is caused by an animal and is medically documented, that:

a. Creates a substantial risk of death;

b. Causes serious permanent disfigurement, unconsciousness, or extreme pain; or

c. Results in a permanent or protracted loss or impairment of a bodily member or organ.

(2) The term "serious injury or death" shall not include any nip from an animal.

*Service dogs* means any dog that is trained to assist a handicapped person.

*Stray* means any animal not secured by a lead, or not under the control of a responsible person or control officer, or not confined within the real property limits of its owner, and for which, after a reasonable search or inquiry, no owner can be ascertained.

*Unconfined dangerous animal* means a dangerous animal which is not securely confined indoors, not under restraint, or not confined in a securely enclosed and locked pen or structure upon the premises of the owner, agent, or keeper of such animal.

*Unlicensed dog or cat* means any dog or cat for which the license for the current year has not been obtained, or to which the tag for the current year is not attached.

*Unprovoked* means without incitement or stimulation.

*USDA* means the United States Department of Agriculture.

*Veterinarian* means any person licensed and accredited to practice veterinary medicine in the state.

*Wild animals* means any animal not a domestic or exotic animal, with the exception of small nonpoisonous aquatic or amphibious animals and small cage birds, which are normally found in the wild state.

*Zoological park* means any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of nondomesticated animal, which is operated by a person, partnership, corporation, or governmental agency that is established for educational purposes and is properly zoned for such use, and which possesses valid licenses and permits as required under federal or state law.
(Ord. No. 2006-06, § 1(02), 4-25-2006; Ord. No. 2023-12, § 2, 11-28-2023)

**Sec. 10-23. General animal care requirements.**

Every owner or his agent residing within the corporate limits of the town shall see that each of his animals:

(1) Is kept in a clean, sanitary, and healthy manner and is not confined so as to be forced to stand, sit, or lie in its own excrement;

(2) Has sufficient and wholesome food and water, which is proper and nutritional for that species of animal;

(3) Lives in a structure, meeting minimum veterinary standards, which will protect that animal from all elements of the weather and will allow that animal to stand, sit and lie down without restriction, and which is kept in a sanitary manner;

(4) If ill, diseased, or injured, receives proper veterinary care as necessary to promote the good health of the animal and prevent the transmittal of a disease to other animals or human beings;

(5) Is not beaten, ill-treated, overloaded, overworked, tormented or otherwise abused or neglected or involved in any dogfight, cockfight, bullfight, or other combat between animals or between animals and humans;

(6) Is not physically altered in any manner by anyone other than a veterinarian, except for tattooing for identification purposes and grooming;

(7) Is not abandoned, neglected, or tortured;

(8) Does not become a public nuisance;

(9) Does not become a dangerous animal;

(10) In the case of a dog or cat over the age of three months, is properly vaccinated against rabies by a licensed veterinarian annually, or upon such frequency as may be specified by state law, and such animals shall be licensed as required by this article and state law;

(11) Is properly restrained and not at large;

(12) During mating season, is kept in a secure enclosure in such a manner that it cannot come into contact with another animal of the same species, except for planned breeding.

(Ord. No. 2006-06, § 1(03), 4-25-2006)

**Sec. 10-24. Sale of animals as novelties or use as prize prohibited.**

(a) No person shall display, sell, offer for sale, barter, or give away any animal, reptile, fish, or bird as a novelty or as an advertising device.

(b) No rabbit, chick, gosling, duckling, turkey, or other fowl may be dyed or otherwise colored artificially; nor shall any dyes or artificially colored rabbits, chicks, goslings, ducklings, turkeys or other fowl be sold, offered for sale, displayed, used as barter, or given away.

(c) This section shall not be construed to prohibit the sale or display of natural chicks, ducklings, goslings, turkeys, or other domestic fowl in proper brooder facilities by hatcheries or stores engaged in the business of selling them to be raised for commercial purposes. Nor

shall this section prohibit a pet shop holding a valid permit under this article or a legitimate humane society or animal shelter from humanely caring for, adopting out, or selling animals as pets.
(Ord. No. 2006-06, § 1(04), 4-25-2006)

**Sec. 10-25. Motor vehicle accidents involving animals.**

Any person operating a motor vehicle, who knowingly hits, runs over, kills or causes injury to a dog or cat, or domestic animal, by which creating a public hazard, shall immediately notify the police department. Such notice shall include the motorist's name, address, phone number, and type of animal hit and the location of the animal.
(Ord. No. 2006-06, § 1(05), 4-25-2006)

**Sec. 10-26. Animals in motor vehicles.**

No animal shall be left in a motor vehicle when the conditions in that vehicle would constitute a health hazard to that animal, or when the weather would constitute a health hazard to such animal confined in said motor vehicle; nor shall any person transport any animal in an unenclosed truck bed or open section of any vehicle unless the animal is enclosed in a cage which is securely fastened to the vehicle.
(Ord. No. 2006-06, § 1(06), 4-25-2006)

**Sec. 10-27. Poisoning of animals.**

(a) No person shall deposit, dispose, or place any poisonous substance on any public or private property within the corporate limits of the town, if a domestic animal is reasonably likely to consume such substance.

(b) A person shall not be liable under subsection (a) of this section for leaving common rat or mouse poisons or insecticides, in any form, on his property if the person exercises reasonable care in restricting a domestic animal's access to such poisons so that only the targeted rodents or insects are exposed to said poisons.

(c) No person shall intentionally poison or attempt to poison a dog or cat for nuisance issues or control purposes.
(Ord. No. 2006-06, § 1(07), 4-25-2006)

**Sec. 10-28. Trapping of animals restricted.**

No person shall trap animals or fowl within the town limits unless such person has obtained a valid nuisance wild animal control permit from the Indiana Department of Natural Resources ("DNR") and the method of trapping such animal or fowl is compliance with applicable state laws and regulations. Notwithstanding the foregoing, a person may trap rats, mice, or other small mammals creating nuisance on property that the person owns or rents and for which DNR regulations do not require a nuisance wild animal control permit, provided subject to compliance with applicable state laws and regulations.
(Ord. No. 2006-06, § 1(08), 4-25-2006; Ord. No. 2023-12, § 3, 11-28-2023)

**Sec. 10-29. Maximum numbers of domestic animals.**

Except as otherwise authorized in sections 10-46 and 10-47 of this chapter, no person shall keep more than a total of six domestic animals over the age of six months in their household in any residentially zoned area.
(Ord. No. 2006-06, § 1(09), 4-25-2006; Ord. No. 2023-12, § 4, 11-28-2023)

**Sec. 10-30. Acreage requirements for certain domestic animals; prohibition of swine.**

(a) Except as otherwise authorized in sections 10-46 and 10-47 of this chapter, any person desiring to keep any of the following domestic animals or fowl in the town must have a minimum of five contiguous acres of land in the town, upon which the animals would be kept and which acreage must be enclosed by a fence to confine such animals, including, but not limited to:

(1) Cows, ox, cattle, calves, or other livestock;

(2) Donkeys, asses, burros, or mules; .

(3) Sheep;

(4) Goats, except pygmy goats (see subsection (d) of this section);

(5) Chickens, roosters, geese, turkeys, ducks, or other fowl except racing or homing pigeons;

(6) Bees;

(7) Horses;

(8) Bison, llamas; or

(9) Swine, except potbellied pigs (see subsection (g) of this section).

(b) In no event shall the shelter and feeding station for any of the animals or fowl designated in subsection (a) of this section be closer than 50 feet from the adjoining property line.

(c) No person may keep within the town, as presently or hereinafter established, any swine, pigpens, or hog sites. Possession of said items constitutes a public nuisance.

(d) Potbellied pigs and pygmy goats shall be allowed only on a lot with a minimum of two acres of land for each individual animal, and all other sections of this article shall be adhered to.
(Ord. No. 2006-06, § 1(10), 4-25-2006; Ord. No. 2023-12, § 5, 11-28-2023)

**Sec. 10-31. Owners or agents responsible for removing animal waste and dead animals.**

(a) Any owner or his agent taking the owner's dog or cat outside of the owner's real property limits must immediately remove any excrement deposited by the animal on any public or private property, except in the case of a guide dog for a blind person or service dog for a deaf or physically disabled person.

(b) The owner of any dead animal shall remove and properly dispose of the animal within 24 hours after its death. The real property owner is responsible for removal of any strange animal carcass on his real property.
(Ord. No. 2006-06, § 1(11), 4-25-2006)

**Sec. 10-32. Leash regulations.**

No person being the owner of or having custody and control of any dog or cat shall permit or allow the dog or cat to run or to be at large in the streets, or on the walks or public grounds of the town, unless the dog or cat shall wear a collar or a harness and be effectively restrained by a chain or leash.
(Ord. No. 2006-06, § 1(12), 4-25-2006; Ord. No. 2023-12, § 6, 11-28-2023)

**Sec. 10-33. Animal bites.**

(a) If any person is a victim of an animal bite, he shall immediately notify the town police department and provide a description of the animal and identification, if possible, of the owner. When an animal is determined to have bitten a person, the animal shall be confined in quarantine for a period of not less than ten days.

(b) If the owner of the animal which has bitten a person presents proof of current rabies inoculations, the animal may be left in the charge of the owner, under quarantine, unless, in the judgment of the humane officer, police officer or code enforcement agent, and based upon considerations of public safety, the humane officer determines it should be removed to an animal shelter or veterinary hospital for the period of observation or as determined by animal control.

(c) In addition to any other legal obligations prescribed by law, the owner shall pay for all costs incurred in the quarantine and/or impoundment of the animal before such animal will be released. If the owner is unable or unwilling to pay for said costs, the animal may be humanely euthanized and the owner shall still remain liable for any costs incurred in said quarantine and/or impoundment.

(d) If the owner of the quarantined animal cannot be determined, or if the owner does not furnish proof of current rabies inoculation, the animal shall be impounded under the authority of the county animal shelter for a period of observation of not fewer than then ten days.

(e) Animal control officers, police officers, or code enforcement agents shall be empowered to enter onto private property for the purpose of impounding animals which are known to have bitten a person and shall obtain legal process to do so if necessary.

(f) Unless otherwise provided, the town and any of its agents shall comply with the standards set forth in IC 15-2.1-6-1 through 15-2.1-6-13, entitled "Rabies."
(Ord. No. 2006-06, § 1(13), 4-25-2006)

**Sec. 10-34. Mandatory vaccinations of dogs and cats.**

(a) No animal owner or his agent shall keep or harbor a dog or cat over the age of three months unless a licensed veterinarian with antirabies vaccine has vaccinated it annually.

(b) The owner shall maintain proof of an animal's vaccination so that it can be presented to the town or its agents upon request.

(c) Failure to comply with the provisions of this section shall subject the owner of said unvaccinated dog and/or cat to being issued an ordinance violation citation, subjecting the owner to a fine as set forth in section 10-2.
(Ord. No. 2006-06, § 1(14), 4-25-2006)

**Sec. 10-35. Interference with humane officers prohibited.**

No person shall interfere with or impede a humane or animal control officer, police officer, code enforcement agent or any other authorized agent in the performance of his duties as set forth in this article.
(Ord. No. 2006-06, § 1(15), 4-25-2006)

**Sec. 10-36. Exclusion of service dog prohibited.**

No person owning, operating, or maintaining any public place of business to which the general public is invited for any business purpose shall exclude therefrom any dog that has been trained to assist the blind, the hearing impaired, or the physically disabled. However, such dog must be in the company of the disabled person for whom it was trained to assist or in the company of a licensed obedience service trainer.
(Ord. No. 2006-06, § 1(16), 4-25-2006; Ord. No. 2023-12, § 7, 11-28-2023)

**Sec. 10-37. Dangerous animals prohibited.**

No person shall harbor or possess within the town any dangerous animal, any venomous or poisonous animal, reptile, amphibian, fish, or insect, or any animal that poses a threat to the public health and safety. Such animal may be impounded by the animal control agency and be disposed of in a manner determined to be in the best interest of the animal.
(Ord. No. 2006-06, § 1(17), 4-25-2006; Ord. No. 2023-12, § 8, 11-28-2023)

**Sec. 10-38. Impoundment procedures.**

The county animal shelter as the contracted animal control agency of the town may seize, impound or confine any of the following animals:

(1) A stray animal brought to the shelter by shelter personnel or any resident of the town;

(2) Injured animals brought to the shelter for which no owner can immediately be found;

(3) Biting or dangerous animals or those suspected of being rabid, as established by other sections of this article;

(4) An animal whose owner wishes to relinquish that ownership;

(5) Any animal seized by the warden, a law enforcement official;

(6) Dogs without current license tags; code enforcement agent to prevent present or future inhumane treatment;

(7) Any animal running at large;

(8) Any animal constituting a public nuisance;

(9) Any unattended animal that is ill, injured, or otherwise in need of care;

(10) Any unattended animal that is reasonably believed to have been abused or neglected; or

(11) Any animal that is considered unattended or abandoned, as in situations where the owner is deceased, has been arrested, or evicted from his regular place of residence.

(Ord. No. 2006-06, § 1(18), 4-25-2006)

**Sec. 10-39. Protected animals.**

(a) No person shall possess, offer for sale, and attempt to buy or own within the town any of the following animals of either thoroughbred or hybrid stock or pedigree:

(1) All wild cats of the family felidae;

(2) Polar bear;

(3) Red wolf;

(4) Vicuna;

(5) Alligator;

(6) Caiman or crocodile of the order of crocodilian;

(7) Gray or timber wolf;

(8) Sea otter;

(9) Pacific Ridley turtle;

(10) Atlantic green turtle;

(11) Mexican Ridley turtle.

(b) No person shall buy, sell, or offer for sale or own a native or foreign species of subspecies of mammal, bird, amphibian, or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United States Secretary of Interior and published in the Code of Federal regulations pursuant to the Endangered Species Act of 1969 (Public Law 135, 91st Congress), as amended.

(c) No person shall import or cause to be imported into this town any part of the plumage, skin, or dead body of any species of hawk, owl, or eagle. This subsection shall not be construed to forbid or restrict the importation or use of the plumage, skin, body or any part thereof legally collected for use by American Indians for ceremonial purposes or in the preservation of their tribal customs and heritage.

(d) This section shall not be construed to prevent the importation, possession, purchase, or sale of any species to any person or organization licensed to present a circus or carnival pursuant to this Code.

(e) A humane officer, police officer, or code enforcement agent may seize and impound any animal being offered for sale or owned in violation of this section.

(f) Failure to comply with the provisions of this section shall subject the owner of said protected animal to being issued an ordinance violation citation, subjecting the owner to a fine as set forth in section 10-2.
(Ord. No. 2006-06, § 1(19), 4-25-2006)

**Sec. 10-40. Keeping certain animals prohibited.**

(a) No person shall keep, maintain, or have in his possession or under his control within the town, any venomous reptile or any other dangerous or carnivorous wild animal or reptile, any dangerous domesticated animal, or any other animal or reptile of wild, vicious or dangerous propensities.

(b) No person shall keep, maintain or have in his possession or under his control, within the town, any of the following animals of either thoroughbred or hybrid stock or pedigree:

(1) All venomous or poisonous animals, including rear-fang snakes;

(2) Apes such as chimpanzee, gibbons, orangutans, and siamangs;

(3) Baboons;

(4) Bears;

(5) Bison;

(6) Cheetahs;

(7) Crocodilians;

(8) Constrictor snakes, including but not limited to boa, python, and anaconda;

(9) Coyotes;

(10) Deer such as white-tailed deer, elk, antelope, and moose;

(11) Elephants;

(12) Gamecocks, and other fighting birds;

(13) Hippopotami;

(14) Hyenas;

(15) Jaguars;

(16) Leopards;

(17) Lions;

(18) Lynxes;

(19) Monkeys, Old World and New World;

(20) Ostriches;

(21) Piranha fish;

(22) Pumas, such as cougars, mountain lions, and panthers;

(23) Rhinoceroses;

(24) Sharks;

(25) Snow leopards;

(26) Spiders and insects which are venomous or poisonous;

(27) Tigers;

(28) Wolves;

(29) Monitor lizards; or

(30) Wild animals.

(c) The provisions of this section shall not apply to institutions of higher learning, zoological parks, animal care facilities, circuses, or persons harboring animals specifically for the purpose of rehabilitation and release into their natural habitat pursuant to a valid wildlife permit issued by the state or an agency of the United States if:

(1) Their location conforms to the provisions of the town ordinances.

(2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate offensive odors.

(3) Animals are confined in such a manner so as to prevent their escape and protect the public from coming in direct contact with them.

(4) Failure to comply with the provisions of this section shall subject the owner or keeper of said animal to being issued an ordinance violation citation, subjecting the owner to a fine as set forth in section 10-2.

(Ord. No. 2006-06, § 1(20), 4-25-2006; Ord. No. 2023-12, § 9, 11-28-2023)

**Sec. 10-41. Keeping wild animals.**

(a) No person shall keep, harbor, own, or permit to be kept on his premises any wild animal, including without limitation any raccoon, skunk, fox, squirrel, chipmunk, porcupine, opossum, wolf, woodchuck or any other animal meeting the definition of "wild animal" in this ordinance.

(b) Zoological parks, animal care facilities, circuses or carnivals properly licensed pursuant to this article and persons possessing a valid wildlife permit from the Indiana DNR are exempt from this section.

(c) Any person who owns, possesses, or harbors any wild animal in violation of this section may have the animal seized and impounded.

(d) Failure to comply with the provisions of this section shall subject the owner or keeper of said animal to being issued an ordinance violation citation, subjecting the owner to a fine as set forth in section 10-2.

(e) Notwithstanding the foregoing, a person possessing a valid Indiana Wild Animal Possession Permit, a Wild Animal Rehabilitation Permit, or other applicable wildlife permit issued by the Indiana DNR may only own, possess and/or harbor a wild animal subject to the requirements of such permit and in compliance with applicable state laws and regulations.
(Ord. No. 2006-06, § 1(21), 4-25-2006; Ord. No. 2023-12, § 10, 11-28-2023)

**Sec. 10-42. Serious injuries or death.**

If an animal kills or causes serious injury, the animal shall be deemed a dangerous animal, and the animal shall be humanely impounded. The owner shall be responsible for the costs of caring for the animal during the period of impoundment, including but not limited to costs of boarding and the veterinary treatment, if necessary.
(Ord. No. 2006-06, § 1(22), 4-25-2006)

**Sec. 10-43. Inspections.**

(a) Whenever it is necessary to make an inspection to enforce any of the provisions of this article or perform any duty imposed by this article, or when there is reasonable cause to believe that there exists in any building or upon any premises any violation of the provisions of this article or state law, a health officer, police officer, code enforcement agent, or animal control officer is authorized at all reasonable times to inspect the same for compliance with the provisions of this article or any state law, provided that:

(1) If the property is occupied, the officer shall first present proper credentials to the occupant and request entry, explaining the reasons therefor; and

(2) If the property is unoccupied, the officer shall make a reasonable effort to locate the owner or other persons having control of the property and request entry, explaining the reasons thereof.

(b) In the event the officer has reasonable cause to believe that the keeping or maintaining of an animal is so hazardous, unsafe, dangerous, or constitutes a public nuisance as to require immediate inspection to safeguard the animal or the public health or safety, the officer shall first present proper credentials and request entry, explaining the reasons thereof. If entry is refused or cannot be obtained, the officer shall have recourse to secure lawful entry and inspection of the property.
(Ord. No. 2006-06, § 1(23), 4-25-2006)

**Sec. 10-44. Reserved.**

**Editor's note—**Ord. No. 2023-12 § 11, adopted November 28, 2023, repealed § 10-44, which pertained to mandatory registration and derived from Ord. No. 2006-06, § 1(24), 4-25-2006.

**Sec. 10-45. Investigations and inspections.**

Representatives of the county animal shelter, town police department, county sheriff's department, or other duly designated representatives of the county may, with permission of the occupant, enter any premises where animals are maintained for investigation or inspection as to whether or not any portion of the premises, building structure, enclosure, pen or cage is being used, kept, or maintained in violation of this article or any other county ordinance. If permission for entrance is denied and probable cause regarding the violation of this article exists, a court order for entry may be requested pursuant to law.
(Ord. No. 2006-06, § 1(26), 4-25-2006)

**Sec. 10-46. Honey bee restrictions.**

Honey bees shall be allowed to be kept within the Town of Porter, IN on lots of less than five contiguous acres in strict accordance with all of the following requirements:

(1) Hives shall be permitted to be either a Langstroth Hive or Warre (Peoples) Hive and shall not exceed 17 cubic feet in volume. No other hives shall be permitted.

(2) The number of hives on any lot in town shall be limited to two hives. A temporary hive (aka Nuc Hive) may be used temporarily to prevent swarming. The temporary hive shall be immediately removed from use when the permanent hive(s) is(are) established.

(3) In no event shall a hive be located closer than ten feet from a public sidewalk, street or pathway. The distance shall be measured from the center of the closest hive to the edge of the public sidewalk, street or pathway.

(4) Hives shall not be located closer than ten feet from any property line as measured from the center of the hive.

(5) A flyway barrier at least six feet in height must be installed for all hives that are located within 25 feet of a property line, public sidewalk, street or pathway. The flyway barrier shall be placed along the side of the hive(s) that contains the entrance

to the hive and shall be located within five feet of the hive and shall extend at least two feet on either side of the hive. The flyway barrier must meet all applicable fencing requirements per the Town of Porter Code.

(6) All bee hives must be located in rear yards.

(7) All bee hives shall have a water source available on the property on which the hive is located. The water source shall be located near the hive entrance/exit. The water source shall be at least the size of an average bird bath.

(8) Bees and equipment shall be kept in accordance with all state statutes.

(9) Any violations of this section shall be subject to the applicable penalties set forth in section 1-18 of this Code. In addition, and without waiving any of the foregoing penalties, the town shall be permitted to take all reasonable actions including, but not limited to, removal or destruction of any apiary, hive or colony which poses a threat to the public health, safety or welfare, creates a public nuisance or which has been abandoned.

(10) Any individual who recklessly disturbs or molests an apiary, hive or colony, or other honey bee habitat, without permission of the owner shall be subject to all criminal penalties permitted by law.

(Ord. No. 2023-12, § 12, 11-28-2023)

**Sec. 10-47. Chickens.**

Notwithstanding the provisions of section 10-30 of this chapter, chickens shall be permitted in the town in strict accordance with the following guidelines:

(1) A chicken is a Gallus gallus domesticus, a domestic bird typically kept on a farm. This definition does not include other fowl, such as, but not limited to, peacocks, turkeys or waterfowl.

(2) No roosters (male chickens) shall be permitted under the provisions of this section, only hens (female chickens).

(3) There shall be no more than six chickens on any parcel of land less than one-half acre in size. The maximum number of chickens on any parcel shall be 12. Chickens are not included in the maximum number of domestic animals noted in section 10-29.

(4) Chickens shall be kept completely and securely enclosed and under the control of the owner and on the owner's property at all times.

(5) A chicken coop, an enclosed structure for housing chickens that provides shelter from the elements, shall be provided. The chicken coop must provide adequate sun, shade and ventilation and must be impermeable to rodents, wild birds and predators, including without limitation cats and dogs, and must provide at least two square feet of space per chicken contained therein. The chicken coop shall be situated a minimum often feet from any property line.

(6) A caged or fenced "run" shall be provided outside of the coop with a minimum of eight to ten square feet of space per bird. An enclosed fenced yard may be utilized in lieu of a run.

(7) Chickens shall be provided with access to feed and clean water at all times.

(8) All feed for said chickens shall be stored in containers to protect against intrusion by rodents and vermin.

(9) The chicken coop shall be maintained in a sanitary condition and in compliance with all applicable health regulations of the State of Indiana, Porter County and the Town of Porter.

(10) Chickens and chicken coops shall be confined to the rear yard of the property.

(11) Any chickens kept in accordance with the provisions of this section shall be for non-commercial, personal use only and may not be slaughtered on the property.

(12) Any violations of this section shall be subject to section 10-2 of this Code.

(Ord. No. 2023-12, § 13, 11-28-2023)

Chapters 11—13

**RESERVED**

Chapter 14

# BUILDINGS AND BUILDING REGULATIONS

## Article I. In General

Secs. 14-1—14-18. Reserved.

## Article II. Rules and Regulations Governing Construction and Alteration of Buildings

### Division 1. Generally

Secs. 14-19—14-39. Reserved.

### Division 2. Building Code


Sec. 14-40. Title.
Sec. 14-41. Purpose.
Sec. 14-42. Authority.
Sec. 14-43. Scope.
Sec. 14-44. Adoption by reference.
Sec. 14-45. Application for permits.
Sec. 14-46. Permit required.
Sec. 14-47. Other ordinances.
Sec. 14-48. Review of application.
Sec. 14-49. Inspections.
Sec. 14-50. Inspection assistance.
Sec. 14-51. Entry.
Sec. 14-52. Stop work order.
Sec. 14-53. Certificate of occupancy.
Sec. 14-54. Workmanship.
Sec. 14-55. Violations.
Sec. 14-56. Right of appeal.
Sec. 14-57. Remedies.
Sec. 14-58. Penalties.

Secs. 14-59—14-76. Reserved.

### Division 3. Construction, Alteration, and Remodeling Regulations


Sec. 14-77. Purpose of permit fees.
Sec. 14-78. Permit required for construction, alteration, or remodeling.
Sec. 14-79. Occupancy permit fee.
Sec. 14-80. Building permit fees.
Sec. 14-81. Plumbing permit fees.
Sec. 14-82. Electrical permit fees.
Sec. 14-83. Public improvement permit.
Sec. 14-84. Additional inspection fee.
Sec. 14-85. Fees mandatory.
Sec. 14-86. Reserved.

Secs. 14-87—14-115. Reserved.

Division 4. Application and Permit Fees

Sec. 14-116. Mandatory requirements.
Sec. 14-117. Application fee.
Sec. 14-118. Permit fees.
Sec. 14-119. Permits issued.
Secs. 14-120—14-136. Reserved.

Division 5. Building Permit and Securing Bond Regulations

Sec. 14-137. Application for building permit (form).
Sec. 14-138. Commencement and completion duties of construction under a building permit/fees.
Sec. 14-139. Building commissioner to review building permit and subdivision applications; flood damage.
Sec. 14-140. Performance bonds and town contracts.
Sec. 14-141. Conflict of interest; appointment of temporary building official.
Secs. 14-142—14-165. Reserved.

**Article III. Licensing of Contractors**

Division 1. Generally

Sec. 14-166. Stop work orders.
Secs. 14-167—14-185. Reserved.

Division 2. Licensing

Sec. 14-186. License required of contractor.
Sec. 14-187. Definitions.
Sec. 14-188. Homeowner exception.
Sec. 14-189. Age requirement for license.
Sec. 14-190. Bond and insurance requirements.
Sec. 14-191. Application fee.
Sec. 14-192. License renewal; renewal fee.
Sec. 14-193. Expiration of license.
Sec. 14-194. Suspension or revocation of contractor's license.
Sec. 14-195. Revocation hearing.
Sec. 14-196. Disability or death of license holder.
Sec. 14-197. Temporary license.
Sec. 14-198. Penalties.
Secs. 14-199—14-250. Reserved.

**Article IV. Gas Regulations**

Sec. 14-251. Compliance with provisions.
Sec. 14-252. License required.
Sec. 14-253. Permit required.
Sec. 14-254. Inspection required.

Sec. 14-255. Inspection tests required.
Secs. 14-256—14-294. Reserved.

## Article V. Unsafe Building Law

### Division 1. Generally

Sec. 14-295. Adoption of statute.
Secs. 14-296—14-325. Reserved.

### Division 2. Unsafe Buildings and Premises

Sec. 14-326. Definitions.
Sec. 14-327. Unsafe buildings and unsafe premises described.
Sec. 14-328. Orders; contents; notice; expiration.
Sec. 14-329. Modification or rescission of orders.
Sec. 14-330. Hearing; extension of time limits; performance bonds; record of findings and action; penalties.
Sec. 14-331. Appeals.
Sec. 14-332. Emergency action; recovery of costs; challenge of determination of emergency.
Sec. 14-333. Action to enforce orders.
Sec. 14-334. Manner authorized for performance of work under order of enforcement authority; bids; notification to persons having substantial property interest; service by publication.
Sec. 14-335. Liability for costs for performance of work required by orders.
Sec. 14-336. Notice of unpaid costs; filing with clerk of court; hearing; judgment lien.
Sec. 14-337. Unpaid costs for unsafe premises repairs; notice; certification as special assessment collection as delinquent taxes; disposition of collections.
Sec. 14-338. Unsafe building fund; deposits and expenditures.
Sec. 14-339. Inspection warrants.
Sec. 14-340. Civil actions regarding unsafe premises.
Sec. 14-341. Manner of serving notice.
Sec. 14-342. Recording of orders, statements of rescission, statements of public bids and records of actions taken by board of zoning appeals.
Sec. 14-343. Transfers of property by persons not complying with orders.
Sec. 14-344. Violations; penalties.
Secs. 14-345—14-361. Reserved.

## Article VI. Property Maintenance Code

Sec. 14-362. Code adopted by reference.
Sec. 14-363. Copies on file.
Secs. 14-364—14-384. Reserved.

## Article VII. Smoke and Carbon Monoxide Detectors

Sec. 14-385. Definitions.
Sec. 14-386. Installation.
Sec. 14-387. Maintenance.
Sec. 14-388. Responsibility.

Sec. 14-389. Certificates of compliance.
Sec. 14-390. Enforcement.
Secs. 14-391—14-399. Reserved.

**Article VIII. Manufactured Building Materials**

Sec. 14-400. Definitions.
Sec. 14-401. Application.
Sec. 14-402. Identification required.
Sec. 14-403. Disclosure on permit application.
Sec. 14-404. Tags.
Sec. 14-405. Inspection.
Sec. 14-406. Penalty.

## ARTICLE I. IN GENERAL

**Secs. 14-1—14-18. Reserved.**

## ARTICLE II. RULES AND REGULATIONS GOVERNING CONSTRUCTION AND ALTERATION OF BUILDINGS

### DIVISION 1. GENERALLY

**Secs. 14-19—14-39. Reserved.**

### DIVISION 2. BUILDING CODE

**Sec. 14-40. Title.**

This division, and all ordinances supplemental or amendatory hereto, shall be known as the "Building Code of the Town of Porter, Indiana," may be cited as such, and will be referred to herein as "this code."
(Ord. No. 93-02, § 1, 1-12-1993; Ord. No. 98-07, § 1, 12-15-1998)

**Sec. 14-41. Purpose.**

The purpose of this code is to provide minimum standards to safeguard life or limb, property and public welfare by regulating and controlling the design, construction, quality of materials, intended use, occupancy, and location of class 1 structures.
(Ord. No. 93-02, § 2, 1-12-1993; Ord. No. 98-07, § 2, 12-15-1998)

**Sec. 14-42. Authority.**

The building commissioner is hereby authorized and directed to administer and enforce all of the provisions of this code. Whenever in this code, it is provided that anything must be done to the approval of or subject to the direction of the building commissioner or any other officer of the town, this shall be construed to give such officer only the discretion of determining whether this code has been complied with; and no such provision shall be construed as giving any officer discretionary powers as to what this code shall be, or power to require conditions not prescribed by ordinance or to enforce this code in an arbitrary or discriminatory manner. Any variance from adopted building rules are subject to approval under IC 22-13-2-7(b).
(Ord. No. 93-02, § 3, 1-12-1993; Ord. No. 98-07, § 3, 12-15-1998)

**Sec. 14-43. Scope.**

The provisions of this code shall apply to the construction, addition, and alteration of any class 1 structure. Wherever in this code reference is made to the appendix, the provisions in the appendix shall not apply unless specifically adopted.
(Ord. No. 93-02, § 4, 1-12-1993; Ord. No. 98-07, § 4, 12-15-1998)

**Sec. 14-44. Adoption by reference.**

(a) That certain document, being titled the 2000 International Building Code, third printing, published by the International Code Council, 5203 Leesburg Pike, Suite 708, Falls Church, Virginia 22041-3401, is hereby adopted by reference as if fully set out in this code, save and except those revisions made in this code.

(b) The Indiana Administrative Code rules which govern this section are available for review and reference at the Fire and Building Services Department, Indiana Government Center-South, 402 West Washington Street, Room W246, Indianapolis, Indiana 46204.

(c) Building rules of the state fire prevention and building safety commission as set out in title 675 of the Indiana Administrative Code are hereby incorporated by reference in this code and shall include later amendments to those articles as the same are published in the Indiana Register or the Indiana Administrative Code with effective dates as fixed therein.

(d) Copies of adopted building rules, codes and standards are on file in the office of the town building commissioner.
(Ord. No. 93-02, § 5, 1-12-1993; Ord. No. 98-07, § 5, 12-15-1998; Ord. No. 99-03, § 1, 4-27-1999)
**State law reference—**Incorporation of material into ordinance or code by reference, procedure, IC 36-1-5-4.

**Sec. 14-45. Application for permits.**

Applications for building permits shall be filed with the building commissioner of the town. The application shall include:

(1) A legal description of property included in the application.

(2) A site plan showing the structure, or improvement, and meeting the requirements listed herein.

(3) A sanitary sewer permit as required by the town utility department.

(4) Dedication of the right-of-way, when and where it is required. Such dedications shall be acceptable to the town council or the director of public works, whichever is applicable.

(5) When required, a copy of a design release, issued by the state building commissioner and the state fire marshal pursuant to IC 22-15-3-1, shall be provided to the building commissioner of the town before issuance of a permit for construction covered by such design release.

(Ord. No. 93-02, § 6, 1-12-1993; Ord. No. 98-07, § 6, 12-15-1998; Ord. No. 99-03, § 2, 4-27-1999)

**State law reference—**Issuance, plan review, competency test, expiration, IC 22-15-3-1.

**Sec. 14-46. Permit required.**

A permit shall be obtained before beginning construction, alteration or repair of any building or structure, the improvement value of which exceeds $500.00, and fences or accessory structures regardless of improvement value, using forms furnished by the building commissioner. All fees required by this code shall be paid to the town clerk-treasurer.

(Ord. No. 93-02, § 7, 1-12-1993; Ord. No. 98-07, § 7, 12-15-1998; Ord. No. 2026-01, § 1, 1-27-2026)

**Sec. 14-47. Other ordinances.**

All work done under any permit shall be in full compliance with all other ordinances pertaining thereto, and in addition to the fees for permits, there shall be paid the fees prescribed in such ordinances.

(Ord. No. 93-02, § 8, 1-12-1993; Ord. No. 98-07, § 8, 12-15-1998)

**Sec. 14-48. Review of application.**

Prior to the issuance of any building permit, the building commissioner shall review all building permit applications to determine full compliance with the provisions of this code, the Building Code of the Town of Porter, Indiana, and all applicable floodplain regulations.

(Ord. No. 93-02, § 9, 1-12-1993; Ord. No. 98-07, § 9, 12-15-1998)

**Sec. 14-49. Inspections.**

After the issuance of any building permit, the building commissioner shall make or shall cause to be made inspections of the work being done as are necessary to ensure full compliance with the provisions of this code and the terms of the permit. Reinspections of work found to be incomplete or not ready for inspection are subject to assessment of reinspection fees as prescribed in this code. It is the policy of the town council that unless the permittee refuses cooperation, the building commissioner shall inspect when advised that the permittee is ready for an inspection.

(Ord. No. 93-02, § 10, 1-12-1993; Ord. No. 98-07, § 10, 12-15-1998)

**Sec. 14-50. Inspection assistance.**

The chief of the fire department, or his designated representative, may assist the building commissioner in the inspection of fire suppression, detection and alarm systems and shall provide reports of such inspection to the building commissioner.

(Ord. No. 93-02, § 11, 1-12-1993; Ord. No. 98-07, § 11, 12-15-1998)

**Sec. 14-51. Entry.**

Upon presentation of proper credentials to the owner, occupant or renter, the building commissioner or his duly authorized representatives may enter, at reasonable times, any building, structure or premises in the town to perform any duty imposed upon him by this code.
(Ord. No. 93-02, § 12, 1-12-1993; Ord. No. 98-07, § 12, 12-15-1998)

**Sec. 14-52. Stop work order.**

Whenever any work is being done contrary to the provisions of this code, the building commissioner may order the worked stopped by notice, in writing, served on any persons engaged in the doing or causing such work to be done. Any such persons shall forthwith stop such work until authorized by the building commissioner to proceed with the work.
(Ord. No. 93-02, § 13, 1-12-1993; Ord. No. 98-07, § 13, 12-15-1998)

**Sec. 14-53. Certificate of occupancy.**

No certificate of occupancy for any building or structure constructed after the adoption of this code shall be issued unless such building or structure was constructed in compliance with the provisions of this code. It shall be unlawful to occupy any such building or structure unless a full, partial, or temporary certificate of occupancy has been issued by the building commissioner.
(Ord. No. 93-02, § 14, 1-12-1993; Ord. No. 98-07, § 14, 12-15-1998)

**Sec. 14-54. Workmanship.**

All work on the construction, alteration and repair of buildings and other structures shall be performed in a good workmanlike manner according to accepted standards and practices in the trade.
(Ord. No. 93-02, § 15, 1-12-1993; Ord. No. 98-07, § 15, 12-15-1998)

**Sec. 14-55. Violations.**

It shall be unlawful for any person, whether as owner, lessee, sublessee, or occupant, to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure in the town or cause or permit the same to be done, contrary to or in violation of the provisions of this Code.
(Ord. No. 93-02, § 16, 1-12-1993; Ord. No. 98-07, § 16, 12-15-1998; Ord. No. 2021-21, § 1, 12-14-2021)

**Sec. 14-56. Right of appeal.**

All persons shall have the right to appeal any order of the building commissioner first through the board of zoning appeals and then to the state fire prevention and building safety commission in accordance with the provisions of IC 22-13-2-7 and 4-21.5-3-7.
(Ord. No. 93-02, § 17, 1-12-1993; Ord. No. 98-07, § 17, 12-15-1998)

**State law references—**Review of variances and orders of state agencies or political subdivisions, IC 22-13-2-7; review of administrative orders, IC 4-21.5-3-7.

**Sec. 14-57. Remedies.**

The building commissioner shall, in the name of the town, bring actions in the courts of general jurisdiction in the state, for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders made by the building commissioner, and any such action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this code.
(Ord. No. 93-02, § 18, 1-12-1993; Ord. No. 98-07, § 18, 12-15-1998)

**Sec. 14-58. Penalties.**

If any person shall violate any of the provisions of this division, or shall do any act prohibited herein, or shall fail to perform any duty lawfully enjoined, within the time prescribed by the building commissioner, or shall fail, neglect or refuse to obey any lawful order given by the building commissioner in connection with the provisions of this code for each such violation, failure or refusal, such person shall be fined as provided in section 1-8 each day as such unlawful activity continues.
(Ord. No. 93-02, § 19, 1-12-1993; Ord. No. 98-07, § 19, 12-15-1998)

**Secs. 14-59—14-76. Reserved.**

DIVISION 3. CONSTRUCTION, ALTERATION, AND REMODELING REGULATIONS

**Sec. 14-77. Purpose of permit fees.**

The town council believes that administrative and inspection costs of construction or alterations of buildings should be paid through reasonable fees, rather than using property tax revenues.
(Code 1991, § 7-2; Ord. No. 627, preface, 10-24-1978)

**Sec. 14-78. Permit required for construction, alteration, or remodeling.**

The fees and permits as described in sections 14-79 through 14-82 are required. It shall be unlawful for any person to construct, alter, or remodel any structure in the town, the improvement value of which exceeds $500.00, and fences or accessory structures regardless of the improvement value, without first securing the applicable permits from the town.
(Code 1991, § 7-3; Ord. No. 627, § 1, 10-24-1978; Ord. No. 2026-01, § 2, 1-27-2026)

**Sec. 14-79. Occupancy permit fee.**

The occupancy permit fee shall be in addition to the building permit fee for all residential structures and structures for public accommodation. The occupancy permit fee shall be $40.00, which includes the inspection fee. Temporary occupancy permits shall be issued for a $20.00 fee.
(Code 1991, § 7-4; Ord. No. 627, § 2, 10-24-1978; Ord. No. 2021-21, § 2, 12-14-2021; Ord. No. 2026-01, § 2, 1-27-2026)

**Sec. 14-80. Building permit fees.**

(a) The building permit fee for all construction within the Town of Porter shall be computed based on the following table, unless noted otherwise:

| *Cost of Construction* | *Fee* |
|---|---|
| $500.00—$3,000.00 | $40.00 |
| $3,001.00—$25,000.00 | $80.00 for the first $3,000.00 plus $0.0175 for each additional amount up to and including $25,000.00 |
| $25,001.00—$50,000.00 | $465.00 for the first $25,000.00 plus $0.0125 for each additional amount up to and including $50,000.00 |
| $50,000.00—$100,000.00 | $777.50 for the first $50,000.00 plus $0.0084 for each additional amount up to and including $100,000.00 |
| $100,001.00—$500,000.00 | $1,197.50 for the first $100,000.00 plus $0.0065 for each additional amount up to and including $500,000.00 |
| $500,001.00—$1,000,000.00 | $3,797.50 for the first $500,000.00 plus $0.0055 for each additional amount up to and including $1,000,000.00 |
| $1,000,001.00 and up | $6,547.50 for the first $1,000,000.00 plus $0.0036 for each additional amount |
| *Other inspections* | *Fees* |
| 1. Inspection outside of normal business hours | $60.00 per hour, minimum 2 hours |
| 2. Reinspection fees per section 14-84 | $60.00 per hour, minimum 1 hour |
| 3. Inspections for which no fee is set | $60.00 per hour, minimum one-half hour |
| 4. Additional plan review for revisions | $60.00 per hour, minimum one-half hour |
| 5. For use of outside consultants | Actual costs |

(b) Upon issuance of a building permit, separate plumbing, electrical, and mechanical permits shall also be issued at no additional fee for the plumbing, electrical and mechanical work contained in the construction designated in the building permit.

(c) In the event that any activity requiring a permit begins prior to the issuance of a permit, the activity shall be subject to a stop work order, and the fee for the permit shall be increased by 100 percent, which must be paid before any permit shall be issued. This additional permit fee is in addition to, and not in lieu of, any fine or other penalty that may be imposed for violation of this Code.

(Code 1991, § 7-5; Ord. No. 627, § 3, 10-24-1978; Ord. No. 770, § 1, 12-26-1989; Ord. No. 94-17, § 1, 7-26-1994; Ord. No. 2021-21, § 3, 12-14-2021; Ord. No. 2026-01, § 2, 1-27-2026)

**Sec. 14-81. Plumbing permit fees.**

Plumbing permits shall be issued utilizing the building permit fee structure in section 14-80.

(Code 1991, § 7-7; Ord. No. 627, § 4, 10-24-1978; Ord. No. 2026-01, § 2, 1-27-2026)

**Sec. 14-82. Electrical permit fees.**

Electrical permit fees, including one inspection, shall be:

(1) For 100-amp service: $60.00.

(2) For 200-amp service: $85.00.

(3) For 300-amp service: $110.00.

(4) For 400-amp service: $135.00.

(5) If over 400-amp service: $0.50 per amp.

(6) Temporary service: add $30.00 to the fees in subsections (1) through (5) of this section.

(7) Rewiring permit:

a. To 100-amp service: $60.00.

b. To over 100-amp service: $60.00 plus $0.25 per amp over 100.

(Code 1991, § 7-8; Ord. No. 627, § 5, 10-24-1978; Ord. No. 2026-01, § 2, 1-27-2026)

**Sec. 14-83. Public improvement permit.**

(a) Whenever a public improvement is to be built by other than a public utility or a governmental agency, the fees as provided in this section shall apply. Public improvements shall include, but not be limited to sanitary sewers, storm sewers, sidewalks, streets, curbs and gutters, retention and detention ponds, sewer lift stations, and bridges. Subdivisions are covered by the procedures in appendix B to this Code.

(b) The building commissioner or his duly authorized representative may require completion and/or performance bonds as a condition of this permit. No completion and/or performance bond shall be released nor reduced until the local government engineer has certified that all required improvements have been satisfactorily completed; and until the applicant's engineer or surveyor has certified to the local government engineer, through submission of detailed as-built drawings of the public improvement which indicate location, dimensions, materials, and other information required by the local government engineer.

(c) The following fee schedule shall apply:

(1) Engineering review of proposed public improvement: three-fourths percent of the amount of the performance bond or the estimated cost of the required improvements, whichever is greater.

(2) Engineering inspection of public improvements: three-fourths percent of the amount of the performance bond or the estimated cost of the required improvements, whichever is greater.

(Code 1991, § 7-10; Ord. No. 627, § 7, 10-24-1978)

**Sec. 14-84. Additional inspection fee.**

(a) An additional inspection fee in the amount of $60.00 per hour shall be due and payable, in advance, for each inspection required in excess of the normal when additional inspections are necessary as a result of incomplete work, deficient work, or inability to gain access to the premises.

(b) The required typical building inspections are:

(1) Footing prepour inspection.

(2) Foundation prepour inspection (if poured concrete foundation).

(3) Pre-backfill inspection. After footings and foundation are installed.

(4) Underground plumbing inspection.

(5) Electrical service inspection.

(6) Rough inspection. This takes place when all framing is completed, electrical and plumbing boxes and piping completed. All interior joists and studs shall be visible. Inspection will not be done if all interior framework is not visible. All obstructions to view shall be removed.

(7) Final/occupancy inspection.

(c) Electrical, mechanical, and plumbing shall have two inspections. The required typical inspections are:

(1) Rough inspection.

(2) Final inspection.

(d) The permit holder or contractor shall contact the town for the following for inspections:

| *Type of inspection* | *Contact* |
|---|---|
| Building inspection | Building commissioner |
| Plumbing inspection | Building commissioner or plumbing inspector |
| Electrical inspection | Building commissioner or plumbing inspector |
| Mechanical inspection | Building commissioner or plumbing inspector |
| Public improvements | Building commissioner |
| Sanitary sewer connection | Public works department |

(Code 1991, § 7-11; Ord. No. 627, § 8, 10-24-1978; Ord. No. 96-12, § 3, 11-12-1996; Ord. No. 2026-01, § 2, 1-27-2026)

**Sec. 14-85. Fees mandatory.**

The fees provided for in this division shall be due and payable upon demand of the local government and no permits or certificates of occupancy shall be issued until all fees are paid.
(Code 1991, § 7-12; Ord. No. 627, § 9, 10-24-1978)

**Sec. 14-86. Reserved.**

**Editor's note—**Ord. No. 2024-11, § 2, adopted September 24, 2024, repealed § 14-86, which pertained to control of soil erosion during construction and derived Ord. No. 96-07, § 1, 6-25-1996.

**Secs. 14-87—14-115. Reserved.**

## DIVISION 4. APPLICATION AND PERMIT FEES

**Sec. 14-116. Mandatory requirements.**

The permits in this division are required. The fees listed shall be due and payable upon demand of the local government and no permits shall be issued until all fees are paid. Application shall be made upon forms provided by the town clerk-treasurer.
(Code 1991, § 7-16; Ord. No. 628, § 1, 10-24-1978)

**Sec. 14-117. Application fee.**

The following fees shall be considered application fees and there shall be no additional permit fees if the application is approved. There will be no refund of application fees as the fee is to cover in part the administrative costs of the application.

| *Application* | *Fee* |
|---|---|
| Rezoning request | $250.00 |
| Special use request | $250.00 |
| Annexation request | $25.00 plus $2.00/acre over 5 acres |
| Variance request | |
| Single-family | $100.00 |
| Other | $100.00 |
| Planned unit development request | $250.00 |
| Street, alley, and/or easement vacation and/or abandonment request per each separate and distinct alley, street and/or easement | $200.00 |
| Community impact statement review | $200.00 |
| Zoning ordinance amendment request (not involving rezoning) | $100.00 |
| Subdivision | $250.00 plus $75.00 per lot |
| Vacation of plat | $200.00 |

| *Application* | *Fee* |
|---|---|
| Rezoning | $250.00 |
| Comprehensive plan change | $250.00 |
| Site plan review | $100.00 |
| Special meeting | $500.00 per petition |
| Public hearing sign with stand | $30.00 |
| Stand refund if returned in good condition | $20.00 |
| Certification of adjacent property owners | $20.00 |

(Code 1991, § 7-17; Ord. No. 628, § 2, 10-24-1978; Ord. No. 642, § 1, 7-10-1979; Ord. No. 792, §§ 1—3, 5-1-1991; Ord. No. 99-04, § 1, 4-27-1999; Ord. No. 2001-10, § 1, 7-10-2001; Ord. No. 2012-08, § 1, 7-24-2012; Ord. No. 2024-14, § 1, 10-22-2024)

**Sec. 14-118. Permit fees.**

The following fees are established for the respective permits:

| *Permit* | *Fee* |
|---|---|
| Occupancy permit | See section 14-79 |
| Building permit | See section 14-80 |
| Plumbing permit | See section 14-81 |
| Electrical permit | See section 14-82 |
| Public improvement permit | See section 14-83 |
| Fence permit | $50.00 minimum |
| Shed permit | $50.00 minimum |
| Curb cut permit | $60.00 |
| Driveway entrance culvert permit | $60.00 |
| Structure demolition permit | $150.00 |
| Structure moving permit, 600 square foot structure or greater | $200.00 |
| Soil, sand and earth removal permit | $60.00 |
| Excavation permit | $60.00 plus $20.00 per additional excavation |
| Stormwater permit and inspection | |
| 1. Residential Developments: | |
| 1 to 4 lots: | $300.00 |
| 5 to 25 lots: | $500.00 |
| 26 to 75 lots: | $1,000.00 |
| 76—150 lots: | $1,500.00 |
| 151 or more lots: | $2,500.00 |
| 2. Commercial/Industrial Developments: | |
| Up to 5.0 acres: | $1,200.00 |
| 5.1 to 10.0 acres: | $1,800.00 |

| *Permit* | *Fee* |
|---|---|
| 10.1 to 25.0 acres: | $2,000.00 |
| 25.1 or more acres: | $2,500.00 |
| 3. Individual lot plot plan permit: | $50.00 |

(Code 1991, § 7-18; Ord. No. 628, § 3, 10-24-1978; Ord. No. 2024-14, § 2, 10-22-2024; Ord. No. 2026-01, § 3, 1-27-2026)

**Sec. 14-119. Permits issued.**

(a) The following aforementioned permits are issued by the building commissioner or his or her authorized representative:

(1) Occupancy permit.

(2) Building permit.

(3) Plumbing permit.

(4) Electrical permit.

(5) Public improvement permit.

(6) Fence permit.

(7) Shed permit.

(8) Curb cut permit.

(9) Driveway entrance culvert permit.

(10) Demolition permit.

(11) Structure moving permit.

(12) Soil, sand or earth removal permit.

(13) Excavation permit.

(14) Stormwater permit.

(15) Individual lot plot plan permit.

(b) All other aforementioned permits require conformance with other ordinances of the town, and any issuance is determined by either the town council, the plan commission, or the board of zoning appeals.
(Code 1991, § 7-19; Ord. No. 628, § 4, 10-24-1978; Ord. No. 2024-14, § 3, 10-22-2024; Ord. No. 2026-01, § 3, 1-27-2026)

**Secs. 14-120—14-136. Reserved.**

DIVISION 5. BUILDING PERMIT AND SECURING BOND REGULATIONS

**Sec. 14-137. Application for building permit (form).**

Town of Porter

*On Beautiful Lake Michigan*

**APPLICATION FOR BUILDING PERMIT**

PROPERTY OWNER _____ DATE:_____

DESCRIPTION OF WORK TO BE DONE:_____

_____PHONE_____

PROPERTY ADDRESS AND LEGAL DESCRIPTION:_____

_____

SETBACKS: FRONT _____ SIDE YARDS_____

REAR _____ LOT SIZE _____

ESTIMATED COST OF WORK TO BE DONE _____

CONTRACTOR'S NAME _____

CONTRACTOR'S ADDRESS _____

CONTRACTOR'S PHONE # _____ CELL # _____

COMPANY OWNERS NAME _____

COMPANY OWNER'S ADDRESS _____

COMPANY OWNER'S PHONE # _____ CELL # _____

SEWER FACILITIES: NONE_____ CITY_____ SEPTIC____

WATERFACILITIES: NONE_____ CITY_____ WELL_____

ESTIMATED TIME OF COMPLETION: _____

THIS APPLICATION MUST BE ACCOMPANIED BY A SITE PLAN OF THE PREMISES SHOWING SIZE AND LOCATION OF ALL EXISTING AND PROPOSED STRUCTURES. THE APPLICANT FURTHER AFFIRMS THAT THE SAID BUILDING, WHEN CONSTRUCTION IS COMPLETE, WILL BE HEREIN DESCRIBED. CONTRACTORS AND OWNERS WILL AGREE TO COMPLY WITH THE STATE CODE AND THE ORDINANCES OF THE TOWN OF PORTER.

SIGNED: _____
OWNER OR AGENT

FEE: _____

APPROVED: _____

303 Franklin St. Porter, IN 46304 Phone: 219-926-2771 Fax: 219-395-8811

(Code 1991, § 7-25)

**Section 14-138. Commencement and completion duties of construction under a building permit/fees.**

(a) Construction covered by a building permit must commence no later than six months from the date said building permit was issued and must be completed no later than eighteen months from the date said building permit was issued.

(b) If construction is not commenced or completed as required by this section, said building permit shall expire and become null and void.

(c) Before any work can be commenced or continued after the expiration of a permit, a new building permit shall be first be obtained and a new fee shall be paid in accordance with this chapter.

(Code 1991, § 7-26; Ord. No. 666, §§ 1, 3, 12-9-1980; Ord. No. 2023-08, § 1, 7-25-2023)

**Sec. 14-139. Building commissioner to review building permit and subdivision applications; flood damage.**

(a) The building commissioner or his authorized representative, when reviewing applications for building permits, including the plans and specifications for the proposed construction, will review all building permit applications to determine if the proposed construction is consistent with the need to minimize flood damage.

(b) The building commissioner or his authorized representative shall review all building permit applications to determine if the site of the proposed construction is reasonably safe from flooding and to make recommendations for construction in all locations which have flood hazards.

(c) The building commissioner or his authorized representative, in reviewing all applications for construction in flood hazard locations within the town, shall require that any such proposed construction must:

(1) Be designed and anchored to prevent the flotation, collapse or lateral movement of the structure or portion of the structure due to flooding.

(2) Use construction materials and utility equipment that are resistant to flood damage.

(3) Use construction methods and practices that will minimize flood damage.

(4) Provide adequate drainage in order to reduce exposure to flood hazards.

(5) Locate public utilities and facilities, including sewer, gas, electrical and water systems, on the site in such a manner as to be elevated and constructed to minimize or eliminate flood damage.

(d) The building commissioner or his authorized representative, in reviewing all subdivision applications, shall make findings of fact and determine if:

(1) All such proposed developments are consistent with the need to minimize flood damage.

(2) Adequate drainage is provided so as to reduce exposure to flood hazards.

(3) Adequate drainage is provided so as not to increase the exposure to flood hazards.

(4) All public utilities and facilities, including sewer, gas, electrical and water systems, are located, elevated and constructed so as to minimize or eliminate flood damage.

(Code 1968, § 5-1; Code 1991, § 7-27; Res. No. 541, 6-12-1973)

**Sec. 14-140. Performance bonds and town contracts.**

When the town council shall order and let, or enter into any contract with any person for any work to be done or duty to be performed in relation to any work, labor or other contract for which a bond shall be required, either by law or by ordinance, to be given and approved for the faithful performance of such work and labor, or for any other contract for which a bond shall be required to be approved by the town council, the bond so required shall be a bond written by a reliable bonding or surety company, acceptable to and approved by the town council.

(Code 1968, § 9-12; Code 1991, § 7-28; Ord. No. 272, 4-2-1935)

**Sec. 14-141. Conflict of interest; appointment of temporary building official.**

(a) The building commissioner may not issue a permit or oversee the issuance of a permit through a subordinate, in which he or she has a direct or indirect financial interest, including but not limited to a situation where the building commissioner would review or approve his or her own work performed for any person other than the town.

(b) As used in this section, the phrase "his or her own work" includes, but is not limited to, services performed by his or her partners, employees, employer, company, firm, partnership, and associates.

(c) In the case of a prohibited direct or indirect financial interest the building commissioner must report the conflict to the town council, and must recuse himself or herself from reviewing, denying, or approving the matter.

(d) In the case of a prohibited direct or indirect financial interest, the building commissioner must not oversee or supervise a subordinate or other building official in the subordinate's or other officials' review, denial, or approval of the matter.

(e) This section also applies to other building officials, including, but not limited to, building code officials and building inspectors.

(f) In the event of a recusal under this section, another qualified town employee may serve as the temporary building commissioner (or other building official, as applicable), at the discretion of the town council president.

(g) If no other town employee is currently qualified to serve as the temporary building commissioner (or other building official), the town council president may appoint a temporary building commissioner (or other building official).

(Ord. No. 2019-10, § 1, 8-27-2019)

**Secs. 14-142—14-165. Reserved.**

## ARTICLE III. LICENSING OF CONTRACTORS

### DIVISION 1. GENERALLY

**Sec. 14-166. Stop work orders.**

(a) If any contractor, having entered upon the performance of any contract, shall have performed, or allowed to be performed any work contrary to any provision of this code or any ordinance, plan or specification adopted for that purpose, the town may, by its chief of police or his designee, or the building commissioner or his duly authorized representative for the town , cause such work to be stopped, and not permit such work to proceed until the portion which has been constructed in violation of such ordinance, plans and specifications shall be made to comply therewith.

(b) In case of a disagreement or dispute in relation to complying with the provisions of such ordinance, plans or specifications, the decision of the building commissioner or his duly authorized representative for the town shall be final for the building and construction of such work, under such contract.
(Code 1968, § 6-1; Code 1991, § 7-51; Ord. No. 318, § 6)

**Secs. 14-167—14-185. Reserved.**

### DIVISION 2. LICENSING

**Sec. 14-186. License required of contractor.**

(a) It shall be unlawful for any person to engage in the business or act in the capacity of a contractor within the town without having a license as provided herein. The term "person" shall include a corporation, firm, partnership, association, organization or any other group acting as a unit, as well as natural persons. Any person licensed by the state shall have the license validated by the town.

(b) No building permit may be issued on any project unless and until all contractors and subcontractors are licensed as required by this article. No building permit may be issued on any project involving a contractor or subcontractor who has failed to renew its license as provided in section 14-192 of this article.
(Code 1991, § 7-57; Ord. No. 635, § 2, 4-10-1979; Ord. No. 2024-07, § 1, 12-10-2024)

**Sec. 14-187. 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:

*Contractor* means any person who, in any capacity other than as the employee of another with wages as the sole compensation and within the scope of this section, undertakes, offers

to undertake or accepts an order or contract, whether on a fixed sum, cost-plus, percentage or fixed fee, or any combination thereof, or submits a bid to construct, alter, repair, add to, subtract from or improve any part thereof, including the erection of scaffolding or other structures or work in connection therewith.

*Electrical contractor* means one who contracts to perform electrical, electronic, or wiring work.

*General contractor* means one who contracts to do various phases of construction, but may subcontract parts of that contract.

*Homeowner* means the owner of a place where one permanently resides.

*Plumbing contractor* means one who contracts to install and repair plumbing pipes, fixtures and appliances.

*Specialty contractor* means one who is qualified and contracts to do work only on a structure or part of a structure within the bounds of his specialty. The term "specialty contractor" includes the following, but is not exclusive of any not mentioned:

(1) Carpentry.

(2) Concrete.

(3) Demolition.

(4) Escalators and elevators.

(5) Excavating.

(6) Fencing.

(7) Floor coverage.

(8) Garage.

(9) Heating and air conditioning.

(10) House movers.

(11) Insulators.

(12) Irrigation and lawn sprinkling.

(13) Machinery.

(14) Masonry.

(15) Painters.

(16) Pavers.

(17) Plastering and drywall.

(18) Roofing and siding.

(19) Sewer cleaning.

(20) Sewers.

(21) Sheet metal.

(22) Sign erectors.

(23) Steel.

(24) Tree trimming.

(25) Tuck pointing.

(26) Well drilling.

*Subcontractor* means a specialty contractor who is qualified to only work within his specialty and is working for a general contractor.
(Code 1991, §§ 7-58—7-64; Ord. No. 635, §§ 3—9, 4-10-1979)

**Sec. 14-188. Homeowner exception.**

(a) The licensing, insurance, and bond provisions of this division shall not apply to a single-family homeowner or the homeowner's fully authorized lessee while building structures or making repairs therein.

(b) The building commissioner or his duly authorized representative is authorized to make the determination as to whether any person or construction falls within the exception in subsection (a) of this section. Any homeowner who acts as general contractor shall meet the requirements for a general contractor and pay any fees required of a general contractor, as well as meeting insurance and bond or security requirements.
(Code 1991, § 7-65; Ord. No. 635, § 10, 4-10-1979)

**Sec. 14-189. Age requirement for license.**

Any person 18 years of age or older may apply for a license.
(Code 1991, § 7-66)

**Sec. 14-190. Bond and insurance requirements.**

(a) Each contractor doing business within the town shall be required to post a license and permit bond, letter of credit, escrow fund or other acceptable security with the town indemnifying the town and complying with the provisions of this section, prior to issuance of a license to such contractor.

(b) Said license and permit bond, or security, shall be $5,000.00 and shall be filed and renewed annually. Such bond shall be maintained so long as the licensee continues to do business in the town. The bond shall be either:

(1) A Porter County Unified Bond (i.e., a bond made out to "Porter County and all cities, towns, and municipalities in Porter County") recorded with the Porter County, Indiana Recorder's Office, as required pursuant to IC 22-11-3.1-2; or

(2) An unrecorded bond made out to the Town of Porter and furnished to the town with the application.

Contractors using a Porter County Unified Bond shall provide a "filed" stamped copy of the recorded bond with the application.

(c) All contractors shall furnish the following information to the town with each initial and renewal application.

(1) The contractor shall submit documentation satisfying one of the following requirements:

a. A certificate or certificates of insurance showing compliance with Indiana Worker's Compensation and Occupational Disease Laws; or

b. Documentation verifying the contractor's participation in the Amish Small Business Aid mutual aid plan as approved by the certificate of agreement issued by the Indiana Worker's Compensation Board effective January 1, 2008, together with a verified statement certifying that the contractor is an Amish-owned business and that all of the contractor's employees are Amish workers covered by the Amish Small Business Aid mutual aid plan. If the contractor employs both Amish workers and non-Amish workers, then the contractor's verified certification shall so state and the contractor shall be required to provide a certificate of insurance showing compliance with the Indiana Worker's Compensation and Occupational Disease laws with regard to such non-Amish workers; or

c. If the contractor is exempt from compliance with the Indiana Worker's Compensation and Occupational Disease laws pursuant to IC 22-3-6-1 (b)(7) and 22-3-7- 9(b)(5), the contractor shall (i) submit to a signed contractor's affidavit in the form as prescribed by the council and (ii) provide a copy of the contractor's exemption certificate issued by the state department of revenue pursuant to IC 6-3-7-5.

(2) The contractor shall submit documentation satisfying one of the following requirements:

a. A certificate or certificates of liability insurance showing (i) coverage for bodily injury of not less than $1,000,000.00 per person and/or per occurrence and (ii) coverage for property damage of not less than $300,000.00 per occurrence. The certificate(s) of insurance furnished under this subsection must show the town as the certificate holder; or

b. If the contractor is an Amish-owned business, a certificate of liability coverage documenting the contractor's coverage under the Old Order Amish Liability Aid mutual aid plan.

(d) The certificates required in subsection (c) of this section shall be maintained so long as the licensee continues to do business in the town.
(Code 1991, § 7-67; Ord. No. 635, § 12, 4-10-1979; Ord. No. 2024-07, § 2, 12-10-2024)

**Sec. 14-191. Application fee.**

To obtain a license or have a state license validated, the applicant shall submit a verified application for such license in writing to the council on such printed forms as the council shall prescribe and prepare. Such forms may be obtained at the office of the clerk-treasurer. Each new applicant shall submit such application form and all information required in this article, together with an application fee in the amount of $100.00, to be paid to the town clerk-treasurer. Incomplete applications submitted without all supporting documentation required by this article shall be discarded after ten business days from the date of initial receipt, and the application fee paid shall be forfeited.
(Code 1991, § 7-68; Ord. No. 635, § 13, 4-10-1979; Ord. No. 2024-07, § 3, 12-10-2024)

**Sec. 14-192. License renewal; renewal fee.**

Except as otherwise set forth herein, all licenses issued under the provisions of this article and any previous ordinance shall be subject to renewal on December 31 of the year in which they are issued. Upon the expiration of any license, the licensee will be required to apply for a renewal license no later than February 15 of the succeeding year but in any event prior to filing an application for a building permit, if such permit application is filed prior to February 15 of such succeeding year. Each renewal applicant shall submit as a renewal fee the sum of $50.00 to be paid to the town clerk-treasurer. The license renewal shall be issued by the clerk-treasurer upon payment of the license renewal fee, submission of proof of insurance, and proof of the bond or security required herein. License applications submitted after December 1 shall not be subject to renewal until December 31 the following year. Failure to submit a license renewal fee and all required supporting documentation before February 15 of the succeeding year (or the date of applying for a building permit, if sooner) shall constitute a substantial noncompliance with this article and shall subject the license to suspension or revocation as hereinafter provided.
(Code 1991, § 7-69; Ord. No. 635, § 14, 4-10-1979; Ord. No. 2024-07, § 4, 12-10-2024)

**Sec. 14-193. Expiration of license.**

A license issued under this division is valid until the contractor to whom the license was issued fails to perform any work under that license in the Town of Porter for a period of five years, in which case the license expires. Notwithstanding the foregoing, a license shall expire upon failure to pay the renewal fee as provided in section 14-192. A contractor whose license expires or is revoked shall be required to reapply for a license.
(Code 1991, § 7-70; Ord. No. 635, § 15, 4-10-1979; Ord. No. 2024-07, § 5, 12-10-2024)

**Sec. 14-194. Suspension or revocation of contractor's license.**

It shall be the power of the town council to temporarily suspend or permanently revoke the license of any contractor while a licensee hereunder, who shall be guilty of any one or more of the following acts or omissions:

(1) Deliberate misrepresentation of any material fact, fraud, or deceit in obtaining a license.

(2) Gross negligence, gross incompetence while engaged in the business of acting in the capacity of a contractor.

(3) Aiding, abetting or knowingly combining or conspiring with an unlicensed person with the intent to evade the provisions of this article.

(4) Abandonment without legal excuse of any construction project or operation engaged in or undertaken by the licensee as contractor.

(5) Diversion of funds or property received for a specific purpose, and the purpose and prosecution or completion of any construction project or operation, and their obligation or purpose with intent to defraud or deceive creditors or the owners.

(6) Willful and deliberate violation of the building laws of the state and/or the town.

(7) Willful departure from or disregard of plans or specifications in any material respect, without the consent of the person entitled to have the particular construction project or operation completed.

(8) The doing of any willful or fraudulent act by the licensee as a contractor in consequence of which another is substantially injured.

(9) Failure in any substantial respect to comply with the provisions of this article.

(10) Whenever a stop work order has been issued for a violation of this article or the building codes or laws, where a contract has been executed or commenced, and said contractor proceeds nevertheless to complete said contract without making the necessary adjustments and repairs.

(Code 1991, § 7-72; Ord. No. 635, § 17, 4-10-1979)

**Sec. 14-195. Revocation hearing.**

(a) The town council may, upon a complaint filed by the building commissioner or his authorized representative, or upon the filing of a verified complaint in writing by a contractee, prefer charges against any licensee under the terms of this article. The town council shall forthwith issue a notice directing the licensee within 20 days after service of notice to appear

and answer to the complaint, showing cause, if any, why his license should not be suspended or revoked and why his bonding company should not be directed to bring work into compliance with the contract, codes, or plans. The licensee may request a hearing on said charges and the town council shall, within 30 days, set a date for a hearing. The complaint shall contain a statement of facts pertaining to the specific charges of the violation of this article, other articles and/or state law pertaining to building construction, or of any act which may be the cause of suspension or revocation of a license or invocation of bond.

(b) The licensee may be present and may be represented by counsel at said hearing.

(c) When a hearing is requested by a licensee on said charges, the town council shall set the time and place where said hearing shall be held. To revoke or suspend a license or for the issuing of an order requiring correction of any violations, it shall require the affirmative vote of the majority of the membership of the town council.

(1) A service of notice upon the licensee shall be fully effective upon mailing a copy thereof, by certified mail, with return receipt requested, in a sealed envelope with postage fully paid thereon, addressed to the licensee to his last address of record as shown in the building commissioner's office or the office of his authorized representative. Failure of the licensee to answer may be deemed to be an admission by him that the commission of the act or acts charged in the complaint is valid and his license thereupon maybe suspended forthwith upon the complaint case; the town council shall have the authority, in its discretion, to continue said cause for further hearing should the circumstances of the case warrant this action.

(2) Whenever the town council shall determine that a license is a violation of the terms of the article, the town council then shall have the power to suspend said license for a definite period, to revoke said license, or to issue an order against said licensee to correct the violation, fixing a reasonable time within which such correction shall be made or accomplished and, upon compliance with said order, the town council may dismiss such complaint. In the event that the licensee shall not correct such violation within the time required by the previous order of the council, the council shall have the power to extend said time for correction of the violation or shall have the right to suspend said licensee's license for a determinative period or may revoke the license without any further right to hearing by the licensee, or notify the contractor's bonding company in writing of the failure to meet the terms of this article or other town ordinances, and direct the bonding company to complete or correct the deficiencies.

(3) After revocation of the licensee upon any grounds set forth in this article, such license shall not be renewed or reissued within a period of 12 months after the final determination or revocation and then only upon proper showing that all loss caused by the act, acts or admissions for which the license was revoked has been fully satisfied and that all conditions imposed by the decision of the revocation, correction order, or suspension have been fully complied with.

(4) Any licensee who is aggrieved by the decision of the town council may appeal to a court of record in the county in which the municipality is located, as allowed by IC 36-1-6-9, and other applicable laws of the state.

(Code 1991, § 7-73; Ord. No. 635, § 18, 4-10-1979)

**Sec. 14-196. Disability or death of license holder.**

Whenever the holder of a license becomes disabled or dies, the legal representative of said licensee may apply to have the balance of the unexpired term of said license issued to the legal representative without any further cost after submitting proofs of insurance as required in this article.

(Code 1991, § 7-74; Ord. No. 635, § 19, 4-10-1979)

**Sec. 14-197. Temporary license.**

(a) No person shall engage in the business of contracting in the town without first procuring from the clerk-treasurer of the town a certificate evidencing payment of the license fees prescribed in this article.

(b) Upon submission of proof of compliance with this article, excepting for town council approval and payment of the application fee and license fee, the clerk-treasurer is authorized to issue a contractor's license, which shall be considered as a temporary license. This license is valid until the next regularly scheduled meeting of the town council, at which time the town council shall approve or disapprove the licensing of the applicant or may, at its discretion, revoke or continue the temporary license. Such temporary license shall not be granted to any contractor whose application has been denied, revoked, suspended, or deferred by the town council within the two-year period preceding the date of application, unless approved by majority of the membership of the town council.

(Code 1991, § 7-76; Ord. No. 635, § 21, 4-10-1979)

**Sec. 14-198. Penalties.**

Any person presenting or attempting to use the license of another, who shall give false or forged evidence of any kind to the town council in obtaining or maintaining a license, who shall falsely impersonate another, who shall use an expired or revoked license or shall violate any one or more of the provisions of any section of this article shall be deemed to have violated the terms of this article.

(Code 1991, § 7-77; Ord. No. 635, § 22, 4-10-1979)

**Secs. 14-199—14-250. Reserved.**

## ARTICLE IV. GAS REGULATIONS

**Sec. 14-251. Compliance with provisions.**

(a) All plumbing for the use of gas within the town shall comply and be done in accordance with all laws, rules and regulations that shall be in force and required by the state for the installation of plumbing for the use of gas.

(b) All plumbing and pipe connections for the use of gas shall also be done in accordance with any rules or regulations adopted by the town council.
(Code 1991, § 7-110)

**Sec. 14-252. License required.**

No person shall install gas pipe and gas fittings for the use of gas within the town without having first obtained a plumbing license for that purpose from the town.
(Code 1968, § 14-12; Code 1991, § 7-111; Ord. No. 186, § 2)

**Sec. 14-253. Permit required.**

No person shall install any plumbing for the use of gas within the town without having first obtained a permit therefor.
(Code 1968, § 14-18; Code 1991, § 7-112; Ord. No. 186, § 1)

**Sec. 14-254. Inspection required.**

All plumbing and pipe connection installed within the town for the purpose of the use of gas shall, before any gas shall be permitted to be transmitted through or into the same, be thoroughly inspected by an authorized and official inspector to be designated from time to time by the town council.
(Code 1968, § 14-21; Code 1991, § 7-113; Ord. No. 186, § 4)

**Sec. 14-255. Inspection tests required.**

The inspector who shall be employed and designated to inspect gas pipes, connections and equipment, shall submit the same to all and every test required by the laws of the state, and to all and every test required by the sanitary board of the state, and of the town; and to all and every test that may be required by the board of underwriters in the state; and to all and every test that may be prescribed and required by the town council.
(Code 1968, § 14-25; Code 1991, § 7-114; Ord. No. 186, § 5)

**Secs. 14-256—14-294. Reserved.**

## ARTICLE V. UNSAFE BUILDING LAW*

### DIVISION 1. GENERALLY

**Sec. 14-295. Adoption of statute.**

The town hereby adopts by reference IC 36-7-9-1 et seq., as amended from time to time, as the unsafe building code of the town pursuant to IC 36-7-9-3.
(Ord. No. 793, § 1, 5-28-1991)

*__State law reference—__Indiana Unsafe Building Law, IC 36-7-9-1 et seq.

**Secs. 14-296—14-325. Reserved.**

## DIVISION 2. UNSAFE BUILDINGS AND PREMISES

### Sec. 14-326. 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:

*Department* means the building department of the town.

*Enforcement authority* means the building commissioner of the town or his duly authorized representative.

*Hearing authority* refers to the board of zoning appeals (hereinafter "board of zoning appeals") of the town.

*Substantial property interest* means any right in real property that may be affected in a substantial way by actions authorized by this division, 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. 2002-03, § 1, 9-24-2002)

### Sec. 14-327. Unsafe buildings and unsafe premises described.

(a) For purposes of this division, a building or structure, or any part of a building or structure, is considered unsafe if it 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;

(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.

(b) For purposes of this division, the following are considered to be unsafe premises:

(1) An unsafe building; and

(2) The tract of real property on which the unsafe building is located.
(Ord. No. 2002-03, § 2, 9-24-2002)

**Sec. 14-328. Orders; contents; notice; expiration.**

(a) The building commissioner may issue an order requiring action relative to any unsafe premises, including:

(1) Vacating an unsafe building;

(2) Sealing an unsafe building against intrusion by unauthorized persons, in accordance with a uniform standard established by ordinance;

(3) Extermination of vermin in and about the unsafe premises;

(4) Removal of trash, debris, or fire hazardous material in and about the unsafe premises;

(5) Repair or rehabilitation of an unsafe building to bring it into compliance with standards for building condition or maintenance required for human habitation, occupancy, or use by a statute, a rule adopted under IC 4-22-2, or the town building code;

(6) Removal of part of an unsafe building;

(7) Removal of an unsafe building; and/or

(8) Requiring, for an unsafe building that will be sealed for a period of more than 90 days:

a. Sealing against intrusion by unauthorized persons and the effects of weather;

b. Exterior improvements to make the building compatible in appearance with other buildings in the area; and

c. Continuing maintenance and upkeep of the building and premises in accordance with the standards established by the town building code. The order supersedes any permit relating to building or land use, whether that permit is obtained before or after the order is issued.

(b) The order shall contain:

(1) The name of the person to whom the order is issued;

(2) The legal description or address of the unsafe premises that are the subject of the order;

(3) The action that the order requires;

(4) The period of time in which the action is required to be accomplished, measured from the time when the notice of the order is given;

(5) If a hearing is required pursuant to this division, a statement indicating the exact time and place of the hearing, and stating that a person to whom the order was issued is entitled to appear at the hearing with or without legal counsel, present evidence, cross examine opposing witnesses, and present arguments;

(6) If a hearing is not required, a statement that an order under subsection (a)(2), (3), (4) or (5) of this section becomes final ten days after notice is given, unless a hearing is

requested in writing by a person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises, and the request is delivered to the building commissioner or clerk-treasurer before the end of the ten-day period;

(7) A statement briefly indicating what action can be taken by the building commissioner or clerk-treasurer if the order is not complied with;

(8) A statement indicating the obligation created by section 14-343, relating to notification of subsequent interest holders and the building commissioner; and

(9) The name, address and telephone number of the building commissioner and clerk-treasurer.

(c) The order must allow a sufficient time, of at least ten days from the time when notice of the order is given, to accomplish the required action. If the order allows more than 30 days to accomplish the action, the order may require that a substantial beginning be made in accomplishing the action within 30 days.

(d) Any such order expires two years from the day the notice of the order is given, unless one or more of the criteria set forth in IC 36-7-9-5(d)1—3 are satisfied.
(Ord. No. 2002-03, § 3, 9-24-2002)

**Sec. 14-329. Modification or rescission of orders.**

(a) The building commissioner may issue an order that modifies the order previously issued.

(b) The building commissioner may rescind an order previously issued, even if the order has been affirmed by the board of zoning appeals.
(Ord. No. 2002-03, § 4, 9-24-2002)

**Sec. 14-330. Hearing; extension of time limits; performance bonds; record of findings and action; penalties.**

(a) A hearing shall be held relative to each order of the building commissioner, except for an order issued under section 14-328(a)(2), (a)(3), (a)(4), or (a)(5). An order issued under section 14-328(a)(2), (a)(3), (a)(4) or (a)(5) becomes final ten days after notice is given, unless a hearing is requested before the ten-day period ends by a person holding a fee interest, life estate interest, mortgage interest, or equitable interest of a contract purchaser in the unsafe premises. The hearing shall be conducted by the board of zoning appeals.

(b) The hearing shall be held on a business day no earlier than ten days after notice of the order is given. The board of zoning appeals may, however, take action at the hearing or before the hearing if a written request is received by the building commissioner not later than five days after notice is given, to continue the hearing to a business day not later than 14 days after the hearing date shown on the order. Unless the board of zoning appeals takes action to have the continued hearing held on a definite, specified date, notice of the continued hearing shall be given to the person to whom the order was issued at least five days before the continued hearing date, in the manner prescribed by section 14-341. If the order being considered at the

continued hearing was served by publication, it is sufficient to give notice of the continued hearing by publication unless the building commissioner has received information in writing that enables him to make service under section 14-341 by a method other than publication.

(c) The person to whom the order was issued, any person having a substantial property interest in the unsafe premises that are the subject of the order, or any other person with an interest in the proceedings may appear in person or by counsel at the hearing. Each person appearing at the hearing is entitled to present evidence, cross examine opposing witnesses, and present arguments.

(d) At the conclusion of any hearing at which a continuance is not granted, the board of zoning appeals may make findings and take action to:

(1) Affirm the order;

(2) Rescind the order; or

(3) Modify the order, but unless the person to whom the order was issued, or counsel for that person, is present at the hearing, the board of zoning appeals may modify the order in only a manner that makes its terms less stringent.

(e) In addition to affirming the order, in those cases in which the board of zoning appeals finds that there has been a willful failure to comply with the order, the board of zoning appeals may impose a civil penalty in an amount not to exceed $5,000.00. The effective date of the civil penalty may be postponed for a reasonable period, after which the board of zoning appeals may order the civil penalty reduced or stricken if the board of zoning appeals is satisfied that all work necessary to fully comply with the order has been done. For purposes of an appeal under section 14-331 or enforcement of an order under section 14-340, action of the board of zoning appeals is considered final upon the affirmation of the order, even though the board of zoning appeals may retain jurisdiction for the ultimate determination of a fine. In the board of zoning appeals exercise of continuing jurisdiction, the board of zoning appeals may, in addition to reducing or striking the civil penalty, impose one or more additional civil penalties in an amount not to exceed $5,000.00 per civil penalty. An additional civil penalty may be imposed if the board of zoning appeals finds that:

(1) Significant work on the premises to comply with the affirmed order has not been accomplished; and

(2) The premises have a negative effect on property values or the quality of life of the surrounding area or the premises require the provision of services by local government in excess of the services required by ordinary properties.

(f) If, at a hearing, a person to whom an order has been issued requests an additional period to accomplish action required by the order, and shows good cause for this request to be granted, the board of zoning appeals may grant the request. However, as a condition for allowing the additional period, the board of zoning appeals may require that the person post a performance bond to be forfeited if the action required by the order is not completed within the additional period.

(g) The town council shall, at a public hearing, after having given notice of the time and place of the hearing by publication in accordance with IC 5-3-1, adopt a schedule setting forth the maximum amount of performance bonds applicable to various types of ordered action. The board of zoning appeals shall use this schedule to fix the amount of the performance bond required under subsection (e) of this section

(h) The record of the findings made and action taken by the board of zoning appeals at the hearing shall be available to the public upon request at the office of the clerk-treasurer. However, neither the building commissioner nor the board of zoning appeals is required to give any person notice of the findings and action.

(i) If a civil penalty under subsection (e) of this section is unpaid for more than 15 days after payment of the civil penalty is due, the civil penalty may be collected from any person against whom the hearing officer assessed the civil penalty or fine. A civil penalty under subsection (e) of this section may be collected in the same manner as costs under section 14-336 or 14-337. The amount of the civil penalty that is collected shall be deposited in the town's unsafe building fund.
(Ord. No. 2002-03, § 5, 9-24-2002)

**Sec. 14-331. Appeals.**

(a) An action taken under section 14-330(d) or (e) is subject to review by the Porter Circuit Court or Porter Superior Courts, on request of:

(1) Any person who has a substantial property interest in the unsafe premises; or

(2) Any person to whom that order was issued.

(b) A person requesting judicial review under this section must file a verified complaint, including the findings of fact and the action taken by the hearing authority. The complaint must be filed within ten days after the date when the action was taken.

(c) An appeal under this section is an action de novo. The court may affirm, modify, or reverse the action taken by the board of zoning appeals.
(Ord. No. 2002-03, § 6, 9-24-2002)

**Sec. 14-332. Emergency action; recovery of costs; challenge of determination of emergency.**

(a) If the building department finds it necessary to take emergency action concerning an unsafe premises in order to protect life, safety, or property, it may take that action without issuing an order or giving notice. However, this emergency action must be limited to removing any immediate danger.

(b) The building department of the town, acting through the building commissioner, may recover the costs incurred by the building commissioner in taking emergency action, by filing a civil action in the Porter Circuit Court or Porter Superior Courts against the persons who

held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises at the time the building commissioner found it necessary to take emergency action, pursuant to IC 36-7-9-9.

(c) If an unsafe premises poses an immediate danger to the life or safety of persons occupying or using nearby property, the building commissioner may, without following this division's requirements for issuing an order and giving notice, take emergency action to require persons to vacate and not use the nearby property until the danger has passed. However, any person required to vacate an unsafe premises under this subsection may challenge in an emergency court proceeding the building commissioner's determination that the premises poses an immediate danger to the life or safety of any person, pursuant to IC 36-7-9-9.
(Ord. No. 2002-03, § 7, 9-24-2002)

**Sec. 14-333. Action to enforce orders.**

(a) The building commissioner may cause any action required by an order issued under section 14-328(a)(2), (3), (4) or (5) to be performed by a contractor if:

(1) The order has been served, in the manner prescribed by section 14-341, on each person having a fee interest, life estate interest, or equitable interest of a contractor purchaser in the unsafe premises that are the subject of the order;

(2) The order has not been complied with;

(3) A hearing was not requested under section 14-328(b)(6), or, if a hearing was requested, the order was affirmed at the hearing; and

(4) The order is not being reviewed pursuant to IC 36-7-9-8.

(b) The building commissioner may cause the action required by an order, other than an order under section 14-328(a)(2), (3), (4), or (5), to be performed by a contractor if:

(1) Service of an order under section 14-328(a)(1), in the manner prescribed by section 14-341, has been made on each person having a known or recorded substantial property interest or present possessory interest in the unsafe premises that are the subject of the order;

(2) Service of an order under section 14-328(a)(6), (7) or (8), in the manner prescribed by section 14-341, has been made on each person having a known or recorded substantial property interest in the unsafe premises that are the subject of the order;

(3) The order has been affirmed or modified at the hearing in such a manner that all persons having a known or recorded substantial property interest, and persons holding a present possessory interest, as required, in the unsafe premises that are the subject of the order are currently subject to an order requiring the accomplishment of substantially identical action;

(4) The order, as affirmed or modified at the hearing, has not been complied with; and

(5) The order is not being reviewed pursuant to IC 36-7-9-8.

(c) If action is being taken under this article on the basis of an order that was served by publication, it is sufficient to serve the statement that the building commissioner intends to perform the work by publication, unless the building commissioner has received information in writing that enables him to make service under section 14-341 by a method other than publication.
(Ord. No. 2002-03, § 8, 9-24-2002)

**Sec. 14-334. Manner authorized for performance of work under order of enforcement authority; bids; notification to persons having substantial property interest; service by publication.**

(a) The work required by an order of the building commissioner may be performed in the following manner:

(1) If the work is being performed under an order other than an order under section 14-328(a)(2), (3), or (4), and if the cost of this work is estimated to be less than $10,000.00, the building or public works department may perform the work. Notice that this work is to be performed must be given to all persons with a known or recorded substantial property interest, in the manner prescribed in subsection (c) of this section, at least ten days before the date of performance of the work by the building commissioner. This notice must include a statement that an amount representing a reasonable estimate of the cost incurred by the building commissioner in processing the matter and performing the work may, if not paid, be recorded after a hearing as a lien against all persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises.

(2) If the work is being performed under an order other than an order under section 14-328(a)(2), (3), or (4), and if the estimated cost of this work is $10,000.00 or more, this work must be let at public bid to a contractor licensed and qualified under law. The obligation to pay costs imposed by section 14-335 is based on the condition of the unsafe premises at the time the public bid was accepted. Changes occurring in the condition of the unsafe premises after the pubic bid was accepted do not eliminate or diminish this obligation.

(3) If the work being performed under an order issued under section 14-328(a)(2), (3), or (4), the work may be performed by a contractor who has been awarded a base bid contract to perform the work for the building commissioner, or by the building or public works department of the town, acting through the building commissioner. Work performed under an order issued under section 14-328(a)(2), (3), (4) may be performed without further notice to the persons holding a fee interest, life estate interest, or equitable interest of a contract purchaser, and these persons are liable for the costs incurred by the building commissioner in processing the matter and performing the work, as provided by section 14-335.

(b) Bids may be solicited and accepted for work on more than one property if the bid reflects an allocation of the bid amount among the various unsafe premises in proportion to the work to be accomplished. The part of the bid amount attributable to each of the unsafe premises constitutes the basis for calculating the part of the costs described by section 14-335(a)(1).

(c) All persons who have a known or recorded substantial property interest in the unsafe premises and are subject to an order other than an order under section 14-328(a)(2), (3), or (4) must be notified about the public bid in the manner prescribed by section 14-341, by means of a written statement including:

(1) The name of the person to whom the order was issued;

(2) A legal description or address of the unsafe premises that are the subject of the order;

(3) A statement that a contract is to be let at public bid to a licensed contractor to accomplish work to comply with the order;

(4) A description of work to be accomplished;

(5) A statement that both the bid price of the licensed contractor who accomplishes the work and an amount representing a reasonable estimate of the cost incurred by the building commissioner in processing the matter of the unsafe premises may, if not paid, be recorded after a hearing as a lien against all persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises;

(6) The time of the bid opening;

(7) The place of the bid opening;

(8) The name, address, and telephone number of the building commissioner and clerk-treasurer.

(d) If the notice of the statement that public bids are to be let is served by publication, the publication must include the information required by subsection (c) of this section, except that it need only include a general description of the work to be accomplished. The publication must also state that a copy of the statement of public bid may be obtained from the building commissioner or the clerk-treasurer.

(e) Notice of the statement that public bids are to be let must be given at least ten days before the date of the public bid, to all person who have a known or recorded substantial property interest in the property and are subject to an order other than an order under section 14-328(a)(2), (3) or (4).

(f) If action is being taken under this section on the basis of an order that was served by publication, it is sufficient to serve the statement that public bids are to be let by publication, unless the building commissioner has received information in writing that enables him to make service under section 14-341 by a method other than publication.
(Ord. No. 2002-03, § 9, 9-24-2002)

**Sec. 14-335. Liability for costs for performance of work required by orders.**

When action required by an order is performed by the building commissioner or by a contractor acting under section 14-334, each person who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises from the time when the order requiring the work performed was recorded to the time that the work was completed is jointly and severally responsible for the following costs:

(1) The actual cost of the work performed by the building commissioner or the bid price of work accomplished by the contractor under section 14-334.

(2) An amount that represents a reasonable forecast of the average processing expense that will be incurred by the building commissioner in taking the technical, administrative, and legal actions concerning typical unsafe premises that are necessary under this article so that the action required by an order may be performed by a contractor under section 14-334. In calculating the amount of the average processing expense, the following costs may be considered:

a. The cost of obtaining reliable information about the identity and location of persons who own a substantial property interest in the unsafe premises.

b. The cost of notice of orders, notice of statements of rescission, notice of continued hearing, notice of statements that public bids are to be let or that the building commissioner intends to accomplish the work, and notice that a hearing may be held on the amounts indicated in the record, in accordance with section 14-341.

c. Salaries for employees.

d. The cost of supplies, equipment, and office space.

(3) The town council shall determine the amount of the average processing expense at the public hearing, after notice has been given in the same manner as is required for other official action of the town council. In determining the average processing expense, the town council may fix the amount at a full dollar amount that is an even multiple of ten.

(Ord. No. 2002-03, § 10, 9-24-2002)

**Sec. 14-336. Notice of unpaid costs; filing with clerk of court; hearing; judgment lien.**

(a) If all or any part of the costs listed in section 14-335 remain unpaid for any unsafe premises (other than unsafe premises owned by a governmental entity) for more than 15 days after the completion of the work, the building commissioner does not act under section 14-337, and the building commissioner determines that there is a reasonable probability of obtaining recovery, the building commissioner shall prepare a record stating:

(1) The name and last known address of each person who held a known or recorded fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises from the time the order requiring the work to be performed was recorded to the time that the work was completed;

(2) The legal description or address of the unsafe premises that were the subject of work;

(3) The nature of the work that was accomplished;

(4) The amount of the unpaid bid price of the work that was accomplished; and

(5) The amount of the unpaid average processing expense.

The record must be in a form approved by the state board of accounts.

(b) The building commissioner shall swear to the accuracy of the record before the clerk of the Porter Circuit/Superior Courts and deposit the record in the clerk's office. Notice that the record has been filed and that a hearing on the amounts indicated in the record may be held must be sent to the persons named in the record, in the manner prescribed by section 14-341.

(c) If, within 30 days after the notice required by subsection (b) of this section, a person named in the record may file with the clerk of the Porter Circuit/Superior Courts a written petition objecting to the claim for payment and requesting a hearing, pursuant to IC 36-7-9-13(c).

(d) If no petition is filed under subsection (c) of this section, the clerk of the Porter Circuit/Superior Courts will enter the cause on the docket of the court and the court will enter a judgment for the amounts stated in the record, pursuant to IC 36-7-9-13(d).

(e) A judgment under subsection (c) or (d) of this section, to the extent that it is not satisfied under IC 27-2-15, is a debt and a lien on all the real and personal property of the person named, or a joint and several debt and lien on the real and personal property of the persons named. The lien on real property is perfected against all creditors and purchasers when the judgment is entered on the judgment docket of the Porter Circuit/Superior Courts. The lien on personal property is perfected by filing a lis pendens notice in the appropriate filing office, as prescribed by the Indiana Rules of Trial Procedure.

(f) Judgments rendered under this article may be enforced in the same manner as all other judgments are enforced, pursuant to IC 36-7-9-13.
(Ord. No. 2002-03, § 11, 9-24-2002)

**Sec. 14-337. Unpaid costs for unsafe premises repairs; notice; certification as special assessment collection as delinquent taxes; disposition of collections.**

(a) This section does not apply to the collection of an amount if a court determines under section 14-336 that the building commissioner is not entitled to the amount.

(b) If all or any part of the costs listed in section 14-335 remain unpaid for any unsafe premises (other than unsafe premises owned by a governmental entity) for more than 15 days after completion of the work, the building commissioner may send notice under section 14-341 to each person who held a known or recorded fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises. If the notice is sent, the enforcement authority shall also send notice to any mortgagee with a known or recorded substantial property interest. The notice must require full payment of the amount owed within 30 days.

(c) If full payment of the amount owed is not made less than 30 days after the notice is delivered, the building commissioner may certify the following information to the county auditor:

(1) The name of each person who held a known or recorded fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises.

(2) The description of the unsafe premises, as shown by the records of the county auditor.

(3) The amount of delinquent payment, including all costs described in section 14-335.

(d) The county auditor will then place the total amount certified under subsection (c) of this section on the tax duplicate for the affected property as a special assessment, pursuant to IC 36-7-9-13.5(d). The total amount, including accrued interest, will be collected as delinquent taxes are collected.

(e) An amount collected under subsection (d) of this section, after all other taxes have been collected and disbursed, shall be disbursed to the town's unsafe building fund.

(f) A judgment entered under section 14-336 may be collected pursuant to IC 36-7-9-13.5. However, a judgment lien need not be obtained under section 14-336 before a debt is certified under this article.
(Ord. No. 2002-03, § 11.5, 9-24-2002)

**Sec. 14-338. Unsafe building fund; deposits and expenditures.**

(a) The building commissioner shall establish in the building department's operating budget, a fund designated as the town's unsafe building fund. Any balance remaining at the end of a fiscal year shall be carried over in the fund for the following year and does not revert to the general fund.

(b) Money for the unsafe building fund may be received from any source, including appropriations by local, state, or federal governments, and donations. The following money shall be deposited in the fund:

(1) Money received as payment for or settlement of obligations or judgments established under sections 14-332 through 14-336 and section 14-340.

(2) Money received from bonds posted under section 14-330.

(3) Money received in satisfaction of receivers' notes or certificates that are issued pursuant to IC 36-7-9-20 and were purchased with money from the unsafe building fund.

(4) Money received for payment or settlement of civil penalties imposed under section 14-330.

(5) Money received from the collection of special assessments under section 14-337.

(c) Money in the unsafe building fund may be used for the expenses incurred in carrying out the purposes of this article, including:

(1) The cost of obtaining reliable information about the identity and location of each person who owns a substantial property interest in unsafe premises;

(2) The cost of an examination of an unsafe building by a registered architect or registered engineer not employed by the building department;

(3) The cost of surveys necessary to determine the location and dimensions of real property on which an unsafe building is located;

(4) The cost of giving notice of orders, notice of statements of rescission, notice of continued hearing, and notice of statements that public bids are to be let in the manner prescribed by section 14-341;

(5) The bid price of work by a contractor under section 14-333 or section 14-340;

(6) The cost of emergency action under section 14-332; and

(7) The cost of notes or receivers' certificates issued pursuant to IC 36-7-9-20.

(d) Payment of money from the unsafe building fund must be made in accordance with applicable law.
(Ord. No. 2002-03, § 12, 9-24-2002)

**Sec. 14-339. Inspection warrants.**

If the owners or those in possession of a building refuse inspection, an inspection officer of the building commissioner may obtain an inspection warrant from the Porter Circuit Court or Porter Superior Courts in order to determine if the building is an unsafe building, pursuant to IC 36-7-9-16.
(Ord. No. 2002-03, § 13, 9-24-2002)

**Sec. 14-340. Civil actions regarding unsafe premises.**

The building department, acting through its building commissioner or a person designated by the building commissioner, may bring a civil action regarding unsafe premises in the Porter Circuit Court or Porter Superior Courts, pursuant to IC 36-7-9-17 et seq.
(Ord. No. 2002-03, § 14, 9-24-2002)

**Sec. 14-341. Manner of serving notice.**

(a) Notice of orders, notice of continued hearings without a specified date, notice of a statement that public bids are to be let, and notice of claims for payment must be given by:

(1) Sending a copy of the order or statement by registered or certified mail to the residence or place of business or employment of the person to be notified, with return receipt requested;

(2) Delivering a copy of the order or statement personally to the person to be notified; or

(3) Leaving a copy of the order or statement at the dwelling or usual place of abode of the person to be notified and sending by first class mail a copy of the order or statement to the last known address of the person to be notified.

(b) If, after a reasonable effort, service is not obtained by a means described in subsection (a) of this section, service may be made by publishing a notice of the order or statement in accordance with IC 5-3-1 in the county. However, publication may be made on consecutive days. If service of an order is made by publication, the publication must include the information required by section 14-328(b)(1), (2), (4)—(7) and (9), and must also include a statement indicating generally what action is required by the order and that the exact terms of the order may be obtained from the building commissioner.

(c) When service is made by any of the means described in this article, except by mailing or by publication, the person making service must make an affidavit stating that he has made the service, the manner is which service was made, to whom the order or statement was issued, the nature of the order or statement, and the date of service. The affidavit must be placed on file with the building commissioner.

(d) The date when notice of the order or statement is considered given is as follows:

(1) If the order or statement is delivered personally or left at the dwelling or usual place of abode, notice is considered given on the day when the order or statement is delivered to the person or left at his dwelling or usual place of abode.

(2) If the order or statement is mailed, notice is considered given on the date shown on the return receipt or, if no date is shown, on the date when the return receipt is received by the building commissioner.

(3) Notice by publication is considered given on the date of the second day that publication was made.

(e) A person with a property interest in an unsafe premises who does not:

(1) Record an instrument reflecting the interest in the recorder's office of the county where the unsafe premises is located; or

(2) If an instrument reflecting the interest is not recorded, provide to the department (or, in the case of a consolidated city, the enforcement authority) in writing the person's name and address and the location of the unsafe premises;

is considered to consent to reasonable action taken under this article for which notice would be required and relinquish a claim to notice under this article.
(Ord. No. 2002-03, § 15, 9-24-2002)

### Sec. 14-342. Recording of orders, statements of rescission, statements of public bids and records of actions taken by board of zoning appeals.

(a) The building commissioner shall record in the office of the county recorder orders issued under sections 14-328(a)(6), 14-328(a)(7) or 14-329(a), statements of rescission issued under section 14-329(b), statements that public bids are to be let under section 14-334, and records

of action in which an order is affirmed, modified, or rescinded taken by the board of zoning appeals under section 14-330. The county recorder shall charge the fee required under IC 36-2-7-10 for recording these items.

(b) A person who takes an interest in unsafe premises that are the subject of an order takes that interest, whether or not a hearing has been held, subject to the terms of the order and other documents recorded under subsection (a) of this section and in such a manner that all of the requirements of sections 14-333, 14-334 and 14-340 relating to the issuance of orders, service of orders and affirmation of orders are considered satisfied. If a hearing has been held, the interest is taken subject to the terms of the order as modified at the hearing, in other documents recorded under subsection (a) of this section, and in such a manner that all of the requirements of sections 14-333, 14-334 and 14-340 relating to the issuance of orders, service of orders, and modification of orders at hearing are considered satisfied.

(c) A person who takes an interest in unsafe premises that are the subject of a statement that public bids are to be let takes the interest subject to the terms of the statement and in such a manner that the notice of the statement required by section 14-334 is considered given to the person.
(Ord. No. 2002-03, § 16, 9-24-2002)

**Sec. 14-343. Transfers of property by persons not complying with orders.**

A person who has been issued and has received notice of an order relative to unsafe premises and has not complied with that order:

(1) Must supply full information regarding the order to a person who takes or agrees to take a substantial property interest in the unsafe premises before transferring or agreeing to transfer that interest; and

(2) Must, within five days after transferring or agreeing to transfer a substantial property interest in the unsafe premises, supply the building commissioner with written copies of:

   a. The full name, address, and telephone number of the person taking a substantial property interest in the unsafe premises; and

   b. The legal instrument under which the transfer or agreement to transfer the substantial property interest is accomplished.

(Ord. No. 2002-03, § 17, 9-24-2002)

**Sec. 14-344. Violations; penalties.**

A person who commits any of the following acts commits a Code violation, pursuant to IC 36-7-9-28, and shall be subject to the penalties prescribed in this article and section 1-8:

(1) Remains in, uses, or enters a building in violation of an order made under this article;

(2) Knowingly interferes with or delays the carrying out of an order made under this article;

(3) Knowingly obstructs, damages, or interferes with persons engaged or property used in performing any work or duty under this article; or

(4) Fails to comply with section 14-343.

(Ord. No. 2002-03, § 18, 9-24-2002)

**Secs. 14-345—14-361. Reserved.**

## ARTICLE VI. PROPERTY MAINTENANCE CODE

### Sec. 14-362. Code adopted by reference.

The 2003 International Property Maintenance Code, as published by the International Code Council, Inc., as it may be amended from time to time, and as specifically amended by the town council, is adopted and incorporated by reference as though set out in full in this Code.

(Code 1991, § 6-55(a))

### Sec. 14-363. Copies on file.

Two copies of the 2003 International Property Maintenance Code incorporated by reference into this article are on file in the office of the clerk-treasurer, and are open for public inspection during regular business hours.

(Code 1991, § 6-55(b), (c))

**Secs. 14-364—14-384. Reserved.**

## ARTICLE VII. SMOKE AND CARBON MONOXIDE DETECTORS*

### Sec. 14-385. 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:

*Carbon monoxide detector* means a device that detects the presence of the carbon monoxide (CO) gas in order to prevent carbon monoxide poisoning, approved by Underwriters' Laboratories, Inc.

*Corridor* means a hallway or other area on each floor providing access to individual dwelling areas within a multiple-dwelling unit or rental unit.

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***Editor's note—**Ord. No. 2016-01, § 1, adopted Feb. 23, 2016, changed the title of Art. VII from "Smoke detectors" to read as herein set out.

*Detector* means a smoke detector and a carbon monoxide detector.

*Mobile home rental* means any mobile home or trailer occupied by or offered for occupancy to an individual or individuals as a residence on a rental basis.

*Multiple-family dwelling unit* means any building that contains living quarters for two or more occupancies, and shall include hotels, motels, boardinghouses, sleeping room houses, buildings of mixed occupancy having any residential units, nursing homes, convalescent homes, licensed halfway houses, or lodginghouses.

*Sleeping area* means the area of a unit in which bedrooms or sleeping rooms are located. Bedrooms or sleeping rooms separated by another use area such as a kitchen or living room are separate sleeping areas, but bedrooms or sleeping rooms separated by a bathroom are not separate sleeping areas.

*Smoke detector* means a device which detects particles or products or combustion other than heat, approved by Underwriters' Laboratories, Inc., or Factory Mutual, equipped with a test button, and may be either battery powered, minimum nine volt, or 110 volt AC and which conforms to the Uniform Building Code Standard No. 43-6 as amended from time to time.
(Ord. No. 2006-19, § 1, 12-26-2006; Ord. No. 2016-01, § 2, 2-23-2016)

**Sec. 14-386. Installation.**

(a) Detectors shall be installed in the following properties:

(1) All new single- and multiple-family dwellings.

(2) All existing two-family or multiple-family dwellings.

(3) All rental dwellings either single or multiple.

(4) All new and existing trailer homes.

(5) All new and existing apartment homes.

(6) All new and existing hotels, motels and rooming houses, except that carbon monoxide detectors shall not be required to be installed in guest rooms.

(7) All new and existing dwellings above business property.

(b) When activated, all detectors shall provide an audible alarm of at least 85 decibels at ten feet, and such alarm shall be capable of persisting for at least four minutes.

(c) If a detector is alternating current powered, it must be directly attached to a junction box not controlled by any switch other than the main power supply. The installation of alternating current powered detectors shall conform to all electrical standards adopted by the town. A detector rewired under this article shall be installed according to the directions and specifications of the manufacturer, but if in conflict with any town electrical standard, the town electrical standard shall take precedence.
(Ord. No. 2006-19, § 2, 12-26-2006; Ord. No. 2016-01, § 3, 2-23-2016)

**Sec. 14-387. Maintenance.**

It shall be unlawful for any person to tamper with or remove any detector except when it is necessary for maintenance or inspection purposes. Any detector removed for repair or replacement must be reinstalled or replaced so that it is in place during normal sleeping hours. At every change of tenant in every multiple-family dwelling unit or mobile home rental, detectors shall be tested to see that they are in operable condition.
(Ord. No. 2006-19, § 3, 12-26-2006; Ord. No. 2016-01, § 4 , 2-23-2016)

**Sec. 14-388. Responsibility.**

Every owner, manager or agent of any rental dwelling or apartment home shall be responsible for the installation and maintenance of all detectors. This requirement applies to detectors required by any state or federal law as well as by this article, unless otherwise required by state or federal law.
(Ord. No. 2006-19, § 4, 12-26-2006; Ord. No. 2016-01, § 5, 2-23-2016)

**Sec. 14-389. Certificates of compliance.**

Between January 1 and January 31 each year, the owner of each rental dwelling and apartment home, in which a detector has been installed shall certify in writing on forms prescribed by the town to the fire department that the required maintenance has been performed on all detectors in the owner's units, and that the detectors are in good working condition in the owner's units, and that the detectors are in good working condition as of the date of certification. Each owner shall certify to each new occupant of any rental dwelling and apartment home covered by this article that all detectors required have been installed and are in proper working condition.

The owner of each rental dwelling and apartment home on the date of adoption of this article shall install a carbon monoxide detector by June 30, 2016, and shall certify in writing on forms prescribed by the town to the fire department by that same date that the carbon monoxide detector has been installed and is in proper working condition.
(Ord. No. 2006-19, § 5, 12-26-2006; Ord. No. 2016-01, § 6, 2-23-2016)

**Sec. 14-390. Enforcement.**

The building department and the fire department shall be charged with the duty of enforcing the terms of this article.
(Ord. No. 2006-19, § 6, 12-26-2006)

**Secs. 14-391—14-399. Reserved.**

## ARTICLE VIII. MANUFACTURED BUILDING MATERIALS

**Sec. 14-400. Definitions.**

The following definitions shall apply throughout this article:

*Manufactured floor* shall mean any floor support system, including I- beam joists, trusses, rim boards or headers, constructed in whole or in part with manufactured or engineered wood products as opposed to conventional or natural wood products.

*Manufactured roof* shall mean any roof support system, including I-beam joists, trusses, or rafters, constructed in whole or in part with manufactured or engineered wood products as opposed to conventional or natural wood products.
(Ord. No. 2012-03, § 1, 5-10-2012)

**Sec. 14-401. Application.**

The provisions of this article shall apply to all commercial and residential new construction and to alterations of structures and accessory structures and to any other structure for which an occupancy permit has not been issued as of the effective date of this ordinance.
(Ord. No. 2012-03, § 1, 5-10-2012)

**Sec. 14-402. Identification required.**

The builder or owner of any structure containing a manufactured floor or manufactured roof shall clearly identify the existence of such manufactured floor or manufactured roof within the structure. Fire resistant tags shall be conspicuously posted on the gas or electric meter located on the outside of the structure upon completion of the construction/alterations or prior to occupancy if an occupancy permit is required. Structures containing manufactured floors shall be designated with a tag indicating "F" and structures containing manufactured roofs shall be designated with tags indicating "R". Structures containing both shall be designated with a tag indicating "RF".
(Ord. No. 2012-03, § 1, 5-10-2012)

**Sec. 14-403. Disclosure on permit application.**

Builders and owners shall disclose the use of manufactured floors or manufactured roofs on their applications for improvement location permits/building permits.
(Ord. No. 2012-03, § 1, 5-10-2012)

**Sec. 14-404. Tags.**

The building commissioner shall make the tags required under this article available for purchase by the builder or owner. The tags shall be installed prior to occupancy as required by section 14-402.
(Ord. No. 2012-03, § 1, 5-10-2012)

**Sec. 14-405. Inspection.**

The building commissioner or his designee shall have the right to enter and inspect any structure or accessory structure to determine compliance with the provisions of this article.
(Ord. No. 2012-03, § 1, 5-10-2012)

**Sec. 14-406. Penalty.**

Any person who violates any provision of this article shall be subject to the penalties set forth in section 1-8 of the Code of Ordinances. Each violation of any provision of this article shall constitute a separate offense, and each day the violation continues shall constitute a separate offense.
(Ord. No. 2012-03, § 1, 5-10-2012)

Chapters 15—17

**RESERVED**

Chapter 18

# BUSINESSES

## Article I. In General

Sec. 18-1. Authority to license.
Sec. 18-2. Application and fee.
Sec. 18-3. Approval of town council.
Sec. 18-4. Duration of license, display required.
Sec. 18-5. Security bonds.
Sec. 18-6. Issuance, revocation or suspension.
Secs. 18-7—18-17. Reserved.

## Article II. Licenses, Permits and Miscellaneous Business Regulations

Sec. 18-18. Purpose, authority and balance of interests.
Sec. 18-19. Definitions.
Sec. 18-20. Prima facie evidence of doing business.
Sec. 18-21. Business registration permit required and application.
Sec. 18-22. Display of permit.
Sec. 18-23. Filing required.
Sec. 18-24. Records.
Sec. 18-25. Exemptions.
Sec. 18-26. Inspection of business.
Sec. 18-27. Change of location.
Sec. 18-28. Expiration.
Sec. 18-29. Penalties.
Secs. 18-30—18-40. Reserved.

## Article III. Specific Licensing or Permit Regulations

### Division 1. Generally

Sec. 18-41. Chart of fees.
Secs. 18-42—18-50. Reserved.

### Division 2. Transient or Itinerant Merchants, Commercial Solicitors, Peddlers and Hawkers

Sec. 18-51. Purpose.
Sec. 18-52. Definitions.
Sec. 18-53. Exemptions.
Sec. 18-54. Waiver.
Sec. 18-55. License requirement.
Sec. 18-56. Application; contents.
Sec. 18-57. Fees required.
Sec. 18-58. License issuance; contents and application.
Sec. 18-59. Restrictions on merchants and vendors.
Sec. 18-60. Regulation of merchants and vendors.

Sec. 18-61. Records.
Sec. 18-62. Permitted hours of solicitation.
Sec. 18-63. Violations.
Secs. 18-64—18-84. Reserved.

Division 3. Taxicabs and Taxi Drivers

Sec. 18-85. Definitions.
Sec. 18-86. License required.
Sec. 18-87. Records for operation.
Sec. 18-88. Licensing fee.
Sec. 18-89. Refunds on fees.
Sec. 18-90. License transfers.
Sec. 18-91. Restrictions on licenses.
Sec. 18-92. License suspension.
Sec. 18-93. Identification on vehicles.
Sec. 18-94. Insurance required for operation of taxicab.
Sec. 18-95. Photo identification displayed at all times.
Sec. 18-96. Penalty.
Sec. 18-97. License entitlement.
Secs. 18-98—18-122. Reserved.

## Article IV. Tax Abatement Procedures

Sec. 18-123. Tax abatement or tax reassessment procedures.

## ARTICLE I. IN GENERAL

### Sec. 18-1. Authority to license.

The town has the authority to impose a license fee that is reasonably related to the administrative cost of exercising such regulating powers.
(Code 1991, § 4-1)

**State law references—**Powers specifically withheld, IC 36-1-3-8(5); regulation of businesses and professions, IC 36-8-2-10.

### Sec. 18-2. Application and fee.

(a) All applications for a permit or license under this chapter shall be referred by the town clerk-treasurer to the town council, unless otherwise provided herein.

(b) Completed applications shall be accompanied by the applicable application fee for the license or permit requested.
(Code 1991, § 4-2)

### Sec. 18-3. Approval of town council.

After examination, the town council shall grant such permit or license at the next regular meeting, unless good cause is shown why said permit or license should not be granted.
(Code 1991, § 4-3)

### Sec. 18-4. Duration of license, display required.

(a) All licenses issued under this chapter, unless specified otherwise on the license, shall be issued for the duration of the calendar year for which they were issued, and shall expire on December 31.

(b) Every person who is issued a license under the provisions of this chapter shall display the license at the location the licensed activity is being conducted, or, if there are no premises, shall carry the license while engaged in the activity for which he has been licensed, and shall exhibit it to any town official or citizen upon request.

(c) The chief of police or his designee may inspect all places of business under license or required to have a license.
(Code 1991, § 4-4)

**State law reference—**Police departments, chiefs and captains, powers and duties, IC 36-8-3-10.

**Sec. 18-5. Security bonds.**

Whenever a license shall be required by the town to be issued to any person, and where a bond shall be required, either by law or ordinance, to be given for the faithful performance of such work as may be permitted to be done under such license, the person who shall apply for and obtain such license shall furnish a bond written by a bonding or surety company acceptable to and approved by the town council.
(Code 1968, § 9-13; Code 1991, § 4-5; Ord. No. 272, § 3, 4-2-1935)

**Sec. 18-6. Issuance, revocation or suspension.**

(a) The clerk-treasurer shall issue licenses upon payment of the license fees and compliance with the applicable provisions of this Code, and town council approval.

(b) Licenses issued by the town may be revoked or suspended if the person holding the license has violated the terms or conditions of the license or the law under which it was issued, or has conducted the business in such a manner as to constitute a threat to public health, safety, or general welfare of the town's citizens.
(Code 1991, § 4-6)

**State law references—**Powers and duties of town clerk-treasurer, IC 36-5-6-6(8); licenses issued by town; revocation or suspension, IC 36-5-4-11.

**Secs. 18-7—18-17. Reserved.**

## ARTICLE II. LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS

**Sec. 18-18. Purpose, authority and balance of interests.**

The town council finds that a business registration procedure should be established for the purpose of protecting the public health, safety, and welfare of the community. Specifically, it is determined that the town's police and fire department will be able to better respond to an emergency situation if they know the specific type of business activities being conducted at a particular cite. The town is authorized by IC 36-8-2-10 to regulate the operation of businesses, crafts, professions and occupations within its corporate boundaries and IC 36-1-3-4 grants the town all powers necessary or desirable to conduct its affairs. Notwithstanding the preceding, the town is mindful of the privacy rights of its citizens and has attempted to temper the legitimate safety concerns of the town with the rights of its citizens to "opt out" of certain provisions of this article.
(Ord. No. 2008-13, § 1, 8-12-2008)

**Sec. 18-19. 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:

*Business* means an enterprise involving the selling, storing or processing of goods or commodities, or the rendering of services to the public. The term "business" shall include all commercial (whether wholesale or retail) operations as well as industrial enterprises engaged in the manufacture, processing or assembling of parts in the finished or unfinished products, and the repair or reconditioning of products, appliances, machines or other goods. Coin-operated centers shall be included such as laundromats, video games, pinball machines, pool tables, and the like. The term "business" shall not include any commercial activity defined as a home base business under the town zoning ordinance.
(Ord. No. 2008-13, § 2, 8-12-2008)

**Sec. 18-20. Prima facie evidence of doing business.**

The placing of any business sign or notice on or within any premises; any publication of opening of any business by advertisement in any newspaper or telephone book, or by any poster, circular, letter or card, or by any other method of attracting public notice thereto; or by acquiring or using any premises in the town for business purposes shall be prima facie evidence of doing business and the liability of such person or entity.
(Ord. No. 2008-13, § 3, 8-12-2008)

**Sec. 18-21. Business registration permit required and application.**

(a) All businesses within the town, unless specifically exempted by this article, shall be required to complete a business registration form and file it with the town's clerk-treasurer. At the time the business registration form is filed, the business shall pay a $40.00 business registration fee. A separate business registration form shall be required for each location of the business that is conducted in the town.

(b) All business registration forms shall be kept on file in the office of the clerk-treasurer and be made available to the police and fire department.

(c) Upon receipt of a business registration form, the office of the clerk-treasurer shall refer such application to the proper department within said town for making an inspection.

(d) All Business Registration Forms shall be for a term of one calendar year, commencing January 1 and expiring December 31 of the same year. All business registration forms must be filed within 30 days of commencement of business activity and are required to be renewed on an annual basis no later than January 31 of each year. In the event the renewal is not done on a timely basis, the applicant shall be subjected to being cited for violation of this article and fined accordingly.

(e) All business registration forms are nontransferable.

(f) The town's clerk-treasurer shall develop and provide business registration forms to all applicants.
(Ord. No. 2008-13, § 4, 8-12-2008; Ord. No. 2021-10, §§ 1—3, 6-22-2021)

**Sec. 18-22. Display of permit.**

Should the town adopt a procedure whereby the clerk-treasurer issues a formal permit, all persons or entities duly issued a permit shall display such permit prominently at the business location.
(Ord. No. 2008-13, § 5, 8-12-2008)

**Sec. 18-23. Filing required.**

It shall be unlawful for any person or entity, either directly or indirectly, to conduct or maintain any business within the town, unless a valid business registration form is on file with the clerk-treasurer.
(Ord. No. 2008-13, § 6, 8-12-2008)

**Sec. 18-24. Records.**

All forms shall be kept and maintained by the clerk-treasurer.
(Ord. No. 2008-13, § 7, 8-12-2008)

**Sec. 18-25. Exemptions.**

(a) This article shall not apply to business covered by article III, division 2 of this chapter, regulating all transient or itinerant merchants, commercial solicitors, peddlers and hawkers; licensing of building contractors pursuant to chapter 14, article III.

(b) Under section 18-21, the clerk-treasurer is authorized to develop a Business Registration Form to be completed by all businesses. Although it is to the advantage of the business that the town have sufficient information in case of an emergency, the town recognizes and respects that for various legitimate reasons, a business may not want to provide certain information. Of the information requested on the business registration form, the only information that shall be required of each business shall be its name, address and both a regular and emergency phone number. In addition, if the business does not own the property where it conducts business, the business shall provide the name, address and phone number of the property owner.
(Ord. No. 2008-13, § 8, 8-12-2008)

**Sec. 18-26. Inspection of business.**

Upon reasonable notice, the clerk-treasurer, through the town's building commissioner and fire chief, may have businesses inspected to determine compliance with the requirements of this article.
(Ord. No. 2008-13, § 9, 8-12-2008; Ord. No. 2021-10, § 4, 6-22-2021)

**Sec. 18-27. Change of location.**

The location of any business for which a permit has been issued may be changed, provided that ten days prior notice of the change of location is given to the clerk-treasurer and the new location meets with all of the requirements for the issuance of the original permit.
(Ord. No. 2008-13, § 10, 8-12-2008)

**Sec. 18-28. Expiration.**

All business registration forms shall expire upon any of the following conditions:

(1) Discontinuance of the business; or

(2) Transfer or sale of the business to another individual, partnership, corporation or other legal entity, of the sale, assignment or transfer, directly or indirectly, of at least 51 percent of the interest in the partnership, corporation or other legal entity.

(Ord. No. 2008-13, § 11, 8-12-2008; Ord. No. 2021-10, § 5, 6-22-2021)

**Sec. 18-29. Penalties.**

Any business which violates any of the provisions of this article shall be fined as provided in sections 1-8 and 1-18 of this Code. Each day that a violation continues shall be a separate offense.

(Ord. No. 2008-13, § 12, 8-12-2008; Ord. No. 2021-10, § 6, 6-22-2021)

**Editor's note—**Ord. No. 2021-10, § 6, adopted June 22, 2021, changed the title of § 18-29 from "citations" to "penalties."

**Secs. 18-30—18-40. Reserved.**

## ARTICLE III. SPECIFIC LICENSING OR PERMIT REGULATIONS

### DIVISION 1. GENERALLY

**Sec. 18-41. Chart of fees.**

The license fees shall be as provided in the following fee chart:

| *Activity* | *Fee* | *Code Section* |
|---|---|---|
| Business registration | $40.00 | 18-21 |
| Peddler license | (1) $15.00 fee administration<br>(2) $200.00 fee per year<br>(3) $120.00 fee every 6 months<br>(4) $50.00 fee each month<br>(5) $25.00 fee for each day | 18-57 |
| Taxicabs | (1) Initially, $100.00 per vehicle<br>(2) Annually, $100.00 per vehicle | 18-88 |

(Code 1991, § 4-11; Ord. No. 2007-01, 3-13-2007; Ord. No. 2007-05, 6-12-2007; Ord. No. 2021-10, § 7, 6-22-2021)

**Secs. 18-42—18-50. Reserved.**

## DIVISION 2. TRANSIENT OR ITINERANT MERCHANTS, COMMERCIAL SOLICITORS, PEDDLERS AND HAWKERS

### Sec. 18-51. Purpose.

This division is enacted for the purpose of regulating all transient or itinerant merchants, commercial solicitors, peddlers and hawkers by requiring licenses to engage in the activities in order to prevent fraud, crime, undue annoyance and harassment and to protect the privacy, safety, health and welfare of the citizens of the town.
(Ord. No. 2007-05, § 1, 6-12-2007; Ord. No. 2011-07, § 1, 6-14-2011)

### Sec. 18-52. Definitions.

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

*Parent organization* means the person, firm, corporation, proprietorship or partnership that the vendor is representing and/or is employed by. This definition includes the principal manufacturer and distributor of goods and the primary supplier of services being sold or offered.

*Transient vendor/itinerant merchant* means any person who, whether as owner, agent, consignee, or employee, engages in a temporary business of selling and/or delivering any goods, wares and merchandise within the town, and who, in furtherance of such purposes, goes from house to house or hires, leases, uses, or occupies any building, structure, motor vehicle, tent, railroad box car, boat, public room in a hotel, lodging house, apartment, shop or other building or any portion thereof or any street, alley or any place within the town for the exhibition and sale of goods, wares and merchandise for present or future delivery, either privately or at public auction. A person so engaged shall not be relieved from complying with the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant, or auctioneer or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant, or auctioneer.
(Ord. No. 2007-05, § 2, 6-12-2007; Ord. No. 2011-07, § 2, 6-14-2011; Ord. No. 2012-04, § 1, 6-26-2012)

### Sec. 18-53. Exemptions.

(a) Members of religious or church organizations or nonprofit organizations are exempt from this division provided that they are pursuing legitimate religious activities, and provided that the activities are conducted in an orderly manner without annoyance or harassment to the persons solicited.

(b) Parochial, private or public school children within the Duneland school area, or members of a fraternal or veterans organization or a nonprofit organization, so long as that organization operates a post, lodge, camp or local organization within the town, are exempt from this division only to the extent that they vend or solicit in conjunction with an authorized activity of the organization of which they are members or the schools they attend.

(c) Individuals selling newspaper.

(Ord. No. 2007-05, § 3, 6-12-2007; Ord. No. 2011-07, § 3, 6-14-2011)

**Sec. 18-54. Waiver.**

The town council, upon written request and adequate proof that the transient vendor or itinerant merchant is involved in a charity or a charitable-type business operation, may waive requirements of this division or any portion thereof.
(Ord. No. 2007-05, § 4, 6-12-2007; Ord. No. 2011-07, § 4, 6-14-2011)

**Sec. 18-55. License requirement.**

It will be unlawful for any person within the jurisdiction of this division to act as a peddler, vendor or solicitor, as defined herein, without first obtaining a license therefore from the town clerk-treasurer.
(Ord. No. 2007-05, § 5, 6-12-2007; Ord. No. 2011-07, § 5, 6-14-2011)

**Sec. 18-56. Application; contents.**

An application for vending or soliciting may be obtained from the town clerk-treasurer and upon completion, be submitted to the clerk-treasurer with the appropriate processing fee. The application for an itinerant merchant's license shall include the following information:

(1) Personal information shall be provided by the applicant including date of birth, driver's license number, state identification or military identification, permanent and local address and telephone number and a physical description including height, weight, color of hair and eyes;

(2) The name(s) of the corporation(s), firm(s) or person(s) which the applicant proposes to represent and the name(s) of the person(s) managing or supervising the solicitors; the local and permanent addresses of the aforementioned person(s); and the telephone numbers at which the person(s) can be reached. Also include shall be where and when the parent organization was established or incorporated;

(3) The applicant must supply credentials from the parent organization for which the applicant proposes to do business, authorizing the applicant to act as a representative;

(4) Copies of any state or county licenses which are also required to operate or conduct activities proposed by the applicant must be attached to the application;

(5) A description of the merchandise or services offered for sale;

(6) Information as to whether the parent organization or the solicitor/itinerant merchant has ever been enjoined from soliciting;

(7) Information as to whether the solicitor or parent organization named in the application has been convicted of a crime, the misdemeanor or violation of any municipal ordinance involving moral turpitude, (an example of these crimes being theft, burglary, robbery, fraud, deceit or any crime of violence) and if so, a brief explanation;

(8) The names and identification information of all individuals who will be working for the applicant within the area. The identification information for these individuals shall include names, local and permanent addresses and phone numbers and a physical description including height, weight, hair and eye colors. Each of the individuals listed in this section are required to sign consent for the Town of Porter to conduct a criminal background check. Failure to sign the consent for a criminal background check could result in the application being denied.

(9) A photograph of the applicant who will sell or solicit is required and must have been taken within 60 days immediately prior to the date of the filing of the application, which picture shall be two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner; and

(10) The applicant shall sign a disclaimer of town liability relating to any action cause or charged against the applicant. All individuals soliciting or selling door-to-door or business-to-business must fill out applications for their individual license. The same application information as above must be completed and returned to the clerk-treasurer whereupon an investigation of the individual will occur. A decision will be rendered in relation to the information provided on the individual's application. However, no permit shall be issued until a processing period of up to five working days has elapsed.

(Ord. No. 2007-05, § 6, 6-12-2007; Ord. No. 2011-07, § 6, 6-14-2011)

**Sec. 18-57. Fees required.**

(a) At the time of filing the application, a non-refundable application fee of $15.00 shall be paid to the clerk-treasurer together with a non-refundable fee of $16.32 for each individual subject to a criminal background check under section 18-56. The above fees must be paid with cash or certified funds.

(b) If the chief of police or his or her designee, after investigating the application, grants a license, the applicant who will be soliciting shall then obtain a license from the clerk-treasurer. The applicant must pay the fee at the time the license is issued. The license fee must be paid with cash or certified funds. The fees for the above-stated license shall be as follows:

(1) A $200.00 fee per year;

(2) A $120.00 fee every six months;

(3) A $50.00 fee per month; or

(4) A $25.00 fee per day.

(Ord. No. 2007-05, § 7, 6-12-2007; Ord. No. 2011-07, § 7, 6-14-2011; Ord. No. 2018-04, § 1, 5-22-2018)

**Sec. 18-58. License issuance; contents and application.**

(a) (1) If as a result of the investigation of the individual's application, the applicant character and business responsibility are found to be unsatisfactory by the chief of police or his or her designee, the application shall be denied and a license shall not be issued. If, as a result of the investigation, the applicant's character and business reputation appear to be satisfactory, the chief of police or his or her designee shall allow the clerk-treasurer to issue the requested permit.

(2) A license shall not be issued to any applicant where any of the following has been determined during the initial investigation and review of the application:

a. If the applicant has been convicted of any felony, crime or misdemeanor.

b. Any previous history relating to the manner in which the applicant made door-to-door sales which resulted in a violation of law.

c. Providing false information on the application form.

d. A failure to comply with any condition, standard or requirement of this division or any town, county or state regulation.

(3) If an applicant is denied a permit, written notice of denial and the reasons therefore upon request shall be given to the applicant when the individual returns to the clerk-treasurer's office seeking the decision regarding the application.

(4) The chief of police shall have the authority to approve or deny any application for a license to be issued under this division. Any application which is denied by the chief of police may be appealed to the town council. The town council may accept or reject the decision of the chief of police. All appeals must be made by submitting a formal request of an appeal to the clerk-treasurer, together with a $50.00 nonrefundable processing fee.

(5) A license shall not be granted unless liability insurance with the minimum limits listed below has first been filed with the town:

a. $1,000,000.00 each occurrence.

b. $300,000.00 damage to premises.

c. $5,000.00 medical.

d. $1,000,000.00 personal injury.

e. $100,000.00 worker's compensation.

(b) The license shall bear the date it is issued, the name of the parent organization, the expiration date of the permit and a statement that the license does not constitute an endorsement by the town of the purpose or products involved or of the persons or of the parent organization conducting the solicitation. Licenses shall be signed by the clerk-treasurer.

(c) Once the merchant has been approved and all criminal background checks have been conducted on all employees, each approved employee must go to the Porter Police Department where they will be issued a photo I.D.

(d) All licenses hereunder shall expire in accordance with the license fee schedule of section 18-57(b).
(Ord. No. 2007-05, § 8, 6-12-2007; Ord. No. 2011-07, § 8, 6-14-2011; Ord. No. 2018-04, § 2, 5-22-2018)

**Sec. 18-59. Restrictions on merchants and vendors.**

(a) While carrying on solicitations, an itinerant merchant shall display the license issued by the town under this division so that it shall be visible to any person dealing with the merchant. In addition, all employees of the merchant or vendor must wear the photo identification issued by the town. If the photo identification is not visible, the person(s) may be asked to leave and maybe subject to fines as the ordinance allows.

(b) Any license issued under this division shall be nontransferable and may not be given to any other individual for the purpose of soliciting.

(c) No person shall represent that a granting of a license under this division is an endorsement by the town and any representation of this kind is hereby declared to be a misrepresentation of fact, a violation of this division and subject to revocation of the license.

(d) Licenses issued under this division may be revoked by the clerk-treasurer after notice and hearing for any of the following causes:

(1) Fraud, misrepresentation or any false statement made in the course of carrying on business as an itinerant merchant;

(2) Fraud, misrepresentation or false statement contained in the application for a license;

(3) Any violation of this division;

(4) Conviction of any felony, crime or misdemeanor; and/or

(5) Conducting the business of an itinerant merchant in an unlawful manner or in a manner so as to constitute a menace to the health, safety or general welfare of the public.

(e) Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. The notice shall be mailed, postage prepaid, to the licensee at his or her last known address at least five days prior to the date set for hearing.
(Ord. No. 2007-05, § 9, 6-12-2007; Ord. No. 2011-07, § 9, 6-14-2011)

**Sec. 18-60. Regulation of merchants and vendors.**

(a) Once a license has been issued, an itinerant merchant must report any material changes of information previously provided in the application to the clerk-treasurer within seven calendar days.

(b) No itinerant merchant may remain on private property after the lawful occupant of the premises directs the merchant to leave the premises.

(c) An itinerant merchant shall not, without permission, accost, interfere with or touch any member of the public in any manner, nor shall the merchant interfere with traffic.

(d) A license under this division shall not be used or represented in any manner as an endorsement by the town or by any department, officer or employee thereof.

(e) No fraudulent or misleading representations to any person shall be made in connection with any sale or solicitation, including but not limited to any misleading representation concerning the true product or service involved, the name of the itinerant merchant, the trade name and the nature of the parent organization.

(f) Unless invited by the lawful occupant, an itinerant merchant may not sell or solicit door-to-door where "No Solicitors," "No Trespassing," or other similar notice is posted.
(Ord. No. 2007-05, § 10, 6-12-2007; Ord. No. 2011-07, § 10, 6-14-2011)

**Sec. 18-61. Records.**

(a) The clerk-treasurer shall keep a record of the application, the determination thereon and of all licenses issued pursuant to this division. The record shall contain the name and residence of the individual licensed and the amount of licenses that have been revoked.

(b) The clerk-treasurer shall submit a copy of this record to the chief of police.

(c) When an itinerant merchant obtains a conviction for violating this division, the chief of police shall report the same to the clerk-treasurer, and the clerk-treasurer shall maintain a record for each permit issued and reports of violations.
(Ord. No. 2007-05, § 11, 6-12-2007; Ord. No. 2011-07, § 11, 6-14-2011)

**Sec. 18-62. Permitted hours of solicitation.**

Itinerant merchants may operate only from 9:00 a.m. until sunset, Monday through Saturday.
(Ord. No. 2007-05, § 12, 6-12-2007; Ord. No. 2011-07, § 12, 6-14-2011)

**Sec. 18-63. Violations.**

All violations of this division shall be punishable by a fine not to exceed $2,000. If the itinerant merchant fails to pay the fine, the right to solicit or sell merchandise or services door-to-door will automatically terminate.
(Ord. No. 2007-05, § 13, 6-12-2007; Ord. No. 2011-07, § 13, 6-14-2011)

**State law reference—**Transient Merchant Law of Indiana, IC 25-37-1-1 et seq.

**Secs. 18-64—18-84. Reserved.**

## DIVISION 3. TAXICABS AND TAXI DRIVERS*

**Sec. 18-85. 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:

*Taxicab* means any motor vehicle used for carrying passengers for hire within the town limits of the town, and the immediate surrounding territory, to destinations designated by the passengers, and not on regular routes.

*Taxicab service* means the business or occupation of operating taxicabs and furnishing taxicab service to the public for a profit.
(Ord. No. 2007-01, § 1, 3-13-2007)

*__State law reference—__Vehicles for public hire, regulation of services, IC 36-9-2-4.

**Sec. 18-86. License required.**

It shall be unlawful for any person, firm or corporation to operate or propel, or cause to be operated or propelled, any taxicab on or along any avenue, street or alley within the corporate limits of the town, until such person, persons, firm or corporation shall have first obtained a license, signed by the town clerk-treasurer, to so operate such taxicab, and shall have paid the fee therefor as provided in section 18-88.
(Ord. No. 2007-01, § 2, 3-13-2007)

**Sec. 18-87. Records for operation.**

Any person, firm or corporation operating taxicabs shall submit the name of the company at the time of the application for a license, and will operate under one name only. The applicant for a license must be the bona fide owner or owners of the vehicle, and the name of each person owning or operating the vehicle shall be registered with the town clerk-treasurer, with the license number, description, make and model of the vehicle and record of inspections. This record shall be available to the public at any reasonable time.
(Ord. No. 2007-01, § 3, 3-13-2007)

**Sec. 18-88. Licensing fee.**

The initial or qualifying license fee shall be $100.00 per vehicle, to be paid upon the application for a license herein provided, which said sum shall be refunded in the event that a license is denied. Thereafter, the annual license fee to be paid for each taxicab licensed under this division shall be the sum of $100.00 per vehicle.
(Ord. No. 2007-01, § 4, 3-13-2007)

**Sec. 18-89. Refunds on fees.**

No refund shall be allowed for any unexpired part of the three-month period for which any license should be issued.
(Ord. No. 2007-01, § 5, 3-13-2007)

**Sec. 18-90. License transfers.**

No license shall be transferred from one taxicab to another or from one person to another or from one firm or corporation to another.
(Ord. No. 2007-01, § 6, 3-13-2007)

**Sec. 18-91. Restrictions on licenses.**

No license to engage in the business of operating a taxicab shall be issued to or held by anyone who has been convicted of a felony, or whose license to operate a motor vehicle has been revoked during the preceding year, nor shall such license be issued to or held by any group or persons, firm or corporation if any officer or shareholder thereof be ineligible for a license under the foregoing conditions.
(Ord. No. 2007-01, § 7, 3-13-2007)

**Sec. 18-92. License suspension.**

Any license issued under the terms of this division may be suspended or revoked by the town council in the event that said taxicab is found not to be in a safe and clean condition, and not in compliance with the inspection requirements, and the terms of this division, and the statutes and administrative regulations of the state. The town council shall have the further right, privilege and power to revoke all the permits owned by any person operating one or more taxicabs in violation of the terms of this division, where one or more of said taxicabs fails to meet the requirements hereof. In addition, any driver of a licensed taxicab shall possess all necessary driving licenses required to operate a passenger vehicle in the state.
(Ord. No. 2007-01, § 8, 3-13-2007)

**Sec. 18-93. Identification on vehicles.**

Every vehicle operated by a taxicab company shall have the name of the company painted on the exterior of the body in letters of suitable size, so that the vehicle can readily be identified when in motion.
(Ord. No. 2007-01, § 9, 3-13-2007)

**Sec. 18-94. Insurance required for operation of taxicab.**

It shall be unlawful for any person, firm or corporation to operate a taxicab in the town unless such person has placed on file with the town clerk-treasurer, prior to the issuance of a license, a policy of insurance in full force and effect, issued by a respectable and reputable company authorized to conduct business in the state, insuring the operator and driver against personal liability to the extent of $1,000,000.00 for injury or death to any one person, $500,000.00 for one accident, and $500,000.00 property damage. Such policy of insurance must remain in full force and effect at all times, and must be retained by the town clerk-treasurer, who shall not release said policy without the consent of the town council.
(Ord. No. 2007-01, § 10, 3-13-2007)

**Sec. 18-95. Photo identification displayed at all times.**

No taxicab shall be operated at any time unless a photograph of the driver operating the taxicab is prominently displayed so as to be visible to all passengers riding in the taxicab, under which photograph shall be printed his name and address, and the name of the owner of the taxicab.
(Ord. No. 2007-01, § 11, 3-13-2007)

**Sec. 18-96. Penalty.**

Any person, firm or corporation violating any of the provisions of this division shall be fined in any sum not less than $100.00 nor more than $2,500.00, and each day's violation shall constitute a separate offense.
(Ord. No. 2007-01, § 12, 3-13-2007)

**Sec. 18-97. License entitlement.**

Any person, firm or corporation who meets the requirements of this division shall be entitled to a license as herein provided, for the purposes hereinabove set out.
(Ord. No. 2007-01, § 13, 3-13-2007)

**Secs. 18-98—18-122. Reserved.**

## ARTICLE IV. TAX ABATEMENT PROCEDURES

**Sec. 18-123. Tax abatement or tax reassessment procedures.**

IC 6-1.1-12.1-1 through 6-1.1-12.1-5, as it may be amended from time to time, shall govern all petitions seeking a three- , six- , or ten-year real property reassessment, and for a five-year amortization for manufacturing equipment.
(Code 1991, § 4-71)

Chapters 19—21

**RESERVED**

Chapter 22

# CIVIL EMERGENCIES

## Article I. In General

Secs. 22-1—22-18. Reserved.

## Article II. Emergency Preparedness

Sec. 22-19. Definitions.
Sec. 22-20. Proclamation by council president.
Sec. 22-21. Imposition of curfew.
Sec. 22-22. Imposition of additional restrictions.
Sec. 22-23. Emergency powers.

## ARTICLE I. IN GENERAL

**Secs. 22-1—22-18. Reserved.**

## ARTICLE II. EMERGENCY PREPAREDNESS*

### Sec. 22-19. 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:

*Curfew* means a prohibition against any person walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the town during the hours in which a curfew has been imposed, excepting persons officially designated to duty with reference to said civil emergency.

*Disaster* means an occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural phenomenon or human act. The term "disaster" includes any of the following:

(1) Fire.

(2) Flood.

(3) Earthquake.

(4) Windstorm.

(5) Snowstorm.

(6) Ice storm.

(7) Tornado.

(8) Wave action.

(9) Oil spill.

(10) Other water contamination requiring emergency action to avert danger or damage.

(11) Air contamination.

(12) Drought.

(13) Explosion.

(14) Technological emergency.

(15) Utility failure.

(16) Critical shortages of essential fuels or energy.

(17) Major transportation accident.

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***State law reference—**Emergency Management and Disaster Law, IC 10-14-3-1 et seq.

(18) Hazardous material or chemical incident.

(19) Radiological incident.

(20) Nuclear incident.

(21) Biological incident.

(22) Epidemic.

(23) Public health emergency.

(24) Animal disease event requiring emergency action.

(25) Blight.

(26) Infestation.

(27) Riot.

(28) Hostile military or paramilitary action.

(29) Act of terrorism.

(30) Any other public calamity requiring emergency action.

*Emergency management* means the preparation for and the coordination of all emergency functions, other than functions for which military forces or other federal agencies are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters. The functions include the following:

(1) Firefighting services.

(2) Police services.

(3) Medical and health services.

(4) Rescue.

(5) Engineering.

(6) Warning services.

(7) Communications.

(8) Radiological, chemical, and other special weapons defense.

(9) Evacuation of persons from stricken areas.

(10) Emergency welfare services.

(11) Emergency transportation.

(12) Plant protection.

(13) Temporary restoration of public utility services.

(14) Other functions related to civilian protection.

(15) All other activities necessary or incidental to the preparation for and coordination of the functions described in subsections (1) through (14) of this definition.

(Code 1968, § 17-21; Code 1991, § 6-90; Ord. No. 501, § 6(B), 10-13-1970)

**Sec. 22-20. Proclamation by council president.**

When, in the judgment of the president of the town council, a civil emergency or disaster is deemed to exist, he shall forthwith proclaim in writing the existence of same. In case of the absence of the president from the town, the chief of police shall be authorized to act in his stead.

(Code 1968, § 17-22; Code 1991, § 6-91; Ord. No. 501, § 6(B), 10-13-1970)

**Sec. 22-21. Imposition of curfew.**

After proclamation of a civil emergency or disaster by the council president, he may order a general curfew applicable to such geographical areas of the town or to the town as a whole, as he deems advisable and applicable during such hours of the day or night as he deems necessary in the interest of the public safety and welfare.

(Code 1968, § 17-23; Code 1991, § 6-92; Ord. No. 501, § 6(C), 10-13-1970)

**Sec. 22-22. Imposition of additional restrictions.**

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

(1) The closing of all retail liquor stores.

(2) The closing of all taverns.

(3) The closing of all private clubs or portions thereof wherein the consumption of intoxicating liquor and/or beer is permitted.

(4) The discontinuance of the sale of beer.

(5) The discontinuance of selling, distributing or giving away gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.

(6) The closing of gasoline stations and other establishments, the chief activity of which is the sale, distribution or dispensing of liquid flammable or combustible products.

(7) The discontinuance of selling, distributing, dispensing or giving away of firearms and/or ammunition.

(8) Such other orders as are imminently necessary for the protection of life and property.

(Code 1968, § 17-24; Code 1991, § 6-93; Ord. No. 501, § 6(D), 10-13-1970)

**Sec. 22-23. Emergency powers.**

During the period of a declared state of emergency, the council president shall have the power to invoke any or all of the following provisions:

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

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

(3) *Incendiary missiles.* No person shall make, carry, possess or use any type of Molotov cocktail, gasoline or petroleum based fire bomb or other incendiary missile.

(4) *Restricted area.* No person shall enter any area designated by the council president as a restricted area unless in the performance of official duties or with written permission of the council president or his duly designated representative, or unless such person shall prove residence therein.

(Code 1968, § 17-25; Code 1991, § 6-94; Ord. No. 501, § 6(E), 10-13-1970)

Chapters 23—25

**RESERVED**

Chapter 26

# ENVIRONMENT

## Article I. In General

Sec. 26-1. Town's authority to regulate conduct, use or possession of property.
Sec. 26-2. Authority to regulate air and sound.
Secs. 26-3—26-48. Reserved.

## Article II. Nuisances

### Division 1. Generally

Sec. 26-49. Public nuisances prohibited.
Sec. 26-50. Depositing unwholesome substances prohibited.
Sec. 26-51. Slaughtering poultry or animals restricted.
Sec. 26-52. When dogs are declared a nuisance.
Sec. 26-53. Illustrative enumeration.
Sec. 26-54. Fine.
Sec. 26-55. Notice to abate.
Sec. 26-56. Contents of notice.
Sec. 26-57. Service of notice.
Sec. 26-58. Abatement by town.
Sec. 26-59. Recovery of town's costs.
Sec. 26-60. Civil action.
Sec. 26-61. Division to be supplemental.
Secs. 26-62—26-81. Reserved.

### Division 2. Unsanitary Buildings or Premises

Sec. 26-82. Accumulation regulations.
Sec. 26-83. Dumping prohibited.
Sec. 26-84. Duties of owners and occupants.
Sec. 26-85. Unsanitary conditions prohibited.
Sec. 26-86. Notice to abate.
Sec. 26-87. Abatement by town; lien.
Sec. 26-88. Right of entry.
Secs. 26-89—26-119. Reserved.

### Division 3. Fireworks

Sec. 26-120. Definitions.
Sec. 26-121. Discharge prohibited; exception.
Sec. 26-122. Nuisance; unsafe use.
Sec. 26-123. Parental responsibility.
Sec. 26-124. Liability for fire and other damage.
Sec. 26-125. Penalties.
Secs. 26-126—26-148. Reserved.

## Article III. Air Pollution

Sec. 26-149. Burning regulations.
Sec. 26-150. Circumstances where no permit or authorization required.
Sec. 26-151. Certain conditions apply.
Secs. 26-152—26-170. Reserved.

## Article IV. Noise

Sec. 26-171. Noise and sound emission regulations.
Sec. 26-172. Exemptions.
Sec. 26-173. Penalties.
Sec. 26-174. Consequences of not paying fines/assessments.
Sec. 26-175. Parental responsibility.
Sec. 26-176. Power to issue citations.
Sec. 26-177. Rules and guidelines.
Secs. 26-178—26-209. Reserved.

## Article V. Abandoned and Junk Vehicles

Sec. 26-210. Definitions.
Sec. 26-211. Penalty; abandoned vehicle fund.
Sec. 26-212. Purpose.
Sec. 26-213. Compliance with state law.
Sec. 26-214. Enforcement authority.
Sec. 26-215. Abandoned vehicles and parts prohibited.
Sec. 26-216. Application of article.
Sec. 26-217. Responsibility and liability of owner.
Sec. 26-218. Tagging abandoned vehicle or parts.
Sec. 26-219. Abandoned vehicle report; photographs; duties of tagging officer; tow and storage of vehicle or parts.
Sec. 26-220. Abandoned vehicle report of public agency; request for name and address of owner of lienholder.
Sec. 26-221. Means of vehicle identification not available; disposal without notice.
Sec. 26-222. Sales of abandoned vehicles or parts.
Sec. 26-223. Towing charges.
Sec. 26-224. Towing contracts.
Sec. 26-225. Liability for loss or damage to vehicle or vehicle parts.
Secs. 26-226—26-243. Reserved.

## Article VI. Stormwater Management

### Division 1. General Information

Sec. 26-244. Authority and title.
Sec. 26-245. Applicability and exemptions.
Sec. 26-246. Findings.
Sec. 26-247. Purpose.
Sec. 26-248. Abbreviations and definitions.
Sec. 26-249. Responsibility for administration.
Sec. 26-250. Interpretation.

Sec. 26-251. Severability.
Sec. 26-252. Disclaimer of liability.
Secs. 26-253—26-262. Reserved.

Division 2. Prohibited Discharges and Connections

Sec. 26-263. Applicability and exemptions.
Sec. 26-264. Prohibited discharges and connections.
Sec. 26-265. Exempted discharges and connections.
Sec. 26-266. Storage of hazardous or toxic material.
Sec. 26-267. Private property maintenance duties.
Sec. 26-268. Spill reporting.
Sec. 26-269. Inspections and monitoring.
Secs. 26-270—26-279. Reserved.

Division 3. Stormwater Quantity Management

Sec. 26-280. Applicability and exemptions.
Sec. 26-281. Policy on stormwater quantity management.
Sec. 26-282. Calculations and design standards and specifications.
Sec. 26-283. Drainage easement requirements.
Sec. 26-284. Placement of utilities.
Sec. 26-285. Structures near county regulated drains.
Sec. 26-286. Inspection, maintenance, record keeping, and reporting.
Secs. 26-287—26-296. Reserved.

Division 4. Stormwater Pollution Prevention for Construction Sites

Sec. 26-297. Applicability and exemptions.
Sec. 26-298. Policy on stormwater pollution prevention.
Sec. 26-299. Calculations and design standards and specifications.
Sec. 26-300. Inspection, maintenance, record keeping, and reporting.
Secs. 26-301—26-310. Reserved.

Division 5. Stormwater Quality Management for Post-Construction

Sec. 26-311. Applicability and exemptions.
Sec. 26-312. Policy on stormwater quality management.
Sec. 26-313. Calculations and design standards and specifications.
Sec. 26-314. Easement requirements.
Sec. 26-315. Inspection, maintenance, record keeping, and reporting.
Secs. 26-316—26-325. Reserved.

Division 6. Permit Requirements and Procedures

Sec. 26-326. Conceptual drainage plan review.
Sec. 26-327. Permit procedures.
Sec. 26-328. Information requirements.
Sec. 26-329. Review of individual lots.
Sec. 26-330. Changes to plans.
Sec. 26-331. Fee structure.
Sec. 26-332. Required assurances.

Sec. 26-333. Terms and conditions of permits.
Sec. 26-334. Certification of as-built plans.
Sec. 26-335. Post-project maintenance bond and verifications.
Secs. 26-336—26-345. Reserved.

Division 7. Compliance and Enforcement

Sec. 26-346. Compliance with this article.
Sec. 26-347. Enforcement.
Sec. 26-348. Cost of abatement of the violation.
Sec. 26-349. Appeals.
Secs. 26-350—26-359. Reserved.

Division 8. Abbreviations and Definitions

Sec. 26-360. Abbreviations.
Sec. 26-361. Definitions.
Secs. 26-362—26-451. Reserved.

## ARTICLE I. IN GENERAL

### Sec. 26-1. Town's authority to regulate conduct, use or possession of property.

The town may regulate the conduct, or use or possession of property which might endanger the public health, safety, or welfare of its citizens.
(Code 1991, § 6-1)

**State law reference—**Regulation of dangerous conduct or property, IC 36-8-2-4.

### Sec. 26-2. Authority to regulate air and sound.

The town may regulate the introduction of any substance or odor into the air, or any generation of sound.
(Code 1991, § 6-3)

**State law reference—**Regulation of introduction of substance, order or sound in air, IC 36-8-2-8.

### Secs. 26-3—26-48. Reserved.

## ARTICLE II. NUISANCES*

### DIVISION 1. GENERALLY

### Sec. 26-49. Public nuisances prohibited.

(a) No person shall cause or maintain a nuisance within the Town of Porter. As used herein, "nuisance" includes doing any unlawful act, or omitting to perform any duty, or erecting, constructing, causing, keeping, maintaining, 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 offensive to the senses; or

(3) 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

(4) In any way renders other persons insecure in life or in the use of property; or

(5) Essentially interferes with the comfortable enjoyment of life and property or tends to depreciate the value of the property of others.

(b) Any person causing or maintaining any nuisance as herein referred to is declared to be the author and maintainer of a nuisance.
(Code 1968, § 15-1; Code 1991, § 6-51; Ord. No. 8, § 1, 7-14-1908; Ord. No. 2024-06, § 1, 6-25-2024)

**State law reference—**Nuisance defined, IC 32-30-6-6.

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***State law reference—**Nuisance actions, IC 32-30-6-1 et seq.

**Sec. 26-50. Depositing unwholesome substances prohibited.**

No person shall throw or deposit, or suffer to be thrown or deposited, or suffer or permit any child, member of his family, or any person under his control, to throw or deposit any manure, human excrement, urine, rubbish, slops, putrid or unsound animal or vegetable matter, or any filthy, noisome or unwholesome liquid or slops or any liquid or slops or substances that are liable to become unwholesome, in, into or upon any street, lane, alley, sidewalk, gutter, crossing, lot, cellar, premises or common.
(Code 1968, § 15-2; Code 1991, § 6-52; Ord. No. 8, § 2, 7-14-1908)

**Sec. 26-51. Slaughtering poultry or animals restricted.**

No person shall slaughter poultry or animals within the town, except in places and as designated by the town council.
(Code 1968, § 15-3; Code 1991, § 6-53; Ord. No. 8, § 2, 7-14-1908)

**Sec. 26-52. When dogs are declared a nuisance.**

(a) It is declared to be a nuisance and unlawful for dogs who bark, howl or otherwise disturb the peace and quietude of any neighborhood or neighborhoods in the town to be harbored, kept, possessed or retained upon any real estate in the town by the owner of such dogs.

(b) Any person who shall violate this section shall be guilty of a code violation and shall be fined as prescribed in section 1-8.
(Code 1968, §§ 3-21—3-23; Code 1991, § 6-17; Ord. No. 31, § 4; Ord. No. 472, §§ 1—3, 7-23-1968; Ord. No. 499, § 2, 5-12-1970)

**Sec. 26-53. Illustrative enumeration.**

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 construed to be conclusive, limiting or restrictive:

(1) Noxious weeds and other rank vegetation.

(2) Accumulations of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber, or other things, including but not limited to grass clippings, leaves, branches, and logs, or any combination thereof.

(3) Any condition that 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 unsanitary 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.

(6) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.

(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, including without limitation failure to maintain driveway culverts and ditches per sections 58-97 to 58-101.

(11) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.

(12) The unauthorized obstruction of any public street, road or sidewalk.

(13) Any abandoned vehicle.

(Ord. No. 2024-06, § 2, 6-25-2024)

**Sec. 26-54. Fine.**

Any person who causes, permits, maintains or allows the creation or maintenance of a nuisance shall be subject to fine as provided in section 1-8 of this Code.

(Ord. No. 2024-06, § 3, 6-25-2024)

**Sec. 26-55. Notice to abate.**

Whenever a condition constituting a nuisance is found to exist on real property within the town's jurisdiction, a duly designated officer of the town may give written notice to abate the nuisance to the owner and all persons with a substantial property interest in such real property upon which such nuisance exists.

(Ord. No. 2024-06, § 4, 6-25-2024)

**Sec. 26-56. Contents of notice.**

The notice to abate a nuisance issued under the provisions of this article shall contain:

(1) An identification of the real property upon which the nuisance is located.

(2) A description of what constitutes the nuisance.

(3) An order to abate the nuisance and/or to bring the property into compliance within a reasonable time of not less than ten nor more than 60 days.

(4) A statement that if the nuisance is not abated as directed within the prescribed time, the town may abate such nuisance and assess the cost thereof against such person.

(Ord. No. 2024-06, § 5, 6-25-2024)

**Sec. 26-57. Service of notice.**

The notice to abate a nuisance shall be served by personal delivery or sent by United States certified mail addressed to the last known address. If the notice is returned showing that the notice was not delivered, a copy of such notice shall be posted in a conspicuous place on the property containing the nuisance.
(Ord. No. 2024-06, § 6, 6-25-2024)

**Sec. 26-58. Abatement by town.**

Upon failure of any person to abate a nuisance for which notice to abate was served as hereinbefore provided, 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, including administrative costs and the costs of abatement.
(Ord. No. 2024-06, § 7, 6-25-2024)

**Sec. 26-59. Recovery of town's costs.**

(a) The town may issue a bill to the owner of the real property for the costs of abatement as provided in section 26-58. A bill so issued is delinquent if the owner of the property fails to pay the bill within 30 days after the date of the issuance of the bill.

(b) Any and all costs incurred by the town in the abatement of a nuisance under the provisions of this article shall constitute a lien against the property upon which such nuisance existed and shall be enforceable as provided in I.C. 36-1-6-2.

(c) In addition, such costs shall be a debt that may be collected by the town in an appropriate civil action.
(Ord. No. 2024-06, § 8, 6-25-2024)

**Sec. 26-60. Civil action.**

A civil action to abate any nuisance may also be brought as provided under state law.
(Ord. No. 2024-06, § 9, 6-25-2024)

**Sec. 26-61. Division to be supplemental.**

The provisions of this division are hereby declared to be supplemental to all other ordinances of the town.
(Ord. No. 2024-06, § 10, 6-25-2024)

**Secs. 26-62—26-81. Reserved.**

## DIVISION 2. UNSANITARY BUILDINGS OR PREMISES

### Sec. 26-82. Accumulation regulations.

No person shall permit garbage, refuse or rubbish to accumulate upon premises owned or occupied by him unless it is stored and kept in containers.
(Code 1991, § 6-40; Ord. No. 620, § 5, 9-12-1978)

### Sec. 26-83. Dumping prohibited.

It shall be unlawful to dump or place any garbage, refuse or ashes on any premises in the town without the consent of the owner of such premises.
(Code 1991, § 6-41; Ord. No. 620, § 6, 9-12-1978)

### Sec. 26-84. Duties of owners and occupants.

It shall be the duty of all owners and occupants of premises in the town to keep the same free at all times from unreasonable accumulations of refuse, garbage and rubbish.
(Code 1991, § 6-43; Ord. No. 620, § 8, 9-12-1978)

### Sec. 26-85. Unsanitary conditions prohibited.

It shall be unlawful for any person owning property, or in control or possession of property, within the town to permit any receptacle for refuse matter, building, property or any part of any property or premises owned, controlled, or possessed to become filthy, unwholesome, unsanitary, or in an obnoxious condition, or a nuisance to the public or any person within the town.
(Ord. No. 97-04, § 2, 8-12-1997)

### Sec. 26-86. Notice to abate.

If any building, property, part of any property, or premises becomes filthy, unwholesome, unsanitary, obnoxious, or a nuisance to the public within the town, the town shall notify the owner of the premises, or the person in control or possession, to remove or abate the nuisance. Notice shall be given in accordance with the provisions of sections 26-55, 26-56 and 26-57 of this Code.
(Ord. No. 97-04, § 2, 8-12-1997; Ord. No. 2024-06, § 11, 6-25-2024)

### Sec. 26-87. Abatement by town; lien.

Upon the failure of any person to abate a nuisance for which notice to abate is given under section 26-86, the town may abate the nuisance and recover the costs thereof pursuant to sections 26-58 and 26-59 of this Code. The expense incurred by the town in abating the nuisance shall become a lien on the property, and be placed on the tax duplicate and collected from the owner of the premises as taxes are collected.
(Ord. No. 97-04, § 2, 8-12-1997; Ord. No. 2024-06, § 12, 6-25-2024)

**Sec. 26-88. Right of entry.**

The town, through its building commissioner or his designated representative, is granted full authority to enter upon and inspect any premises, buildings, or property within the town at reasonable times for the purpose of carrying out the provisions of sections 26-85 through 26-87. It shall be unlawful for any person to interfere with or hinder any officer or agent of the town while he is carrying out this duty.
(Ord. No. 97-04, § 2, 8-12-1997)

**Secs. 26-89—26-119. Reserved.**

## DIVISION 3. FIREWORKS

**Sec. 26-120. 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:

*Fireworks* means all class B and consumer fireworks as defined in IC 22-11-14 et seq.
(Ord. No. 2007-09, art. 1, 6-26-2007)

**Sec. 26-121. Discharge prohibited; exception.**

Except as provided in this section, it is unlawful for any person to ignite, shoot off, release, discharge or cause to be discharged any fireworks within the limits of the town, or to allow another to ignite, shoot off, release, discharge or cause to be discharged any fireworks on property owned or leased by them within the limits of the town. Notwithstanding this prohibition, use of fireworks shall be allowed as follows:

(1) Public fireworks displays where a permit is granted pursuant to IC 22-11-14-2 or 22-11-14-3.5;

(2) Fireworks displays only as allowed by state law. Currently, this allows the use of fireworks on the following date and times:

a. Between 5:00 p.m. and two hours after sunset from June 29 to July 3;

b. 10:00 a.m. to 12:00 midnight on July 4;

c. Between 5:00 p.m. and two hours after sunset from July 5 to 9; and

d. 10:00 a.m. on December 31 to 1:00 a.m. on January 1;

e. Other dates as may be permitted by the town council by special request.
(Ord. No. 2007-09, art. 2, 6-26-2007)

**Sec. 26-122. Nuisance; unsafe use.**

Use or discharge of fireworks which causes serious annoyance to citizens by loud, frequent or habitual noise is declared to be a nuisance. It is unlawful for any person to conduct such activities. In addition, the use of fireworks in an unsafe manner or in a way that results in the littering of public and/or private property shall be also prohibited.
(Ord. No. 2007-09, art. 3, 6-26-2007)

**Sec. 26-123. Parental responsibility.**

It shall be unlawful for the parent, guardian or other adult person having the care, custody and control of a minor under the age of 18 years to knowingly permit such minor to fire, shoot off, or discharge any fireworks within the limits of the town.
(Ord. No. 2007-09, art. 4, 6-26-2007)

**Sec. 26-124. Liability for fire and other damage.**

Any person shall be liable for damage to person or property caused by the use or discharge of fireworks, and shall also be liable for costs of fire service by a responding fire department as defined in IC 22-11-14-1 or other emergency services necessitated by the use or discharge of fireworks.
(Ord. No. 2007-09, art. 5, 6-26-2007)

**Sec. 26-125. Penalties.**

(a) Any person convicted of violating the provisions of sections 26-121 and/or 26-123 may be punished by a fine in an amount of up to $100.00 per occurrence.

(b) Any person convicted of violating the provisions of section 26-122 may be punished by a fine in an amount up to $700.00 per occurrence.

(c) A civil action to abate such nuisance may also be brought as provided under state law. (Ord. No. 2007-09, art. 6, 6-26-2007)

**Secs. 26-126—26-148. Reserved.**

## ARTICLE III. AIR POLLUTION*

### Sec. 26-149. Burning regulations.

A person may open burn the following for maintenance purposes:

(1) Vegetation from:

a. A farm;

b. An orchard;

c. A nursery;

d. A tree farm;

e. A cemetery; or

f. A drainage ditch.

(2) Vegetation from agricultural land if the open burn occurs in an unincorporated area.

(3) Wood products derived from pruning or clearing a roadside by a county highway department.

(4) Wood products derived from the initial clearing of a public utility right-of-way if the open burn occurs in an unincorporated area.

(5) Undesirable:

a. Wood structures on real property; or

b. Wood remnants of the demolition of a predominantly wooden structure originally located on real property located in an unincorporated area.

### Sec. 26-150. Circumstances where no permit or authorization required.

A person who is allowed to open burn under section 26-149 is not required to obtain a permit or any other authorization from the department of environmental management, a unit of local government, or a volunteer fire department before conducting the open burning.

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***State law references—**Regulation of introduction of substance, order or sound in air, IC 36-8-2-8; open burning, IC 13-17-9-1 et seq.

**Sec. 26-151. Certain conditions apply.**

All open burning that is allowed under this article must comply with the following conditions:

(1) A person who open burns any material shall extinguish the fire if the fire creates a nuisance or fire hazard.

(2) Burning may not be conducted during unfavorable meteorological conditions such as high winds, temperature inversions, or air stagnation.

(3) All fires must be attended at all times during burning until completely extinguished.

(4) All asbestos-containing materials must be removed before the burning of a structure.

(5) Asbestos-containing materials may not be burned.

**Secs. 26-152—26-170. Reserved.**

## ARTICLE IV. NOISE

**Sec. 26-171. Noise and sound emission regulations.**

No person shall play, use or operate, or permit to be played, used or operated, any machine or device for the producing or reproducing of sound, including, but not limited to, loudspeakers, radios, CD players, television sets, musical instruments, and phonographs, cassette players or any other machine designed or intended to produce or reproduce sound, nor operate or permit to be operated any motor vehicle, lawn mower, machinery, and/or equipment that contains a modified or defective exhaust system, if such machine, device, or vehicle is located in or around any of the following:

(1) Any public property, including any public right-of-way, highway, road, street, alley, building, sidewalk, parking lot, public space, park, thoroughfare, or public transportation area and the sound generated is clearly audible by another person at a distance of 50 feet or more from its source; or

(2) Any private property, and the sound generated is clearly audible by another person at the distance of 50 feet or more outside of said private property line.

(Ord. No. 2006-01, 2-28-2006)

**Sec. 26-172. Exemptions.**

The following are exempted from the provisions of this article:

(1) Sounds emitted from authorized emergency vehicles.

(2) Lawn mowers, garden tractors, construction equipment, and power tools, when properly muffled between the hours of 7:00 a.m. and 7:00 p.m.

(3) Burglar alarms and other warning devices when properly installed, providing the cause for such alarm or warning device sound is investigated and said alarm turned off within a reasonable period of time.

(4) Parades, festivals, and carnivals, fairs, celebrations, and concerts, artistic performances and/or other events authorized by the town.

(5) Attendant noise and sound emission connected with the actual performance of athletic or sporting events and practices related hereto.

(6) The emission of sound for the purpose of alerting persons to the existence of an emergency, or for the performance of emergency work.

(7) Sounds associated with the use of legal fireworks or celebrations on July 3 or July 4 and December 31.

(8) Sounds emitted from sound-amplifying devices from which a permit has been obtained pursuant to this Code.

(9) In the case of motor vehicles, where the noise and sound emission is the result of a defective or modified exhaust system, if the cause is repaired or otherwise remedied within seven calendar days.

(10) Sounds associated with the normal conduct of legally established nontransient businesses, when such sounds are customary, incidental and within the normal range appropriate for such use. Nothing in this section shall change or alter any other regulation of the town, including, but not limited to, the town's zoning ordinance set forth in appendix A to this Code.

(Ord. No. 2006-01, 2-28-2006)

**Sec. 26-173. Penalties.**

(a) Any person who violates the provisions of this article shall be subject to the following fines/assessments:

| | | |
|---|---|---|
| (1) | First offense | $50.00 |
| (2) | Second offense | $100.00 |
| (3) | Third and subsequent offenses | $500.00 |

Each violation shall constitute a separate offense.

(b) The fines/assessments in subsection (a) of this section, upon admission of violation of this article, shall be paid to the clerk-treasurer of the town, at the town hall within ten working days of the date of the offense.

(Ord. No. 2006-01, 2-28-2006)

**Sec. 26-174. Consequences of not paying fines/assessments.**

Upon denial of the allegations of the violation of this article, or upon failure to pay the aforementioned fines/assessments within the specified time period, the violation shall be sent

to the proper court of venue and jurisdiction for the enforcement of this article. Any costs incurred by the town to collect any fine, including, but not limited to, court costs and attorneys' fees, shall be reimbursed to the town by the violator.
(Ord. No. 2006-01, 2-28-2006)

**Sec. 26-175. Parental responsibility.**

A custodial parent shall be responsible for ensuring that a child under 18 years of age complies with this article, and said parent shall be responsible for any fine imposed.
(Ord. No. 2006-01, 2-28-2006)

**Sec. 26-176. Power to issue citations.**

Any sworn member of the town police department may issue citations for violation of this article.
(Ord. No. 2006-01, 2-28-2006)

**Sec. 26-177. Rules and guidelines.**

The police commission and the town council shall have the joint and collective authority to develop, establish, incorporate, monitor, and regulate specific rules and guidelines in furtherance of the intent and objectives of this article.
(Ord. No. 2006-01, 2-28-2006)

**Secs. 26-178—26-209. Reserved.**

## ARTICLE V. ABANDONED AND JUNK VEHICLES*

**Sec. 26-210. 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:

*Abandoned vehicle* means the following:

(1) A vehicle located on public property illegally.

(2) A vehicle left on public property without being moved for three days.

(3) A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicular traffic on a public right-of-way.

(4) A vehicle that has remained on private property without the consent of the owner or person in control of that property for more than 48 hours.

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***State law references—**Abandoned motor vehicles, IC 9-22-1-1 et seq.; publication procedures, IC 5-3-1-0.4 et seq.; disposal of real or personal property, IC 36-1-11-1 et seq.; abandoned vehicle, IC 9-13-2-1.

(5) A vehicle from which the engine, transmission, or differential has been removed or that is otherwise partially dismantled or inoperable and left on public property.

(6) A vehicle that has been removed by a towing service or public agency upon request of an officer enforcing a statute or an ordinance other than this article if the impounded vehicle is not claimed or redeemed by the owner or the owner's agent within 20 days after the vehicle's removal.

(7) A vehicle that is at least three model years old, is mechanically inoperable and/or not registered to operate on the public streets or highways of the state, and is left on private property continuously in any location visible from public property for more than 20 days.

*Owner* means the last known record title holder of a vehicle according to the state bureau of motor vehicles under IC 9-17.

*Part* refers to all components of a vehicle that as assembled do not constitute a complete vehicle.

*Person* means, except as otherwise provided in this section, an individual, a firm, a partnership, an association, a fiduciary, an executor or administrator, a governmental entity, a limited liability, or a corporation.

*Private property* means all property other than public property.

*Public property* means a public right-of-way, street, highway, alley, park or other state, county or municipal property.

*Vehicle* means an automobile, a motorcycle, a truck, a trailer, a semitrailer, a tractor, a bus, a school bus, a recreational vehicle, or a motorized bicycle.
(Ord. No. 2006-22, § 4, 11-28-2006)

**Sec. 26-211. Penalty; abandoned vehicle fund.**

(a) Whoever violates any provisions of this article, whoever interferes in any way with the due process of enforcement of any of the provisions of this article, or whoever does not obey within the time fixed in any order pursuant to this article shall be fined $50.00. Each motor vehicle involved shall constitute a separate offense and a separate offense shall be deemed committed upon each day during which a violation occurs or continues. Any penalties collected under this section shall be deposited into the abandoned vehicle fund.

(b) The abandoned vehicle fund is established to be used for the deposit and withdrawal of funds to be used to enforce the town's regulations related to abandoned vehicles. Such fund shall be a nonreverting fund. The cost of administering this article shall be paid from the abandoned vehicle fund.

(c) A copy of this article shall be filed with the bureau of motor vehicles.
(Ord. No. 2006-22, § 16, 11-28-2006)

**Sec. 26-212. Purpose.**

The town council finds that inoperative, junk, and abandoned vehicles which are located in any place where they are visible from a public place or public right-of-way are detrimental to the safety, morals, health and welfare of the general public and a detriment to the economic welfare of the town by producing a scenic blight which is adverse to the maintenance and continuing development of the town. Such vehicles are declared a public nuisance and the town council hereby authorizes the town's police officers or duly authorized agents to remove, store, dispose of, and otherwise regulate junk and abandoned vehicles in accordance with state law and this article.
(Ord. No. 2006-22, § 1, 11-28-2006)

**Sec. 26-213. Compliance with state law.**

IC 9-13-2-1 and 9-22-1-1 et seq., as may be amended from time to time, are hereby adopted and incorporated herein by reference. All proceedings within the town for the removal, storage, disposal, and other regulation of abandoned vehicles shall be governed by such law and the provisions of this article. In the event that provisions of this article and such state statutes and state regulations conflict, then the provisions of the state law shall control and this article shall be considered amended to comply with such statutes or regulations.
(Ord. No. 2006-22, § 2, 11-28-2006)

**Sec. 26-214. Enforcement authority.**

The officers of the town police department are hereby given primary responsibility for carrying out the provisions of this article. For purposes of this article, the town officials authorized to carry out this article may hereafter be referred to as "officer."
(Ord. No. 2006-22, § 3, 11-28-2006)

**Sec. 26-215. Abandoned vehicles and parts prohibited.**

No person shall abandon, store, park, or allow any mechanically inoperable vehicle, other vehicle constituting an abandoned vehicle as defined by this article, or an abandoned part, to remain in the open upon public or private property within the town limits at any location which is visible from public property for a period of three or more days on public property or for a period of 20 or more days on private property if a vehicle is at least three or more model years old and mechanically inoperable unless it is in connection with an automotive or repair business enterprise which legally operates. Such prohibition shall include leaving any vehicle or part at any place within the town for such a time and under circumstances which would reasonably make such vehicle or part appear to be an abandoned vehicle or part. A vehicle or part shall not be considered an abandoned vehicle or part if it is stored in a garage or other building or within a fenced area which completely blocks the vehicle or part from public view. A garage or other building does not include a tarp, plastic sheeting, or any other similar material or impermanent means that is used to cover a motor vehicle or part. A garage or other building as contemplated in this article is given its ordinary meaning.
(Ord. No. 2006-22, § 5, 11-28-2006)

**Sec. 26-216. Application of article.**

This article does not apply to the following:

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

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

(3) A vehicle located on a vehicle sale lot.

(4) A vehicle located upon property licensed or zoned as an automobile scrapyard.

(5) A vehicle registered and licensed under IC 9-18-12 as an antique vehicle.

(Ord. No. 2006-22, § 6, 11-28-2006)

**Sec. 26-217. Responsibility and liability of owner.**

The person who owns an abandoned vehicle or parts is:

(1) Responsible for the abandonment; and

(2) Liable for all of the costs incidental to the removal, storage, and disposal of the vehicle or the parts under this article.

(Ord. No. 2006-22, § 7, 11-28-2006)

**Sec. 26-218. Tagging abandoned vehicle or parts.**

(a) An officer who finds or is notified of a vehicle or parts believed to be abandoned shall first make a reasonable effort to ascertain the owner of the vehicle or parts or the person who may be in control of the vehicle or parts. If ascertained, the officer shall then provide such person with a notice requiring removal of the abandoned vehicle or parts. The notice shall also be attached to the vehicle or parts in a prominent place and the notice shall contain the following information:

(1) The date, time, officer's name, public agency, and address and telephone number to contact for information.

(2) That the vehicle or parts are considered abandoned.

(3) That the vehicle or parts will be removed after 72 hours.

(4) That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage, and disposal of the vehicle.

(5) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within 72 hours.

(b) Copies of the notice may also be provided to any adult occupying the real estate on which the vehicle or parts is located, if they are known. If no occupant of the real estate or owner of the vehicle or parts can be found, such notice may be affixed to any building on the real estate on which the vehicle or parts are located.
(Ord. No. 2006-22, § 8, 11-28-2006)

### Sec. 26-219. Abandoned vehicle report; photographs; duties of tagging officer; tow and storage of vehicle or parts.

If a vehicle or a part tagged under this article is not removed within the 72-hour period, the officer shall prepare a written abandoned vehicle report of the vehicle or parts, including information on the condition, missing parts, and other facts that might substantiate the estimated market value of the vehicle or parts, and the officer shall request a towing service to tow the vehicle or parts to a storage area. Photographs shall be taken to describe and record the condition of the vehicle or parts. However, if in the opinion of the officer the market value of an abandoned vehicle or parts is less than $100.00, instead of requesting a towing service to tow the vehicle or parts to a storage area, the officer shall immediately dispose of the vehicle or parts to an automobile scrapyard. In the case of disposal to a scrapyard, a copy of the abandoned vehicle report and photographs relating to the abandoned vehicle shall be forwarded to the bureau of motor vehicles. The town shall retain the original records and photographs for at least two years.
(Ord. No. 2006-22, § 9, 11-28-2006)

### Sec. 26-220. Abandoned vehicle report of public agency; request for name and address of owner of lienholder.

(a) Within 72 hours after removal of an abandoned vehicle to a storage area under this article, the storage lot shall prepare and forward to the bureau of motor vehicles an abandoned vehicle report containing a description of the vehicle, including the following information concerning the vehicle:

(1) The make.

(2) The model.

(3) The engine number, if any.

(4) The identification number.

(5) The number of the license plate.

(b) The storage lot shall request that the bureau of motor vehicles advise the storage lot of the name and most recent address of the person who owns or holds a lien on the vehicle.
(Ord. No. 2006-22, § 10, 11-28-2006)

**Sec. 26-221. Means of vehicle identification not available; disposal without notice.**

If a vehicle or parts are in such a condition that vehicle identification numbers or other means of identification are not available to determine the person who owns or holds a lien on the vehicle, the vehicle may be disposed of without notice as provided under IC 9-22-1-21.
(Ord. No. 2006-22, § 11, 11-28-2006)

**Sec. 26-222. Sales of abandoned vehicles or parts.**

The towing service or scrapyard shall follow statutory procedures to dispose of any abandoned vehicles or parts which are not claimed by the owner within the allotted time.
(Ord. No. 2006-22, § 12, 11-28-2006)

**Sec. 26-223. Towing charges.**

The maximum amount that an authorized towing service may charge for towing or removing a vehicle under this article shall not exceed the fair market commercial rate, except where special equipment is required. The maximum amount that may be charged for storage shall not exceed the daily fair market commercial rate.
(Ord. No. 2006-22, § 13, 11-28-2006)

**Sec. 26-224. Towing contracts.**

To facilitate the removal of abandoned vehicles or parts, the town council may enter into towing contracts, for the removal, storage, and disposition of abandoned vehicles and parts.
(Ord. No. 2006-22, § 14, 11-28-2006)

**Sec. 26-225. Liability for loss or damage to vehicle or vehicle parts.**

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

(1) A person who owns, leases or occupies property from which an abandoned vehicle or parts are removed unless that person is also the owner of the abandoned vehicle or is responsible for its presence.

(2) The town, the police department, the town clerk-treasurer, the town council, or the town's officers, agents, or employees.

(3) A towing service.

(4) An automobile scrapyard.

(Ord. No. 2006-22, § 15, 11-28-2006)

**Secs. 26-226—26-243. Reserved.**

## ARTICLE VI. STORMWATER MANAGEMENT*

### DIVISION 1. GENERAL INFORMATION

**Sec. 26-244. Authority and title.**

This article is adopted in accordance with statutory authority granted to Town of Porter, IN (hereafter known as the "town") under "Home Rule" and further is required by Phase II of the National Pollutant Discharge Elimination System Stormwater program (40 CFR Parts 9, 122, 123, and 124; December 8, 1999) authorized by the 1987 amendments to the Clean Water Act, the Indiana Department of Environmental Management's (IDEM) Municipal Separate Storm Sewer System (MS4) General Permit (MS4 GP), and the Indiana Department of Environmental Management's Construction Stormwater General Permit (CSGP). Based on this authority and these requirements, this article regulates:

(1) Discharges of prohibited non-stormwater flows into the storm drain system.

(2) Stormwater drainage improvements related to development of lands located within the corporate boundaries of the town.

(3) Drainage control systems installed during new construction and grading of lots and other parcels of land.

(4) Stormwater, including stormwater runoff, snowmelt runoff, and surface runoff and drainage, associated with construction activity.

(5) Stormwater discharges from construction support activities directly related to construction sites subject to this article.

(6) Erosion and sediment control systems installed during new construction and grading of lots and other parcels of land.

(7) The design, construction, and maintenance of stormwater drainage facilities and systems.

(8) The design, construction, and maintenance of stormwater quality facilities and systems.

(9) The design, construction, and maintenance of new dams.

(10) The development downstream of existing dams.

(11) Development within floodplains, floodways, fluvial erosion hazard corridors, and bluff zones.

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***Editor's note—**Ord. No. 2024-11, § 1(Exh. A), adopted September 24, 2024, repealed the former Art. VI, §§ 26-265—26-267, 26-296—26-300, 26-319, 26-320, 26-344—26-352, 26-367—26-369, 26-384, 26-385, 26-414, 26-415, 26-444—26-451, and enacted a new Art. VI as set out herein. The former Art. VI pertained to similar subject matter and derived from Ord. No. 2006-02, §§ I—VIII, 2-28-2006; Ord. No. 2006-03, §§ I—XXI, 2-28-2006; Ord. No. 2008-4, 2-12-2008.

This article shall be known and may be cited as the Town of Porter, IN Stormwater Management Ordinance. Once adopted, this article will supersede any conflicting ordinances previously adopted by the town.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-245. Applicability and exemptions.**

This article shall regulate all development and redevelopment occurring within the town. No building permit shall be issued and no land disturbance started for any construction in a development, as defined in appendix A, until the plans required by this article for such construction have been accepted in writing by the town. With the exception of the requirements of division 2 and section 26-329 of this article, single-family dwelling houses and duplexes in accepted subdivisions, and land-disturbing activities affecting less than 10,000 square feet of area shall be exempt from the requirements of this article. Also exempt from this article shall be agricultural land-disturbing activities.

In addition to the requirements of this article and its companion Stormwater Technical Standards Manual, compliance with all applicable ordinances of the town as well as with applicable federal, State of Indiana, and other local statues and regulations shall also be required. Unless otherwise stated, all other specifications referred to in this article shall be the most recent edition available. Town capital improvement projects shall be exempt from obtaining a permit, but are expected to meet all applicable technical requirements of this article and the Town of Porter, IN Stormwater Technical Standards Manual. If the project site is located within a Porter County regulated drain watershed, the applicant will need to check with the Porter County surveyor's office to learn if additional surveyor's office requirements specific to that regulated drain would apply to the site. In case there are conflicts between the requirements contained in this article and applicable requirements contained in other regulatory documents referenced above, the most restrictive shall prevail.

Any construction project which has had its final drainage plan accepted by the town within a two-year period prior to the effective date of the ordinance from which this article is derived shall be exempt from all requirements of this article that are in excess of the requirements of ordinances in effect at the time of acceptance. Such an exemption is not applicable to the requirements detailed in division 2 of this article.

The town has the authority to modify, grant exemptions, and/or waive any and all the requirements of this article and its associated Stormwater Technical Standards Manual. A pre-submittal meeting with the town may be requested by the applicant to discuss the applicability of various provisions of this article and its associated Stormwater Technical Standards Manual with regard to unique or unusual circumstances relating to a project. However, any initial determination of such applicability shall not be binding on future determinations of the town that may be based on the review of more detailed information and plans.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-246. Findings.**

The town finds that:

(1) Water bodies, roadways, structures, and other property within the town or its planning jurisdiction boundary are at times subjected to flooding;

(2) Flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the region;

(3) Land development alters the hydrologic response of watersheds, resulting in increased stormwater runoff rates and volumes, increased flooding, increased stream channel erosion, and increased sediment transport and deposition;

(4) Soil erosion resulting from land-disturbing activities causes a significant amount of sediment and other pollutants to be transported off-site and deposited in ditches, streams, wetlands, lakes, and reservoirs;

(5) Increased stormwater runoff rates and volumes, and the sediments and pollutants associated with stormwater runoff from future development projects within the town will, absent reasonable regulation and control, adversely affect the town's water bodies and water resources;

(6) Pollutant contributions from illicit discharges within the town will, absent reasonable regulation, monitoring, and enforcement, adversely affect the town's water bodies and water resources;

(7) Stormwater runoff, soil erosion, non-point source pollution, and illicit sources of pollution can be controlled and minimized by the regulation of stormwater management;

(8) Adopting the standards, criteria, and procedures contained and referenced in this article and implementing the same will address many of the deleterious effects of stormwater runoff and illicit discharges;

(9) Adopting this article is necessary for the preservation of the public health, safety, and welfare, for the conservation of natural resources, and for compliance with state and federal regulations.

(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-247. Purpose.**

The purpose of this article is to provide for the health, safety, and general welfare of the citizens of the town through the regulation of stormwater and non-stormwater discharges to the storm drainage system and to protect, conserve and promote the orderly development of land and water resources within the town. This article establishes methods for managing the quantity and quality of stormwater entering into the storm drain system. The objectives of this article are:

(1) To reduce the hazard to public health and safety caused by excessive stormwater runoff.

(2) To regulate the contribution of pollutants to the storm drain system from construction site runoff.

(3) To regulate the contribution of pollutants to the storm drain system from runoff from new development and re-development.

(4) To prohibit illicit discharges into the storm drain system.

(5) To establish legal authority to carry out all inspection, monitoring, and enforcement procedures necessary to ensure compliance with this article.

(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-248. Abbreviations and definitions.**

The abbreviations and definitions provided in division 8 shall apply for all purposes throughout this article VI.

(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-249. Responsibility for administration.**

The town, acting through its building department and/or designated MS4 coordinator, as applicable, shall administer, implement, and enforce the provisions of this article. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by building commissioner or designated MS4 coordinator, as applicable, to qualified persons or entities acting in the beneficial interest of or in the employ of the town.

(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-250. Interpretation.**

Words and phrases in this article shall be construed according to their common and accepted meanings, except that words and phrases defined in appendix A, shall be construed according to the respective definitions given in that section. Technical words and technical phrases that are not defined in this article, but which have acquired particular meanings in law or in technical usage shall be construed according to such meanings.

(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-251. Severability.**

The provisions of this article are hereby declared severable, and if any court of competent jurisdiction should declare any part or provision of this article invalid or unenforceable, such invalidity or unenforceability shall not affect any other part or provision of this article.

(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-252. Disclaimer of liability.**

The degree of protection required by this article is considered reasonable for regulatory purposes and is based on historical records, engineering, and scientific methods of study. Larger storms may occur or stormwater runoff amounts may be increased by man-made or

natural causes. This article does not imply that land uses permitted will be free from stormwater damage. This article shall not create liability on the part of the town or any officer, representative, or employee thereof, for any damage that may result from reliance on this article or on any administrative decision lawfully made there under.

The words "approve" and "accept", and their common derivations as used in this article in relation to plans, reports, calculations, and permits shall mean that the town has reviewed the material produced and submitted by the applicant or his/her agents for general compliance with this article and the Stormwater Technical Standards Manual, and that such compliance would qualify the applicant to receive a stormwater management approval or permit. Such an "approval" or "acceptance" is based on the assumption that the project engineer has followed all appropriate engineering methods in the design. Any stormwater quantity (drainage) or water quality problems associated with the project caused by poor construction by the contractor and/or poor engineering design or judgment, either on-site or off-site, are the responsibility of the developer and the project engineer.

Consideration, design, construction, and maintenance of safety measures for proposed or existing stormwater facilities shall be the responsibility of the developer, applicant, and/or the property owner. Town and its officials and representatives shall not be responsible for maintenance nor liability for any accidents.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Secs. 26-253—26-262. Reserved.**

## DIVISION 2. PROHIBITED DISCHARGES AND CONNECTIONS

### Sec. 26-263. Applicability and exemptions.

This section shall apply to all discharges, including illegal dumping, entering the storm drain system under the control of the town, regardless of whether the discharge originates from developed or undeveloped lands, and regardless of whether the discharge is generated from an active construction site or a stabilized site. These discharges include flows from direct connections to the storm drain system, illegal dumping, and contaminated runoff.

Stormwater runoff from agricultural, timber harvesting, and mining activities is exempted from the requirements of this section unless determined to contain pollutants not associated with such activities or in excess of standard practices. Farm residences are not included in this exemption.

Any non-stormwater discharge permitted under an NPDES permit, waiver (unless the waiver is solely based on point source considerations, still allowing non-point source discharge of a pollutant), or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the

discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for the subject discharge to the storm drain system, is also exempted from this section.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-264. Prohibited discharges and connections.**

No person shall discharge to a MS4 conveyance, watercourse, or waterbody, directly or indirectly, any substance other than stormwater or an exempted discharge. Any person discharging stormwater shall effectively minimize pollutants from also being discharged with the stormwater, through the use of best management practices (BMP's).

Concrete washout material must be properly contained within an appropriate practice and any waste material properly disposed of.

The town is authorized to require dischargers to implement pollution prevention measures, utilizing BMP's necessary to prevent or reduce the discharge of pollutants into the town's stormwater drainage system.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-265. Exempted discharges and connections.**

Notwithstanding other requirements in this article, the following categories of non-stormwater discharges or flows are exempted from the requirements of this section:

(1) Water line flushing;

(2) Landscape irrigation;

(3) Diverted streamflows;

(4) Rising ground waters;

(5) Uncontaminated groundwater infiltration;

(6) Uncontaminated pumped ground water;

(7) Discharges from potable water sources;

(8) Foundation drains;

(9) Air conditioning condensation;

(10) Irrigation water;

(11) Springs;

(12) Water from crawl space pumps;

(13) Footing drains;

(14) Lawn watering;

(15) Water used to wash vehicles and equipment, provided that there is no discharge of soaps, solvents, or detergents used for such purposes;

(16) Flows from riparian habitats and wetlands;

(17) Dechlorinated swimming pool discharges not including discharges from saltwater swimming pools;

(18) Street wash water;

(19) Discharges from emergency firefighting activities;

(20) Naturally introduced detritus (e.g. leaves and twigs);

(21) Routine external building washdown water that does not use detergents.

(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-266. Storage of hazardous or toxic material.**

Storage or stockpiling of hazardous or toxic material within any watercourse, or in its associated floodway or floodplain, is strictly prohibited. Storage or stockpiling of hazardous or toxic material, including sewage treatment plant stockpiles, on active construction sites must include adequate protection and/or containment so as to prevent any such materials from entering any temporary or permanent stormwater conveyance or watercourse.

(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-267. Private property maintenance duties.**

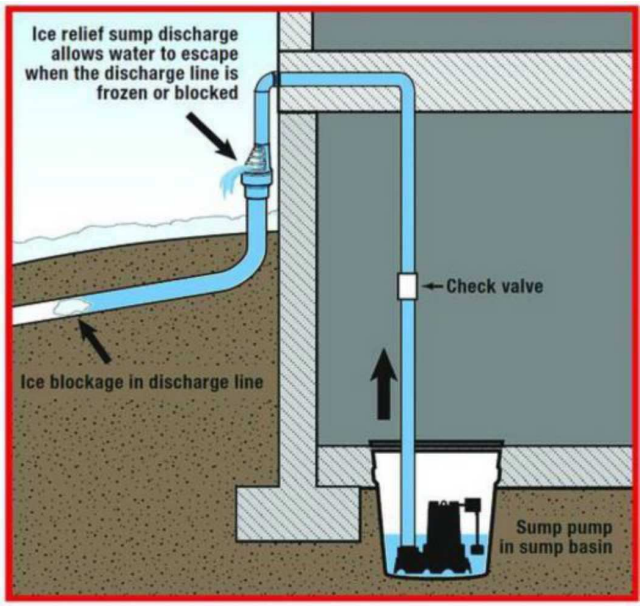
Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse located within their property boundaries, free of trash, debris, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(1) *Sump pump discharges.*

a. Sump pumps can only discharge stormwater and shall be directed to not create a nuisance on any adjacent property. Sump pump discharge pipes shall be no closer than ten feet from adjacent property lines.

b. The discharge piping from sump pumps shall terminate no more than ten feet from the building, and be directed towards the center of the front or back yard unless written approval is granted by the town MS4 coordinator. This is to maximize absorption over green space before the flow reaches a public sidewalk where it can freeze, impact public infrastructure, or before it reaches adjacent properties and causes a nuisance.

c. Sump pump discharge pipes shall have an air gap at the building as shown in the example below. If the underground line freezes, the pumped water will spill out the air gap and not burn out the sump pump or flood the basement.




d. Sump pumps cannot discharge to the sanitary sewer system.

e. Sump pump discharge pipes can be connected to the storm sewer system or discharge to a roadside drainage ditch as approved by the town MS4 coordinator.

f. Your sump pump water is not the responsibility of your neighbors, public sidewalks, or other public infrastructure.

(2) *Driveway culverts.*

a. Please refer to chapter 58, sections 58-97 to 58-101 for information regarding sizing, maintenance and permitting of driveway culverts.

(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-268. Spill reporting.**

Any discharger who accidentally discharges into a waterbody any substance other than stormwater or an exempted discharge shall immediately inform the town concerning the discharge. A written report concerning the discharge shall be filed with the town and IDEM, by the dischargers, within five days. The written report shall specify:

(1) The composition of the discharge and the cause thereof;

(2) The date, time, and estimated volume of the discharge;

(3) All measures taken to clean up the accidental discharge, and all measures proposed to be taken to prevent any recurrence;

(4) The name and telephone number of the person making the report, and the name and telephone number of a person who may be contacted for additional information on the matter.

A properly reported accidental discharge shall be an affirmative defense to a civil infraction proceeding brought under this article against a discharger for such discharge. It shall not, however, be a defense to a legal action brought to obtain an injunction, to obtain recovery of costs or to obtain other relief because of or arising out of the discharge. A discharge shall be considered properly reported only if the discharger complies with all the requirements of this section. This requirement does not relieve discharger from notifying other entities as required by state or federal regulations.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-269. Inspections and monitoring.**

(a) *Storm drainage system.* The town has the authority to periodically inspect the portion of the storm drainage system under the town's control, in an effort to detect and eliminate illicit connections and discharges into the system. This inspection will include a screening of discharges from outfalls connected to the system in order to determine if prohibited flows are being conveyed into the storm drainage system. It could also include spot testing of waters contained in the storm drainage system itself to detect the introduction of pollutants into the system by means other than a defined outfall, such as dumping or contaminated sheet runoff.

(b) *Potential polluters.* If, as a result of the storm drainage system inspection, a discharger is suspected of an illicit discharge, the town may inspect and/or obtain stormwater samples from stormwater runoff facilities of the subject discharger, to determine compliance with the requirements of this article. Upon request, the discharger shall allow the town's properly identified representative to enter upon the premises of the discharger at all hours necessary for the purposes of such inspection or sampling. The town or its properly identified representative may place on the discharger's property the equipment or devices used for such sampling or inspection. Identified illicit connections or discharges shall be subject to enforcement action as described in division 7 of this article.

(c) *New development and re-development.* Following the final completion of construction and the receipt of as-built drawings by the town, the town has the authority to inspect new development and re-development sites to verify that all on-site stormwater conveyances and connections to the storm drainage system are in compliance with this section.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Secs. 26-270—26-279. Reserved.**

DIVISION 3. STORMWATER QUANTITY MANAGEMENT

**Sec. 26-280. Applicability and exemptions.**

The storage and controlled release of excess stormwater runoff shall be required for all new business, institutional developments, commercial and industrial developments, residential

subdivisions, planned development, rural estate subdivisions, and any redevelopment or other new construction located within the town. The town, after thorough investigation and evaluation, may waive the requirement of controlled runoff for minor subdivisions and parcelization. Additional potential exemptions regarding the detention requirements are provided under section 26-281.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-281. Policy on stormwater quantity management.**

It is recognized that most streams and drainage channels serving the town do not have sufficient capacity to receive and convey stormwater runoff resulting from continued urbanization. Accordingly, the storage and controlled release of excess stormwater runoff as well as compensation for loss of floodplain storage shall be required for all developments and redevelopments (as defined in appendix A) located within the Town of Porter, IN. Release rate requirements, downstream restriction considerations, acceptable outlet, adjoining property impact considerations, policy on dams and levees, policy on Fluvial Erosion Hazard corridors, and compensatory floodplain storage rates are detailed in the Stormwater Technical Standards Manual.

Due to unknowns regarding the future development patterns and the associated proposed stormwater quantity management systems within a watershed, it is the policy of the town to discourage direct release of runoff from a new development or redevelopment without providing detention. However, in rare circumstances, where a comprehensive watershed-wide hydrologic study or watershed plan of a major stream (not a "beat the peak" analysis) adopted by the town substantiates the benefits of (or allows for) direct release for a proposed development located adjacent to a major stream, the detention requirements set in this article may be waived. Other special circumstances when such a waiver may be considered by town include situations where the design of a regional pond has already taken into account the provision of direct release in certain areas in the watershed.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-282. Calculations and design standards and specifications.**

The calculation methods as well as the type, sizing, and placement of all stormwater facilities shall meet the design criteria, standards, and specifications outlined in the Stormwater Technical Standards Manual. The methods and procedures in the Stormwater Technical Standards Manual are consistent with the policy stated above.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-283. Drainage easement requirements.**

All stormwater systems, including detention or retention basins, conveyance systems, structures and appurtenances, located outside of the right-of-way shall be placed within a drainage easement. There shall be no trees or shrubs planted, nor any structures or fences erected in any drainage easement, unless otherwise approved and accepted by the town. Additional easement requirements along stormwater conveyance systems are contained in

the Stormwater Technical Standards Manual. All drainage improvements performed relative to the conveyance of stormwater runoff and the perpetual maintenance thereof, within the latter easements, shall be the responsibility of the owner or homeowner association.

Any outlet to, crossing, and/or encroachment of a Porter County regulated drainage easement requires application and acceptance from the Porter County drainage board in accordance with the Indiana Drainage Code."
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-284. Placement of utilities.**

No utility company may disturb existing storm drainage facilities without the consent of the town staff, whose decision may be appealed to the town council. All existing drainage facilities shall have senior rights and damage to said facilities shall result in penalties as prescribed in division 7 of this article.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-285. Structures near county regulated drains.**

For regulated drains not located in platted subdivisions, unless otherwise accepted by the Porter County drainage board, no permanent structure (including fences) shall be erected within 75 feet measured at right angles from a) the existing top edge of each bank of a regulated open drain, as determined by the Porter County drainage board; or b) the center line of a piped regulated drain. The Indiana Drainage Code may be consulted for further details.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-286. Inspection, maintenance, record keeping, and reporting.**

After the approval of the stormwater management permit by the town and the commencement of construction activities, the town has the authority to conduct inspections of the work being done to insure full compliance with the provisions of this section, the Stormwater Technical Standards Manual, Design and Construction Standards, and the terms and conditions of the approved permit.

The town also has the authority to perform long-term, post-construction inspection of all public or privately owned stormwater quantity facilities. The inspection will cover physical conditions, available storage capacity, and the operational condition of key facility elements. Stormwater quantity facilities shall be maintained in good condition, in accordance with the designed and approved performance specifications for the facilities, in addition to any prescribed operation and maintenance procedures, and shall not be subsequently altered, revised or replaced except as approved by the town. If deficiencies are found during the inspection, the owner of the facility will be notified by the town and will be required to take

all necessary measures to correct such deficiencies. If the owner fails to correct the deficiencies within the allowed time period, as specified in the notification letter, the town will undertake the work and collect from the owner using lien rights if necessary.

Assignment of responsibility for maintaining facilities serving more than one lot or holding shall be documented by appropriate covenants to property deeds, unless responsibility is formally accepted by a public body, and determined before the final stormwater permit is approved.

Stormwater conveyance facilities may be donated to the town, or other unit of government designated by the town, for ownership and permanent maintenance providing the town or other governmental unit is willing to accept responsibility.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Secs. 26-287—26-296. Reserved.**

## DIVISION 4. STORMWATER POLLUTION PREVENTION FOR CONSTRUCTION SITES

### Sec. 26-297. Applicability and exemptions.

The town will require a stormwater pollution prevention plan (SWPPP), which includes erosion and sediment control measures and materials handling procedures, to be submitted as part of a project's construction plans and specifications. Any project located within the corporate boundaries of the town that includes clearing, grading, excavation or other land disturbing activities resulting in the disturbance of 10,000 square feet or more of total land area is subject to the requirements of this section. This includes both new development and re-development. This section also applies to disturbances of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb 10,000 square feet or more of total land area. Section 26-299 provides guidelines for calculating land disturbance. Projects meeting the coverage requirements of IDEM's CSGP shall also be in compliance with the requirements contained in that permit.

The requirements under this section do not apply to the following activities, provided other applicable state permits contain provisions requiring immediate implementation of soil erosion and sediment control measures:

(1) Landfills that have been issued a certification of closure under 329 IAC 10.

(2) Coal mining activities permitted under IC 14-34.

(3) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the state department of environmental management under 329 IAC 10 that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

For an individual lot where land disturbance is expected to be one acre or more, the individual lot owner must complete their own notice of intent letter, apply for a stormwater permit from the town, and ensure that a sufficient construction and stormwater pollution prevention plan is completed and submitted in accordance with division 6 of this article, regardless of whether the individual lot is part of a larger permitted project site. For an individual lot where land disturbance is 10,000 square feet or more but less than one acre, an individual lot plot plan permit application is required prior to receiving a building permit. Details of the permitting process are contained in division 6 of this article.

An individual lot located within a larger permitted project site, is considered part of the larger permitted project site, and the individual lot operator must comply with the terms and conditions of the stormwater permit approved for the larger project site. The stormwater permit application for the larger project site must include detailed erosion and sediment control measures for individual lots. In addition, the builders of these individual lots are required to submit individual lot plot plan permit application along with a SWPPP for that individual lot prior to receiving a building permit. Details of the permitting process for individual lots and parcels are contained in division 6 and additional requirements for individual lots may be found in the Stormwater Technical Standards Manual.

It will be the responsibility of the project site owner to complete a stormwater permit application and ensure that a sufficient construction plan is completed and submitted to the town in accordance with division 6 of this article. It will be the responsibility of the project site owner to ensure compliance with this article during the construction activity and implementation of the construction plan, and to notify the town upon completion of the project and stabilization of the site, requesting a termination inspection to be performed by the town. However, all persons engaging in construction and land disturbing activities on a permitted project site meeting the applicability requirements must comply with the requirements of this section and this article.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-298. Policy on stormwater pollution prevention.**

Effective stormwater pollution prevention on construction sites is dependent on a combination of preventing movement of soil from its original position (erosion control), intercepting displaced soil prior to entering a waterbody (sediment control), and proper on-site materials handling.

For land disturbance of one acre or more, the developer must submit to the town, a SWPPP with detailed erosion and sediment control plans as well as a narrative describing materials handling and storage, and construction sequencing. The SWPPP and the project management log must be retained for at least three years from the date the project permit is terminated. For land disturbances totaling 10,000 square feet or more but less than one acre, appropriate erosion and sediment control measures that are consistent with the Stormwater Technical Standards Manual must be designed and shown on the plans.

The required IDEM general and implementation requirements that apply to all land-disturbing activities are contained in the Stormwater Technical Standards Manual.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-299. Calculations and design standards and specifications.**

In calculating the total area of land disturbance, for the purposes of determining applicability of this section to a project, the following guidelines should be used:

(1) Off-site construction activities that provide services (for example, road extensions, sewer, water, offsite stockpiles, and other utilities) to a land disturbing project site, must be considered as a part of the total land disturbance calculation for the project site, when the activity is under the control of the project site owner.

(2) To determine if multi-lot project sites are regulated by this section, the area of land disturbance shall be calculated by adding the total area of land disturbance for improvements, such as, roads, utilities, or common areas, and the expected total disturbance on each individual lot, as determined by the following:

a. For a single-family residential project site where the lots are one-half acre or more, one-half acre of land disturbance must be used as the expected lot disturbance.

b. For a single-family residential project site where the lots are less than one-half acre in size, the total lot must be calculated as being disturbed.

c. To calculate lot disturbance on all other types of project sites, such as industrial and commercial projects project sites, a minimum of one acre of land disturbance must be used as the expected lot disturbance, unless the lots are less than one acre in size, in which case the total lot must be calculated as being disturbed.

The calculation methods as well as the type, sizing, and placement of all stormwater pollution prevention measures for construction sites shall meet the design criteria, standards, and specifications outlined in the Indiana Stormwater Quality Manual, the Stormwater Technical Standards Manual, and the product guidance/specifications of the manufacturer. The methods and procedures included in these two references are in keeping with the above stated policy and meet the requirements of the IDEM's CSGP. A copy of the Indiana Stormwater Quality Manual may be obtained online through IDEM.

The design requirements that would apply to all land-disturbing activities and shall be considered in the selection, design, and implementation of all stormwater quality and management measures contained in the SWPPP are contained in the Stormwater Technical Standards Manual.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-300. Inspection, maintenance, record keeping, and reporting.**

Following approval of the stormwater permit or individual lot plot plan permit by the town and commencement of construction activities, the town has the authority to conduct

inspections of the site to ensure full compliance with the provisions of this section, the approved SWPPP, the Indiana Stormwater Quality Manual, and the terms and conditions of the approved permit.

A self-monitoring program (SMP) must be implemented by the project site owner to ensure the stormwater pollution prevention plan is working effectively. A trained individual, acceptable to the town, shall monitor and manage project construction and stormwater activities. Details regarding the required monitoring activities are contained in the Stormwater Technical Standards Manual.

The SWPPP shall serve as a guideline for stormwater quality but should not be interpreted to be the only basis for implementation of stormwater quality measures for a project site. The project site owner is responsible for implementing, in accordance with this section, all measures necessary to adequately prevent polluted stormwater runoff. Recommendations by the trained individual for modified stormwater quality measures should be implemented.

A project management log must be maintained at the project site or in the possession of on-site individuals associated with the management and operations of the construction activities. Details regarding requirements related to the project management log are contained in the Stormwater Technical Standards Manual.

**Secs. 26-301—26-310. Reserved.**

## DIVISION 5. STORMWATER QUALITY MANAGEMENT FOR POST-CONSTRUCTION

### Sec. 26-311. Applicability and exemptions.

(a) In addition to the requirements of division 4 of this article, the SWPPP, which is to be submitted to the town as part of the stormwater permit application, must also include post-construction stormwater quality measures. These measures are incorporated as a permanent feature into the site plan and are left in place following completion of construction activities to continuously treat stormwater runoff from the stabilized site. Any project located within the corporate boundaries of the town that includes clearing, grading, excavation, and other land disturbing activities, resulting in the disturbance of one acre or more of total land area is subject to the requirements of this section. This includes both new development and re-development, and disturbances of land less than one acre of total land area that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one acre or more of total land area. In addition, regardless of the amount of disturbance, the town reserves the right to require pretreatment BMPs for proposed hot spot developments in accordance with provisions contained in the Stormwater Technical Standards Manual.

(b) The requirements under this section do not apply to the following activities:

(1) Construction activities associated with a single-family residential dwelling disturbing less than one acre, when the dwelling is not part of a larger common plan of development or sale; or individual building lots within a larger permitted project.

(c) The requirements under this section do not apply to the following activities, provided other applicable state permits contain provisions requiring immediate implementation of soil erosion control measures:

(1) Landfills that have been issued a certification of closure under 329 IAC 10.

(2) Coal mining activities permitted under IC 14-34.

(3) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the state department of environmental management under 329 IAC 10 that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

(d) It will be the responsibility of the project site owner to complete a stormwater permit application and ensure that a sufficient construction plan is completed and submitted to the town in accordance with division 6 of this article. It will be the responsibility of the project site owner to ensure proper construction and installation of all stormwater BMP's (especially, the protection of post-stormwater BMPs during construction phase) in compliance with this article and with the approved stormwater permit, and to notify the town upon completion of the project and stabilization of the site, requesting a termination inspection to be performed by the town. However, all eventual property owners of stormwater quality facilities meeting the applicability requirements must comply with the requirements of this section and this article.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-312. Policy on stormwater quality management.**

It is recognized that developed areas, as compared to undeveloped areas, generally have increased imperviousness, decreased infiltration rates, increased runoff rates, and increased concentrations of pollutants such as fertilizers, herbicides, greases, oil, salts and other pollutants. As new development and re-development continues within the corporate boundaries of the town, measures must be taken to intercept and filter pollutants from stormwater runoff prior to reaching regional creeks, streams, and rivers. Through the use of appropriate best management practices (BMPs), to treat the water quality volume (WQv) or the water quality flow (Qwq) stormwater runoff will be filtered and harmful amounts of sediment, nutrients, and contaminants will be removed.

It is also recognized that another major source of pollution in many Indiana streams, including those within the corporate boundaries of the town, is the streambank erosion associated with urbanizing watersheds. Stream channels develop their shape in response to the volume and rate of runoff that they receive from their contributing watersheds. Research

has shown that in hydrologically stable watersheds, the stream flow responsible for most of the shaping of the channel (called the bankfull flow) occurs between every one to two years. When land is developed, the volume and rate of runoff from that land increases for these comparatively small flooding events that are not normally addressed by the detention practices and the stream channel will adapt by changing its shape. As the stream channel works to reach a new stable shape, excess erosion occurs. As new development and re-development continues within the corporate boundaries of the town, measures must be taken to minimize the impact of such development or re-development on streambank erosion. Through the use of appropriate best management practices (BMPs) to retain and/or detain and slowly release the channel protection volume (CPv), the volume and rate of runoff for channel forming flows will be reduced in an attempt to minimize increased streambank erosion in the receiving streams and channels.

The project site owner must submit to the town a stormwater pollution prevention plan (SWPPP) that shows placement of appropriate BMP(s) from a pre-approved list of BMP's specified in the Stormwater Technical Standards Manual. The SWPPP submittal shall include an operation and maintenance manual for all post-construction BMP(s) included in the project and a notarized maintenance agreement, consistent with the sample agreement provided in the Stormwater Technical Standards Manual, providing for the long-term maintenance of those BMPs, both of which shall be recorded with the deed for the property on which the project is located. The noted BMP(s) must be designed, constructed, and maintained according to guidelines provided or referenced in the Stormwater Technical Standards Manual. Practices other than those specified in the pre-approved list may be utilized. However, the burden of proof, as to whether the performance and ease of maintenance of such practices will be according to guidelines provided in the Stormwater Technical Standards Manual, would be placed with the applicant. Details regarding the procedures and criteria for consideration of acceptance of such BMP's are provided in the Stormwater Technical Standards Manual.

Gasoline outlets and refueling areas must install appropriate practices (as noted under "hot spots" provision in the Stormwater Technical Standards Manual) to reduce lead, copper, zinc, and polyaromatic hydrocarbons in stormwater runoff. These requirements will apply to all new facilities and existing facilities that replace their tanks, regardless of the size of the facility.

Discharges from new development and redevelopment sites will not be allowed directly into karst features without pre-treatment.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-313. Calculations and design standards and specifications.**

Calculation of land disturbance should follow the guidelines discussed in section 26-282.

The calculation methods as well as the type, sizing, and placement of all stormwater quality management measures, or BMPs shall meet the design criteria, standards, and

specifications outlined in the Stormwater Technical Standards Manual. The methods and procedures included in the referenced standards is in keeping with the above stated policy and meet or exceed the requirements of IDEM's MS4 GP.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-314. Easement requirements.**

All stormwater quality management systems, including detention or retention basins, filter strips, rain gardens, pocket wetlands, in-line filters, infiltration systems, conveyance systems, structures and appurtenances located outside of the right-of-way shall be incorporated into permanent easements. For the purposes of monitoring, inspection, and general maintenance activities, adequate easement width, as detailed in the Stormwater Technical Standards Manual, beyond the actual footprint of the stormwater quality management facility as well as a 20-foot wide access easement from a public right-of-way to each BMP shall be provided.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-315. Inspection, maintenance, record keeping, and reporting.**

After the approval of the stormwater permit by the town and the commencement of construction activities, the town has the authority to conduct inspections of the work being done to ensure full compliance with the provisions of this section, the approved stormwater pollution prevention plan, the Stormwater Technical Standards Manual, and the terms and conditions of the approved permit.

Stormwater quality facilities shall be maintained in good condition, in accordance with the operation and maintenance procedures and schedules listed in the Stormwater Technical Standards Manual, in addition to the designed and approved performance specifications for the facilities and shall not be subsequently altered, revised, or replaced except as approved by the town.

Details regarding the required of stormwater BMP maintenance agreement, O&M maintenance manual, and a maintenance escrow account and their transfer to other parties or subsequent owners prior to release of the maintenance bond discussed in division 6 of this article is provided in the Stormwater Technical Standards Manual.

The town also has the authority to perform long-term, post-construction inspection of all public or privately owned stormwater quality facilities. The inspection will cover physical conditions, available water quality storage capacity and the operational condition of key facility elements. Noted deficiencies and recommended corrective action will be included in an inspection report.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Secs. 26-316—26-325. Reserved.**

DIVISION 6. PERMIT REQUIREMENTS AND PROCEDURES

**Sec. 26-326. Conceptual drainage plan review.**

In order to gain an understanding of the drainage requirements for a specific project, a developer may submit conceptual drainage plans and calculations for review by the town. The direction provided by the town during such a review is based on preliminary data and shall not be construed as an acceptance or binding on either party. The following is a general listing of minimum data requirements for the review of conceptual drainage plans:

(1) Two complete sets of conceptual plans showing general project layout, including existing and proposed drainage systems (plan sheets must larger than 11 inches by 17 inches, but not to exceed 24 inches by 36 inches).

(2) General description of the existing and proposed drainage systems in narrative form.

(3) Map showing on-site 100-year floodplain and floodway (please note if none exists).

(4) Map showing all wetlands, lakes, and ponds on or adjacent to the site.

(5) Watershed boundaries with USGS contours or best information possible.

(6) Two copies of drainage calculations detailing existing and proposed discharges from the site.

(7) Existing watercourse or regulated drains.

(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-327. Permit procedures.**

This section applies to all development, or re-development of land, that results in land disturbance of one acre or more. Individual lots with land disturbance less than one acre shall refer to divisions 4 and 5 of this article and section 26-329 below for plan review requirements and procedures. Figure 1 is a flowchart summarizing the plan review/permit approval/project termination compliance process for land disturbance of one acre or more and can be found at the end of this division.

(1) *General procedures.*

The project site owner shall submit an application for a stormwater permit to the town. The application will include a completed application checklist, construction plan sheets, a stormwater drainage technical report, a SWPPP, and any other necessary support information. Specific information to be included in the application can be found in section 26-328. Two copies of each application must be submitted to the town. The town, may, at its discretion, require one or more copies be submitted to other entities deemed appropriate by the town. Additionally, a digital copy of the construction plans is required in a format accepted by the town.

After the town's receipt of the application, the applicant will be notified as to whether their application was complete or insufficient. The applicant will be asked for additional information if the application is insufficient. If the application is

complete, it will be reviewed in detail by the town and/or its plan review consultant(s). Once all comments have been received and review completed, the town will either approve the project, request modifications or deny the project. If the applicant does not agree with or accept the review findings and wishes to seek an appeal, the town will place the project on the agenda of the next regularly scheduled meeting of the town board of zoning appeals, provided the agenda for the meeting has not yet been advertised or published. If time for notification does not allow, the project shall be placed on the following regularly scheduled meeting of the town board of zoning appeals. If the project must go through a scheduled meeting, the town will furnish the applicant a complete list of comments and objections to the plans and accompanying data prior to the scheduled meeting. After the scheduled meeting, the town will either issue a permit, request modifications to the construction plans, or deny the project.

The project site owner must notify the town and IDEM before beginning construction. Notification to the town shall be in the form of an email while the notification to IDEM shall be in the form of an online IDEM NOI submittal. Once a permit has been issued and the pending construction notifications submitted to the town and IDEM before the beginning of construction, construction may commence. Once construction starts, the project owner shall monitor construction activities and inspect all stormwater pollution prevention measures in compliance with this article and the terms and conditions of the approved permit. Upon completion of construction activities, a certification of completion and compliance and as-built plans must be submitted to the town. Once the construction site has been stabilized and all temporary erosion and sediment control measures have been removed, a notification shall be sent to the town, requesting a termination inspection. The town, or its representative, shall inspect the construction site to verify that the completed project is fully stabilized and meets the requirements of this article and its Stormwater Technical Standards Manual and that the terms and conditions of the permit. Once the applicant receives a signed copy of the termination inspection checklist confirming compliance, they must forward a copy to IDEM along with the required IDEM NOT form. Permits issued by the town under this scenario will expire five years from the date of issuance. If construction is not completed within five years, an updated permit application must be submitted to the town and an updated NOI must be resubmitted to IDEM at least 90 days prior to expiration.

(2) *SWPPP review time limits.*

Pursuant to IC 13-18-27, an MS4-designated entity or other review authority such as SWCD must make a preliminary determination as to whether the construction plan associated with the SWPPP is substantially complete before the end of the tenth working day (for sites with less than five acres of land disturbance) after the day on which the SWPPP is submitted to the review authority or the 14$^{th}$ working day (for

sites with five acres or larger of land disturbance) after the day on which the SWPPP is submitted to the review authority. Depending on the outcome of the SWPPP review, the following scenarios may play out:

a. *No SWPPP review notification received:* If the review authority does not notify the applicant of its preliminary determination as to whether the construction plan is substantially complete within either ten or 14 days as noted above, the project site owner may submit a notice of intent letter to IDEM including the information required by IDEM, or this article and the town Stormwater Technical Standards Manual, and 48 hours after the NOI is submitted to IDEM, may begin the construction project, including the land disturbing activities of the construction project.

b. *SWPPP not substantially complete:* If the review authority notifies the applicant that the construction plan is not substantially complete, the project site owner may not submit a notice of intent letter to IDEM until the review authority makes a conclusive favorable determination concerning the construction plan under the IDEM rule/permit, or this article and the Stormwater Technical Standards Manual.

c. *Unfavorable SWPPP:* If the review authority notifies the applicant that the construction plan is substantially complete; and makes a conclusive unfavorable determination concerning the construction plan under IDEM rule/permit, or this article and the Stormwater Technical Standards Manual, the project site owner may not submit a notice of intent letter to IDEM.

d. *Preliminary SWPPP review:* If the review authority notifies the applicant that the construction plan is substantially complete and a preliminary review has been completed, the project site owner may submit a notice of intent letter to IDEM including the information required by IDEM, or this article and the Stormwater Technical Standards Manual, and 48 hours after the NOI is submitted to IDEM, may begin the construction project, including the land disturbing activities of the construction project. The plan review authority reserves the right to perform a comprehensive review at a later date, and revisions may be required at that time.

e. *Conditional SWPPP review:* If the review authority notifies the applicant that the construction plan is substantially complete and a conditional review has been completed, the project site owner may submit a notice of intent letter to IDEM including the information required by IDEM, or this article and the Stormwater Technical Standards Manual, and 48 hours after the NOI is submitted to IDEM, may begin the construction project, including the land disturbing activities of the construction project provided that the requirements included in the conditional review are fulfilled.

f. *Favorable SWPPP review:* If the review authority notifies the applicant that the construction plan is substantially complete and a preliminary review has been

completed, the project site owner may submit a notice of intent letter to IDEM including the information required by IDEM, or this article and the Stormwater Technical Standards Manual, and 48 hours after the NOI is submitted to IDEM, may begin the construction project, including the land disturbing activities of the construction project.

Note that the above time limits only apply to the SWPPP portion of the overall stormwater permit submittal and does not affect any official or non-official permit review timelines set by the entity for other aspects of the stormwater permit application.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-328. Information requirements.**

Specific projects or activities may be exempt from all or part of the informational requirements listed below. Exemptions are detailed in sections 26-263, 26-280, 26-297, 26-311 "applicability and exemptions" of divisions 2 through 5 of this article. If a project or activity is exempt from any or all requirements of this article, an application should be filed listing the exemption criteria met, in lieu of the information requirements listed below. This level of detailed information is not required from individual lots, disturbing less than one acre of land, developed within a larger permitted project site. Review and acceptance of such lots is covered under section 26-329.

The different elements of a permit submittal include an application checklist, construction plans, a stormwater drainage technical report, a stormwater pollution prevention plan for active construction sites, a post-construction stormwater pollution prevention plan, and any other necessary supporting information. All plans, reports, calculations, and narratives shall be signed and sealed by a professional engineer or a licensed surveyor, registered in the State of Indiana who also meets the definition of a trained individual found in appendix A.

(1) *Application checklist.* As part of the town stormwater permit application package, the application checklist provided in the Stormwater Technical Standards Manual must be completed by the applicant and provided along with other required supporting material.

(2) *Construction plans.* Construction plan sheets (minimum of 11 inches by 17 inches, but not to exceed 24 inches by 36 inches in size) and an accompanying narrative report shall describe and depict the existing and proposed conditions. Note that in order to gain an understanding of and to evaluate the relationship between the proposed improvements for a specific project section/phase and the proposed improvements for an overall multi-section (phased) project, the detailed information requested herein for the first section/phase being permitted must be accompanied by an overall project plan that includes the location, dimensions, and supporting analyses of all detention/retention facilities, primary conveyance facilities, and outlet conditions. Construction plans must include items listed in the application checklist provided in the Stormwater Technical Standards Manual.

(3) *Stormwater drainage technical report.* A written stormwater drainage technical report must contain a discussion of the steps taken in the design of the stormwater drainage system. Note that in order to gain an understanding of and to evaluate the relationship between the proposed improvements for a specific project section/phase and the proposed improvements for an overall multi-section (phased) project, the detailed information requested herein for the first section/phase being permitted must be accompanied by an overall project plan that includes the location, dimensions, and supporting analyses of all detention/retention facilities, primary conveyance facilities, and outlet conditions. The technical report needs to include items listed in the application checklist provided in the Stormwater Technical Standards Manual.

(4) *Stormwater pollution prevention plan for construction sites.* For sites with total disturbance of one acre or more, a SWPPP associated with construction activities must be designed to, at least, meet the requirements of this article. The SWPPP and construction plans must include the items listed in the application checklist provided in the Stormwater Technical Standards Manual. For land disturbances totaling 10,000 square feet or more of land area but less than one acre, appropriate erosion and sediment control measures that are consistent with the town Stormwater Technical Standards Manual must be designed and shown on the plans.

(5) *Post-construction stormwater pollution prevention plan.* For sites with total land disturbance of one acre or more of total land area, a post-construction stormwater pollution prevention plan must be designed to, at least, meet the requirements of this article and must include the information provided in the Stormwater Technical Standards Manual. The post-construction stormwater pollution prevention plan must include items listed in the application checklist provided in the Stormwater Technical Standards Manual.

(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-329. Review of individual lots.**

For all individual lots disturbing 10,000 square feet or more but less than one acre, a formal review and issuance of an individual lot plot plan permit will be required before a building permit can be issued. Similarly, for individual lots disturbing less than 10,000 square feet of total land area, developed within a larger permitted project, a formal review and issuance of an individual lot plot plan permit will be required before a building permit can be issued. All stormwater management measures necessary to comply with this article must be implemented in accordance with permitted plan for the larger project.

The following information must be submitted to the town, for review and acceptance, by the individual lot operator, whether owning the property or acting as the agent of the property owner, as part of a request for review and issuance of an individual lot plot plan permit that must be obtained prior to the issuance of a building permit.

(1) A site layout for the subject lot and all adjacent lots showing building pad location, dimensions, and elevations, and the drainage patterns and swales.

(2) Erosion and sediment control plan that, at a minimum, includes the following measures:

a. Installation and maintenance of a stable construction site access.

b. Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.

c. Minimization of sediment discharge and tracking from the lot.

d. Clean-up of sediment that is either tracked or washed onto roads. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner that is in compliance with all applicable statutes and rules.

e. Implementation of concrete or cementitious wash water practices that securely contain and allow for the proper disposal of concrete or cementitious wash water.

f. Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.

g. Self-monitoring program including plan and procedures.

h. Certification of compliance stating that the individual lot plan is consistent with the stormwater permit, as approved by the town, for the larger project (if the individual lot is part of a larger permitted project).

i. Name, address, telephone number, and list of qualifications of the trained individual in charge of the mandatory stormwater pollution prevention self-monitoring program for the project site.

The individual lot operator is responsible for installation and maintenance of all erosion and sediment control measures until the site is stabilized.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-330. Changes to plans.**

Any changes or deviations in the detailed plans and specifications after approval of the applicable stormwater permit shall be filed with, and accepted by, the town prior to the land development involving the change. Copies of the changes, if accepted, shall be attached to the original plans and specifications.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-331. Fee structure.**

(a) *Fee amount.* As a condition of the submittal and the review of development plans by the town, the applicant shall agree to pay the town the applicable fee, as set by the town with respect to the review of all drainage submittals, preliminary plans, final plans, construction plans and accompanying information and data, as well as prepaid inspection fees.

(b) *Time of payment.* After the meeting at which the town is scheduled to consider acceptance of the applicant's final stormwater management plan, the town will furnish a written statement to the applicant specifying the total amount due the town in connection with the review of the applicant's submittals, plans and accompanying information and data, including the amount required to be paid by applicant for review and pre-paid inspection fees.

As a condition of acceptance of final drainage plans by the town, applicant shall pay to the town the sum set forth in said statement. The town may issue such a billing statement before the project advances to the final acceptance stage, and such payment is due by applicant upon receipt of said billing statement regardless of whether the project is advanced to the final acceptance stage.

The town shall have the right to not accept the drainage improvements or to not approve the advancement of any project for which the applicable fees have not been paid.

(c) *Method of payment.* Fees shall be paid by one of the following methods, or such other permissible payment method(s) authorized by the town from time to time:

- Check
- Certified check
- Cashier's check
- Money order

All checks shall be made payable to: Town of Porter, 303 Franklin Street, Porter, IN 46304.

(d) *Refund of payment.* Fees are refundable only if the town determines that compliance by the development or project to this article is not necessary.

(e) *Fee schedule.* Please see section 14-118 of this Code for stormwater permit application and inspection fees.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-332. Required assurances.**

This section shall apply to all projects whether the stormwater management system or portions thereof will be dedicated to the town or retained privately. As a condition of approval and issuance of the permit, the town shall require the applicant to provide assurance in form of an irrevocable letter of credit or a bond when the stormwater management plan has been accepted and before construction begins. Said assurance will guarantee a good faith execution of the stormwater drainage plan, the SWPPP, the stormwater quality management plan, and any permit conditions. The assurance shall be for an amount equal to 125 percent of the total costs of all stormwater management measures for the entire project. The above-mentioned costs shall be based on an estimate as prepared by a registered engineer or land surveyor. Said costs shall be for the installation and ongoing monitoring and maintenance of erosion control measures and the construction and ongoing monitoring and maintenance of storm drainage infrastructure, detention/retention facilities,

and stormwater quality BMP's, as regulated under this article, until the construction is completed, the site is stabilized, and as-built plans are accepted by the town. Assurances shall be for a minimum of $5,000.00. All other performance bonds, maintenance bonds or other assurances required by the town in accordance with any and all other ordinances shall also apply and so be required. Local governmental jurisdictions may require additional performance and/or maintenance assurances. The intent of this assurance is not only to complete the installation of storm drain infrastructure for the project, but also to assure that adequate stormwater pollution prevention measures are properly installed and maintained. If adequate assurances are set aside by the project site owner for the overall project, proof of total assurance can be submitted in place of an individual stormwater assurance.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-333. Terms and conditions of permits.**

In granting a stormwater permit, the town may impose such terms and conditions as are reasonably necessary to meet the purposes of this article. The project site owner shall ensure compliance with such terms and conditions. Non-compliance with the terms and conditions of permits will be subject to enforcement as described in division 7 of this article.

The project site owner shall inform all general contractor, construction management firms, grading or excavating contractors, utility contractors, and the contractors that have primary oversight on individual building lots of the terms and conditions of the stormwater management permit and the schedule for proposed implementation.

In the event that a project site is determined to impact or discharge to a sensitive area or is located in an impact drainage area, the town may require more stringent stormwater quantity and quality measures than detailed in this article or in the Indiana Stormwater Quality Manual.

(1) *Determination of sensitive areas.* Sensitive areas include highly erodible soils, wetlands, karst areas, threatened or endangered species habitat, outstanding waters, impaired waters, recreational waters, and surface drinking water sources. Any discharge from a stormwater practice that is a class V injection well shall meet the state groundwater quality standards and registered with U.S. EPA as required by the IDEM. If wetlands are suspected on a site, a wetland delineation should be completed in accordance with the methodology established by the U.S. Army Corps of Engineers (COE). The need for the applicant to check for the presence of threatened or endangered species habitat will be determined on a case-by-case basis. Special terms and conditions for development determined to impact or discharge to any sensitive area shall be included in the stormwater management permit.

(2) *Determination of impact drainage areas.* The following areas shall be designated as impact drainage areas, unless good reason for not including them is presented to the town.

a. A floodway or floodplain as designated by the most updated FEMA code dealing with floodplain regulation and/or by the best available data through IDNR.

b. Land within 25 feet of each bank of any ditch within the town's system.

c. Land within 15 feet of the centerline of any stormwater infrastructure or enclosed conduit within the town's system.

d. Land within 75 feet of each bank of a county open regulated drain.

e. Land within 50 feet of a natural drainageway.

f. Land within 75 feet of the centerline of any tiled regulated drain.

The town or town engineer is authorized, but is not required, to classify certain geographical areas as impact drainage areas. In determining impact drainage areas, the town may consider such factors as topography, soil type, capacity of existing drains, and distance from adequate drainage facility.

Land that does not have an adequate outlet, taking into consideration the capacity and depth of the outlet, may be designated as an impact drainage area by the town. Special terms and conditions for development within any impact drainage area shall be included in the stormwater management permit.

(3) *Determination of designated drainage areas served by regional facilities.* The town is authorized, but is not required, to classify certain geographical areas as designated drainage areas that are or will be served by regional facilities, such as a regional pond. In such cases, an infrastructure development fee (IDF) rate may be established for the designated drainage area. The basis for determining such a fee for a proposed development or re-development within a designated drainage area will be as detailed in the Stormwater Technical Standards Manual.

(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-334. Certification of as-built plans.**

This section shall apply to all projects whether the stormwater management system or portions thereof will be dedicated to the town or retained privately. After completion of construction of the project and before the release of required performance assurances referenced in section 26-332 above, a professionally prepared and certified 'as-built' set of plans (record drawings) shall be submitted to the town for review. These as-built plans/record drawings must be prepared and certified by the engineer of record, i.e., the company/engineer who originally prepared the construction plans. Additionally, a digital copy of the 'as- built' plans (record drawings) as well as finalized digital versions of all analyses, models, manuals, and reports that are consistent with the as-built conditions is required in a format acceptable to the town. These plans shall include all pertinent data relevant to the completed storm drainage system and stormwater management facilities, and shall include:

(1) Pipe size and pipe material;

(2) Invert elevations;

(3) Top rim elevations;

(4) Elevation of the emergency overflow (spillway) for ponds;

(5) Grades along the emergency flood routing path(s);

(6) Pipe structure lengths;

(7) BMP types, dimensions, and boundaries/easements;

(8) "As-planted" plans for BMP's, as applicable;

(9) Data and calculations showing detention basin storage volume;

(10) Data and calculations showing BMP treatment capacity;

(11) Certified statement on plans stating the completed storm drainage system and stormwater management facilities substantially comply with construction plans and the stormwater management permit as approved by the town. (See certificate in the Stormwater Technical Standards Manual.

(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

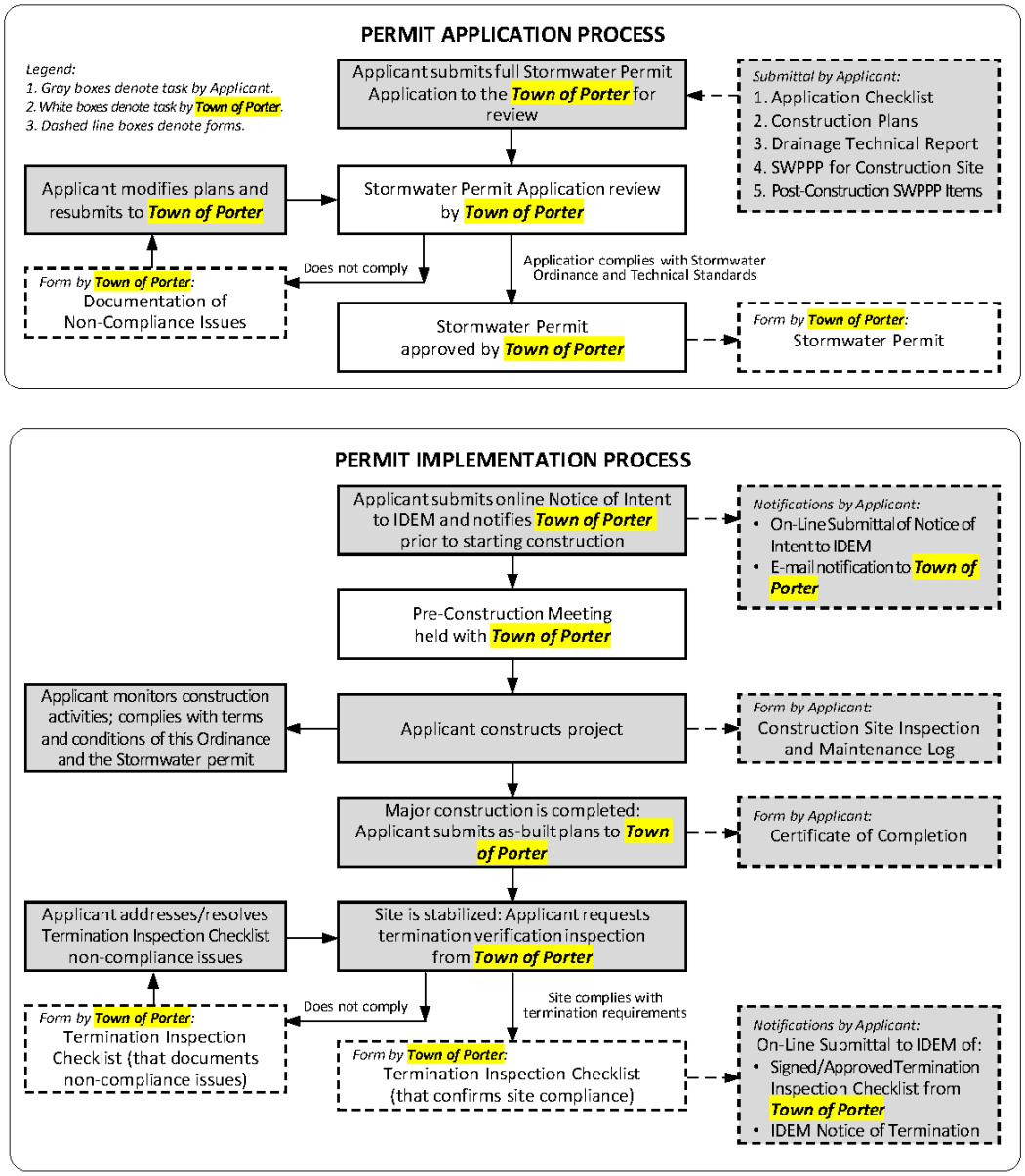
**Sec. 26-335. Post-project maintenance bond and verifications.**

In addition to as-built plans and the certification of completion and compliance, following the release of performance assurances, the property owner, developer, or contractor shall be required to file a two-year maintenance bond or other acceptable guarantee with the town in an amount not to exceed 25 percent of the cost of the stormwater management system located outside the public road rights- of-way, and in a form satisfactory to the town in order to assure that such stormwater system installation was done according to standards of good workmanship, that the materials used in the construction and installation were of good quality and construction, and that such project was done in accordance with the accepted plans, and this article and that any off-site drainage problems that may arise, whether upstream or downstream of such project, will be corrected if such drainage problems are determined by town to have been caused by the development of such project. The bond or other acceptable guarantee shall be in effect for a period of two years after the date of the release of required performance assurances referenced in section 26-332 above. The beneficiary of all maintenance bonds shall be the town council.

Additional requirements for transfer of any applicable stormwater BMP maintenance agreement, O&M maintenance manual, and maintenance escrow accounts to subsequent owners prior to release of the maintenance bond is discussed in division 5 of this article.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Secs. 26-336—26-345. Reserved.**

**Figure 1: Permit Approval and Project Termination Sign-off Process**




## DIVISION 7. COMPLIANCE AND ENFORCEMENT

### Sec. 26-346. Compliance with this article.

To secure compliance with the requirements of this article, violations thereof shall be subject to the enforcement provisions set forth under section 26-347. Additionally, compli-

ance with the requirements set forth in the local zoning ordinances is also necessary. Compliance with all applicable ordinances of the town as well as with applicable State of Indiana statues and regulations shall also be required. Unless otherwise stated, all other specifications referred to in this article shall be the most recent edition available.

(1) *Definitions.*

a. *Compliance.* The act of correcting a violation or violations within the time frame specified by the town.

b. *Offence.* Both a violation and a failure of compliance on a particular project constitute an "offense." If there are multiple violations or multiple failures of compliance on the same project, each shall be considered a separate offense as further stated in section 26-265.

c. *Violation.* Any action or inaction which violates the provisions of this article, the requirements of an approved stormwater management design plan or permit, and/or the requirements of a recorded stormwater maintenance agreement may be subject to the enforcement actions outlined in this division. Any such action or inaction is deemed to be a public nuisance and may be abated by injunctive or other equitable relief, in addition to and separate from the imposition of any of the enforcement actions described below.

(2) *Warning notice.* When the town finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, the town may serve upon that person a written warning notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the warning notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the warning notice. Nothing in this subsection shall limit the authority of the town to take any action, including emergency action or any other enforcement action, without first issuing a warning notice.

(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-347. Enforcement.**

(a) *Notice of violation/citation.* If the town determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management design plan, a recorded stormwater management maintenance agreement, or the provisions of this article, it shall issue a written notice of violation to such applicant or other responsible person and the owner of the property. Where a person is engaged in activity covered by this article without having first secured a permit therefore, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

The notice of violation can be in the form of a citation ticket and/or a written letter that would contain detailed inspection findings, conclusions of law, disposition of warning or fines assessed, stipulated remedial actions as discussed with the responsible party representative, reasonable deadlines for those remedial actions, and the date of re-inspection.

(b) *Compensatory action.* In lieu of enforcement proceedings, penalties, and remedies authorized by this article, the town may impose upon a violator, alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, public education, etc.

(c) *Violations.* Any person who commits an offense under this article commits a civil infraction subject to a fine as prescribed in division 7 of this article. The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law. An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this article.

Any person who aids or abets a person in a violation of this article shall be subject to the penalties provided in this chapter.

The town has established an enforcement response schedule as noted in the table below that standardizes the approach that the town shall employ in dealing with stormwater regulations offenses subject to this article and the associated Stormwater Technical Standards Manual. When so employed, this schedule shall apply separately to each offense in the following manner: the first offense is the underlying violation itself, while the subsequent offenses 2 through 8 (as necessary) are failures of compliance.

| *Offence #* | *Type of Response Anticipated* |
|---|---|
| 1st offense | Verbal Notice, Letter of Violation or Written Warning and Administrative Penalty |
| 2nd offense | Letter of Violation*, Administrative Penalty and/or Site Visit |
| 3rd offense | Letter of Violation, Administrative Penalty and/or Site Visit |
| 4th offense | Letter of Violation, Administrative Penalty and/or Site Visit |
| 5th offense | Agreed Order, Administrative Penalty and/or Site Visit |
| 6th offense | Administrative Order, Administrative Penalty and/or Site Visit |
| 7th offense | Compliance Schedule, Administrative Penalty and/or Site Visit |
| 8th offense | Litigation and Administrative Penalty |
| *Can be delivered electronically, to the permit holder's email address, or regular mail, as provided with the stormwater permit application. | |

(d) *Stop work order.* In addition to the penalties listed above, if land disturbance activities are conducted contrary to the provisions of this article or accepted final stormwater management plans, the town may order the work stopped by notice in writing served on any person engaged in the doing or causing of such work to be done, and any such persons shall forthwith stop such work until authorized by the town to proceed with the work. A stop work order will be posted on the site by the town and it is unlawful for any person to remove the notice or continue any work on the site without permission from the town. The town may

also undertake or cause to be undertaken, any necessary or advisable protective measures to prevent violations of this article or to avoid or reduce the effects of noncompliance herewith. The cost of any such protective measures shall be the responsibility of the owner of the property upon which the work is being done and the responsibility of any person carrying out or participating in the work.

The town may bring an action under IC 34-28-5-1 (b), to be read together with IC 34-6-2-86(1)(B) and 13-21-3-12(4), to enforce a stop work order against any person who neglects or fails to comply with a stop work order.

For construction projects that are operating under a SWPPP approved by the town, if a stop work order is issued on the grounds that the erosion and sediment control measures included in the construction plan are not adequate, the project site owner must be notified in writing of the inadequacies in the erosion and sediment control measures and the project site owner has 72 hours after receiving written notice to resolve the identified inadequacies before the stop work order can take effect.

The 72-hour period to resolve identified inadequacies on a construction project does not apply if the stop work order is issued to a construction project where the project site owner is creating a public health hazard or safety hazard.

(e) *Withhold certificate of occupancy.* The town may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise satisfied the requirements of this article as determined by the town.

(f) *Suspension, revocation, or modification of permits.* The town may suspend, revoke, or modify any existing permit that the violator may also have been previously granted. A suspended, revoked, or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the town may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(g) *Suspension of access to the stormwater drainage system.*

(1) *Emergency cease and desist orders.* When the town finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the town may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to immediately comply with all ordinance requirements and take such appropriate

preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

Any person notified of an emergency order directed to it under this subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the town may commence court action against such person under IC 34-28-5-1(b), to be read together with IC 34-6-2-86(1)(B) and 13-213-12(4), to enforce a stop work order.

The town may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the town that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this article. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the town within five days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

(2) *Suspension due to illicit discharges in emergency situations.* The town may, without prior notice, suspend stormwater drainage system discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the stormwater drainage system or waters of the state if the violator fails to comply with a suspension order issued in an emergency, the town may take such steps as deemed necessary to prevent or minimize damage to the stormwater drainage system or waters of the state, or to minimize danger to persons.

(3) *Suspension due to the detection of illicit discharge.* Any person discharging to the stormwater drainage system in violation of this article may have their stormwater drainage system access terminated if such termination would abate or reduce an illicit discharge. The town will notify a violator of the proposed termination of its stormwater drainage system access. The violator may petition the town for a reconsideration and hearing. A person commits an offense if the person reinstates stormwater drainage system access to premises terminated pursuant to this division, without the prior approval of the town.

(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-348. Cost of abatement of the violation.**

In addition to any other remedies, should any owner fail to comply with the provisions of this article, the town may, after giving notice and opportunity for compliance, have the necessary work done, and the owner shall be required to promptly reimburse the town for all costs of such work.

Nothing herein contained shall prevent the town from taking such other lawful action as may be necessary to prevent or remedy any violation. All costs connected therewith shall accrue to the person or persons responsible. Costs include, but are not limited to, repairs to the stormwater drainage system made necessary by the violation, as well as those penalties levied by the EPA or IDEM for violation of the town's NPDES permit, administrative costs, attorney fees, court costs, and other costs and expenses associated with the enforcement of this article, including sampling and monitoring expenses.

If the amount due for abatement of the violation is not paid within a timely manner as determined by the decision of the town or by the expiration of the time in which to file an appeal, the town may commence a court action to recover the costs assessed under IC 34-28-5-1 (b), to be read together with IC 34-6-2- 86(1)(B) and 13-21-3-12(4).
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Sec. 26-349. Appeals.**

(a) *Appeal of notice of violation.* Any person to whom any provision of this article has been applied may appeal in writing, not later than 30 days after the action or decision being appealed from, to the town council of the town the action or decision whereby any such provision was so applied. Such appeal shall identify the matter being appealed, and the basis for the appeal. The town council of the town shall consider the appeal and make a decision whereby it affirms, rejects or modifies the action being appealed. In considering any such appeal, the town council of the town may consider the recommendations of the town Staff and the comments of other persons having knowledge of the matter. In considering any such appeal, the town council may grant a variance from the terms of this article to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

(1) The application of the provisions of this article being appealed will present or cause practical difficulties for a development or development site; provided, however, that practical difficulties shall not include the need for the developer to incur additional reasonable expenses in order to comply with this article; and

(2) The granting of the relief requested will not substantially prevent the goals and purposes of this article, nor result in less effective management of stormwater runoff.

(3) Any person who has appealed a violation to the town council may appeal an adverse decision of the town council to the Porter County court within 60 days of adverse decision, all pursuant to IC 36-1-6-9(e) and (f).

(b) *Enforcement measures after appeal.* If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within five days of the decision of the town council upholding the decision of the town, then representatives of the town shall enter upon the subject private property and are authorized

to take any and all measures necessary to abate the violation and/or restore the property, including the commencing of a court action under IC 34-28-5-1(b),to be read together with IC 34-6- 2-86(1)(B) and 13-21-3-12(4), to enforce the order of the town council.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Secs. 26-350—26-359. Reserved.**

## DIVISION 8. ABBREVIATIONS AND DEFINITIONS

### Sec. 26-360. Abbreviations.

The following abbreviations apply throughout this article:

| | |
|---|---|
| BMP | Best Management Practice |
| COE | United States Army Corps of Engineers |
| CWA | Clean Water Act |
| EPA | Environmental Protection Agency |
| GIS | Geographical Information System |
| IDEM | Indiana Department of Environmental Management |
| MS4 | Municipal Separate Storm Sewer System |
| NRCS | USDA-Natural Resources Conservation Service |
| NPDES | National Pollutant Discharge Elimination System |
| POTW | Publicly Owned Treatment Works |
| SWCD | Soil and Water Conservation District |
| SWPPP | Stormwater Pollution Prevention Plan |
| USDA | United States Department of Agriculture |
| USFWS | United States Fish and Wildlife Service |

(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

### Sec. 26-361. Definitions.

The following definitions apply throughout this article:

*Agricultural land disturbing activity.* Tillage, planting, cultivation, or harvesting operations for the production of agricultural or nursery vegetative crops. The term also includes pasture renovation and establishment, the construction of agricultural conservation practices, and the installation and maintenance of agricultural drainage tile.

*Base flow.* Stream discharge derived from groundwater sources as differentiated from surface runoff. Sometimes considered to include flows from regulated lakes or reservoirs.

*Best management practices.* Design, construction, and maintenance practices and criteria for stormwater facilities that minimize the impact of stormwater runoff rates and volumes, prevent erosion, and capture pollutants.

*Buffer strip.* An existing, variable width strip of vegetated land intended to protect water quality and habitat.

*Capacity (of a storm drainage facility).* The maximum flow that can be conveyed or stored by a storm drainage facility without causing damage to public or private property.

*Catch basin.* A chamber usually built at the curb line of a street for the admission of surface water to a storm drain or subdrain, having at its base a sediment sump designed to retain grit and detritus below the point of overflow.

*Channel.* A portion of a natural or artificial watercourse which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water. It has a defined bed and banks which serve to confine the water.

*Compliance.* The act of correcting a violation or violations within the time frame specified by the Town of Porter, IN.

*Comprehensive stormwater management.* A comprehensive stormwater program for effective management of stormwater quantity and quality throughout the community.

*Constructed wetland.* A manmade shallow pool that creates growing conditions suitable for wetland vegetation and is designed to maximize pollutant removal.

*Construction activity.* Land disturbing activities, and land disturbing activities associated with the construction of infrastructure and structures. This term does not include routine ditch or road maintenance or minor landscaping projects.

*Construction site access.* A stabilized stone surface at all points of ingress or egress to a project site, for the purpose of capturing and detaining sediment carried by tires of vehicles or other equipment entering or exiting the project site.

*Construction support activities.* Include but are not limited to the following: concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas. Such activities must not support multiple, unrelated projects, be a commercial/industrial operation, or continue to operate beyond the completion of the construction activity for the project it supports.

*Contiguous.* Adjoining or in actual contact with.

*Contour.* An imaginary line on the surface of the earth connecting points of the same elevation.

*Contour line.* Line on a map which represents a contour or points of equal elevation.

*Contractor* or *subcontractor.* An individual or company hired by the project site or individual lot owner, their agent, or the individual lot operator to perform services on the project site.

*Conveyance.* Any structural method for transferring stormwater between at least two points. The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains, and roadways.

*Cross section.* A graph or plot of ground elevation across a stream valley or a portion of it, usually along a line perpendicular to the stream or direction of flow.

*Culvert.* A closed conduit used for the conveyance of surface drainage water under a roadway, railroad, canal or other impediment.

*Dechlorinated swimming pool discharge.* Chlorinated water that has either sat idle for seven days following chlorination prior to discharge to the MS4 conveyance, or, by analysis, does not contain detectable concentrations (less than five-hundredths (0.05) milligram per liter) of chlorinated residual.

*Design storm.* A selected storm event, described in terms of the probability of occurring once within a given number of years, for which drainage or flood control improvements are designed and built.

*Detention.* Managing stormwater runoff by temporary holding and controlled release.

*Detention basin.* A facility constructed or modified to restrict the flow of stormwater to a prescribed maximum rate, and to detain concurrently the excess waters that accumulate behind the outlet.

*Detention storage.* The temporary detaining of storage of stormwater in storage facilities, on rooftops, in streets, parking lots, school yards, parks, open spaces or other areas under predetermined and controlled conditions, with the rate of release regulated by appropriately installed devices.

*Detention time.* The theoretical time required to displace the contents of a tank or unit at a given rate of discharge (volume divided by rate of discharge).

*Detritus.* Dead or decaying organic matter; generally contributed to stormwater as fallen leaves and sticks or as dead aquatic organisms.

*Developer.* Any person financially responsible for construction activity, or an owner of property who sells or leases, or offers for sale or lease, any lots in a subdivision.

*Development.* Any man-made change to improved or unimproved real estate including but not limited to:

(1) Construction, reconstruction, or placement of a building or any addition to a building;

(2) Construction of flood control structures such as levees, dikes, dams or channel improvements;

(3) Construction or reconstruction of bridges or culverts;

(4) 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;

(5) Installing utilities, erection of walls, construction of roads, or similar projects;

(6) Mining, dredging, filling, grading, excavation, or drilling operations;

(7) Storage of materials; or

(8) Any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include activities such as the maintenance of existing buildings 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 buildings.

*Discharge.* In the context of water quantity provisions, usually the rate of water flow. A volume of fluid passing a point per unit time commonly expressed as cubic feet per second, cubic meters per second, gallons per minute, or millions of gallons per day. In the context of water quality provisions, the discharge means any addition of liquids or solids to a water body or a flow conveyance facility

*Disposal.* The discharge, deposit, injection, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that the solid waste or hazardous waste, or any constituent of the waste, may enter the environment, be emitted into the air, or be discharged into any waters, including ground waters.

*Ditch.* A man-made, open watercourse in or into which excess surface water or groundwater drained from land, stormwater runoff, or floodwaters flow either continuously or intermittently.

*Drain.* A buried slotted or perforated pipe or other conduit (subsurface drain) or a ditch (open drain) for carrying off surplus groundwater or surface water.

*Drainage.* The removal of excess surface water or groundwater from land by means of ditches or subsurface drains. Also see natural drainage.

*Drainage area.* The area draining into a stream at a given point. It may be of different sizes for surface runoff, subsurface flow and base flow, but generally the surface runoff area is considered as the drainage area.

*Dry well.* A type of infiltration practice that allows stormwater runoff to flow directly into the ground via a bored or otherwise excavated opening in the ground surface.

*Duration.* The time period of a rainfall event.

*Environment.* The sum total of all the external conditions that may act upon a living organism or community to influence its development or existence.

*Erodibility index (EI).* The soil erodibility index (EI) provides a numerical expression of the potential for a soil to erode considering the physical and chemical properties of the soil and the climatic conditions where it is located. The higher the index, the greater the investment needed to maintain the sustainability of the soil resource base if intensively

cropped. It is defined to be the maximum of (RxKxLS)/T (from the Universal Soil Loss Equation) and (CxI)/T (from the Wind Erosion Equation), where R is a measure of rainfall and runoff, K is a factor of the susceptibility of the soil to water erosion, LS is a measure of the combined effects of slope length and steepness, C is a climatic characterization of windspeed and surface soil moisture and I is a measure of the susceptibility of the soil to wind erosion. Erodibility Index scores equal to or greater than eight are considered highly erodible land.

*Erosion.* The wearing away of the land surface by water, wind, ice, gravity, or other geological agents. The following terms are used to describe different types of water erosion:

(1) *Accelerated erosion.* Erosion much more rapid than normal or geologic erosion, primarily as a result of the activities of man.

(2) *Channel erosion.* An erosion process whereby the volume and velocity of flow wears away the bed and/or banks of a well-defined channel.

(3) *Gully erosion.* An erosion process whereby runoff water accumulates in narrow channels and, over relatively short periods, removes the soil to considerable depths, ranging from one to two feet to as much as 75 to 100 feet.

(4) *Rill erosion.* An erosion process in which numerous small channels only several inches deep are formed; occurs mainly on recently disturbed and exposed soils (see rill).

(5) *Splash erosion.* The spattering of small soil particles caused by the impact of raindrops on wet soils; the loosened and spattered particles may or may not be subsequently removed by surface runoff.

(6) *Sheet erosion.* The gradual removal of a fairly uniform layer of soil from the land surface by runoff water.

*Erosion* and *sediment control.* A practice, or a combination of practices, to minimize sedimentation by first reducing or eliminating erosion at the source and then as necessary, trapping sediment to prevent it from being discharged from or within a project site.

*Filter strip.* Usually a long, relatively narrow area (usually, 20 to 75 feet wide) of undisturbed or planted vegetation used near disturbed or impervious surfaces to filter stormwater pollutants for the protection of watercourses, reservoirs, or adjacent properties.

*Floatable.* Any solid waste that will float on the surface of the water.

*Flood (or flood waters).* 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.

*Floodplain.* The channel proper and the areas adjoining the channel which have been or hereafter may be covered by the regulatory or 100-year flood. Any normally dry land area that is susceptible to being inundated by water from any natural source. The floodplain includes both the floodway and the floodway fringe districts.

*Floodway.* The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flow of the regulatory flood of any river or stream.

*Floodway fringe.* That portion of the flood plain lying outside the floodway, which is inundated by the regulatory flood.

*Fluvial erosion hazard (FEH) corridor.* Fluvial erosion hazard corridors represent the areas along the streams (including the channel and immediate overbanks areas) that are believed to be subject to stream movement or streambank erosion. These corridors have been delineated for most actively migrating and relatively stationary streams in Indiana through an Indiana Silver Jackets initiative.

*Footing drain.* A drain pipe installed around the exterior of a basement wall foundation to relieve water pressure caused by high groundwater elevation.

*Garbage.* All putrescible animal solid, vegetable solid, and semisolid wastes resulting from the processing, handling, preparation, cooking, serving, or consumption of food or food materials.

*Gasoline outlet.* An operating gasoline or diesel fueling facility whose primary function is the resale of fuels. The term applies to facilities that create 5,000 or more square feet of impervious surface, or generate an average daily traffic count of 100 vehicles per 1,000 square feet of land area.

*Geographical information system.* A computer system capable of assembling, storing, manipulation, and displaying geographically referenced information. This technology can be used for resource management and development planning.

*Grade.*

(1) The inclination or slope of a channel, canal, conduit, etc., or natural ground surface usually expressed in terms of the percentage the vertical rise (or fall) bears to the corresponding horizontal distance.

(2) The finished surface of a canal bed, roadbed, top of embankment, or bottom of excavation; any surface prepared to a design elevation for the support of construction, such as paving or the laying of a conduit.

(3) To finish the surface of a canal bed, roadbed, top of embankment, or bottom of excavation, or other land area to a smooth, even condition.

*Grading.* The cutting and filling of the land surface to a desired slope or elevation.

*Grass.* A member of the botanical family Graminae, characterized by blade-like leaves that originate as a sheath wrapped around the stem.

*Groundwater.* Accumulation of underground water, natural or artificial. The term does not include manmade underground storage or conveyance structures.

*Habitat.* The environment in which the life needs of a plant or animal are supplied.

*Highly erodible land (HEL).* Land that has an erodibility index of eight or more.

*Hot spot development.* Projects involving land uses considered to be high pollutant producers such as vehicle service and maintenance facilities, vehicle salvage yards and recycling facilities, vehicle and equipment cleaning facilities, fleet storage areas for buses, trucks, etc., industrial/commercial or any hazardous waste storage areas or areas that generate such wastes, industrial sites, restaurants and convenience stores, any activity involving chemical mixing or loading/unloading, outdoor liquid container storage, public works storage areas, commercial container nurseries, and some high traffic retail uses characterized by frequent vehicle turnover.

*Hydrologic unit code.* A numeric United States Geologic Survey code that corresponds to a watershed area. Each area also has a text description associated with the numeric code.

*Hydrology.* The science of the behavior of water in the atmosphere, on the surface of the earth, and underground. A typical hydrologic study is undertaken to compute flow rates associated with specified flood events.

*Illicit discharge.* Any discharge to a conveyance that is not composed entirely of stormwater except naturally occurring floatables, such as leaves or tree limbs. Illicit discharges include polluted flows from direct and indirect connections to the MS4 conveyance, illegal dumping, and contaminated runoff.

*Impaired waters.* Waters that do not or are not expected to meet applicable water quality standards, as included on IDEM's CWA Section 303(d) List of Impaired Waters.

*Impervious surface.* Surfaces, such as pavement and rooftops, which prevent the infiltration of stormwater into the soil.

*Individual building lot.* A single parcel of land within a multi-parcel development.

*Individual lot operator.* A contractor or subcontractor working on an individual lot.

*Individual lot owner.* A person who has financial control of construction activities for an individual lot.

*Infiltration.* Passage or movement of water into the soil. Infiltration practices include any structural BMP designed to facilitate the percolation of runoff through the soil to groundwater. Examples include infiltration basins or trenches, dry wells, and porous pavement.

*Inlet.* An opening into a storm drain system for the entrance of surface stormwater runoff, more completely described as a storm drain inlet.

*Land-disturbing activity.* Any man-made change of the land surface, including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting and grading.

*Land surveyor.* A person licensed under the laws of the State of Indiana to practice land surveying.

*Larger common plan of development or sale.* A plan, undertaken by a single project site owner or a group of project site owners acting in concert, to offer lots for sale or lease; where such land is contiguous, or is known, designated, purchased or advertised as a common unit or by a common name, such land shall be presumed as being offered for sale or lease as part of a larger common plan. The term also includes phased or other construction activity by a single entity for its own use.

*Lowest adjacent grade.* The elevation of the lowest grade adjacent to a structure, where the soil meets the foundation around the outside of the structure (including structural members such as basement walkout, patios, decks, porches, support posts or piers, and rim of the window well.

*Lowest floor.* Refers to the lowest of the following:

(1) The top of the basement floor;

(2) The top of the garage floor, if the garage is the lowest level of the building;

(3) The top of the first floor of buildings constructed on a slab or of buildings elevated on pilings or constructed on a crawl space with permanent openings; or

(4) The top of the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless:

a. The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two opening (in addition to doorways and windows) having a total area of one square foot for every two square feet of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one foot above grade.

b. Such enclosed space shall be usable only for the parking of vehicles or building access.

*Manhole.* Storm drain structure through which a person may enter to gain access to an underground storm drain or enclosed structure.

*Measurable storm event.* A precipitation event that results in a total measured precipitation accumulation equal to, or greater than, one-half inch of rainfall.

*Mulch.* A natural or artificial layer of plant residue or other materials covering the land surface which conserves moisture, holds soil in place, aids in establishing plant cover, and minimizes temperature fluctuations.

*Municipal separate storm sewers.* An MS4 meets all the following criteria: (1) is a conveyance or system of conveyances owned by the state, county, city, town, or other public entity; (2) discharges to waters of the U.S.; (3) is designed or used for collecting or conveying stormwater; (4) is not a combined sewer; and, (5) is not part of a Publicly Owned Treatment Works (POTW).

*National pollutant discharge elimination system.* A permit developed by the U.S. EPA through the Clean Water Act. In Indiana, the permitting process has been delegated to IDEM. This permit covers aspects of municipal stormwater quality.

*Natural drainage.* The flow patterns of stormwater runoff over the land in its pre-development state.

*Nutrient(s).* (1) A substance necessary for the growth and reproduction of organisms. (2) In water, those substances (chiefly nitrates and phosphates) that promote growth of algae and bacteria.

*Offense.* Both a violation and a failure of compliance on a particular project. If there are multiple violations or multiple failures of compliance on the same project, each shall be considered a separate offense.

*Open drain.* A natural watercourse or constructed open channel that conveys drainage water.

*Open space.* Any land area devoid of any disturbed or impervious surfaces created by industrial, commercial, residential, agricultural, or other manmade activities.

*Outfall.* The point, location, or structure where a pipe or open drain discharges to a receiving body of water.

*Outlet.* The point of water disposal from a stream, river, lake, tidewater, or artificial drain.

*Peak discharge (or peak flow).* The maximum instantaneous flow from a given storm condition at a specific location.

*Percolation.* The movement of water through soil.

*Permanent stabilization.* The establishment, at a uniform density of 70 percent across the disturbed area, of vegetative cover or permanent non-erosive material that will ensure the resistance of the soil to erosion, sliding, or other movement.

*Pervious.* Allowing movement of water.

*Point source.* Any discernible, confined, and discrete conveyance including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or maybe discharged (P.L. 92-500, Section 502[14]).

*Porous pavement.* A type of infiltration practice to improve the quality and reduce the quantity of stormwater runoff via the use of manmade, pervious pavement which allows runoff to percolate through the pavement and into underlying soils.

*Professional engineer.* A person licensed under the laws of the State of Indiana to practice professional engineering.

*Project site.* The entire area on which construction activity is to be performed.

*Project site owner.* The person required to submit a stormwater permit application and required to comply with the terms of this article, including a developer or a person who has financial and operational control of construction activities, and project plans and specifications, including the ability to make modifications to those plans and specifications.

*Rain garden.* A vegetative practice used to alter impervious surfaces, such as roofs, into pervious surfaces for absorption and treatment of rainfall.

*Receiving stream, receiving channel,* or *receiving water.* The body of water into which runoff or effluent is discharged. The term does not include private drains, unnamed conveyances, retention and detention basins, or constructed wetlands used as treatment.

*Recharge.* Replenishment of groundwater reservoirs by infiltration and transmission from the outcrop of an aquifer or from permeable soils.

*Redevelopment.* Development occurring on a previously developed site.

*Refueling area.* An operating gasoline or diesel fueling area whose primary function is to provide fuel to equipment or vehicles.

*Regional pond.* A detention/retention basin sized to detain/retain the runoff from the entire watershed, on-site and off-site, tributary to the pond's outlet.

*Regulatory flood.* The discharge or elevation associated with the 100-year flood as calculated by a method and procedure which is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The "regulatory flood" is also known as the "base flood".

*Regulatory floodway.* See floodway.

*Release rate.* The amount of stormwater release from a stormwater control facility per unit of time.

*Reservoir.* A natural or artificially created pond, lake or other space used for storage, regulation or control of water. May be either permanent or temporary. The term is also used in the hydrologic modeling of storage facilities.

*Retention.* The storage of stormwater to prevent it from leaving the development site. May be temporary or permanent.

*Retention basin.* A type of storage practice, that has no positive outlet, used to retain stormwater runoff for an indefinite amount of time. Runoff from this type of basin is removed only by infiltration through a porous bottom or by evaporation.

*Return period.* The average interval of time within which a given rainfall event will be equaled or exceeded once. A flood having a return period of 100 years has a one percent probability of being equaled or exceeded in any one year.

*Riparian habitat.* A land area adjacent to a waterbody that supports animal and plant life associated with that waterbody.

*Riparian zone.* Of, on, or pertaining to the banks of a stream, river, or pond.

*Runoff.* That portion of precipitation that flows from a drainage area on the land surface, in open channels, or in stormwater conveyance systems.

*Runoff coefficient.* A decimal fraction relating the amount of rain which appears as runoff and reaches the storm drain system to the total amount of rain falling. A coefficient of 0.5 implies that 50 percent of the rain falling on a given surface appears as stormwater runoff.

*Sediment.* Solid material (both mineral and organic) that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface.

*Sedimentation.* The process that deposits soils, debris and other unconsolidated materials either on the ground surfaces or in bodies of water or watercourses.

*Sensitive water.* A waterbody is in need of priority protection or remediation based on its:

(1) Providing habitat for threatened or endangered species,

(2) Usage as a public water supply intake,

(3) Relevant community value,

(4) Usage for full body contact recreation,

(5) Exceptional use classification as found in 327 IAC 2-1-11(b),

(6) Outstanding state resource water classification as found in 327 IAC 2-1-2(3) and 327 IAC 2-1.5-19(b).

*Silvicultural.* the practice of controlling the establishment, growth, composition, health, and quality of forests to meet diverse needs and values.

(1) Nonpoint activities include source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff. Some of these activities (such as stream crossing for roads) may involve the placement of dredged or fill material which may require a CWA section 404 permit and a 401 Water Quality Certification.

(2) Point source activities include any discernible, confined and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities which are operated in connection with silvicultural activities and from which pollutants are discharged into waters of the United States or the state.

*Site.* The entire area included in the legal description of the land on which land disturbing activity is to be performed.

*Slope.* Degree of deviation of a surface from the horizontal, measured as a numerical ratio or percent. Expressed as a ratio, the first number is commonly the horizontal distance (run) and the second is the vertical distance (rise)—e.g., 2:1. However, the preferred method for

designation of slopes is to clearly identify the horizontal (H) and vertical (V) components (length (L) and Width (W) components for horizontal angles). Also note that according to international standards (Metric), the slopes are presented as the vertical or width component shown on the numerator—e.g., 1V:2H. Slope expressions in this article follow the common presentation of slopes—e.g., 2:1 with the metric presentation shown in parentheses—e.g., (1V:2H). Slopes can also be expressed in "percent". Slopes given in percent are always expressed as (100*V/H)—e.g., a 2:1 (1V:2H) slope is a 50 percent slope.

*Soil.* The unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.

*Soil* and *water conservation district.* A public organization created under state law as a special-purpose district to develop and carry out a program of soil, water, and related resource conservation, use, and development within its boundaries. A subdivision of state government with a local governing body, established under IC 14-32.

*Solid waste.* Any garbage, refuse, debris, or other discarded material.

*Spill.* The unexpected, unintended, abnormal, or unapproved dumping, leakage, drainage, seepage, discharge, or other loss of petroleum, hazardous substances, extremely hazardous substances, or objectionable substances. The term does not include releases to impervious surfaces when the substance does not migrate off the surface or penetrate the surface and enter the soil.

*Storm duration.* The length of time that water may be stored in any stormwater control facility, computed from the time water first begins to be stored.

*Storm event.* An estimate of the expected amount of precipitation within a given period of time. For example, a ten-year frequency, 24-hour duration storm event is a storm that has a ten percent probability of occurring in any one year. Precipitation is measured over a 24-hour period.

*Storm sewer.* A closed conduit for conveying collected stormwater, while excluding sewage and industrial wastes. Also called a storm drain.

*Stormwater.* Water resulting from rain, melting or melted snow, hail, or sleet.

*Stormwater drainage system.* All means, natural or man-made, used for conducting stormwater to, through or from a drainage area to any of the following: conduits and appurtenant features, canals, channels, ditches, storage facilities, swales, streams, culverts, streets and pumping stations.

*Stormwater management system.* A collection of structural and non-structural practices and infrastructure designed to manage stormwater on a site. This system may include but is not limited to erosion control measures, storm drainage infrastructure, detention/retention facilities, and stormwater quality BMP's.

*Stormwater pollution prevention plan.* A plan developed to minimize the impact of stormwater pollutants resulting from construction activities.

*Stormwater quality management plan.* A comprehensive written document that addresses stormwater runoff quality.

*Stormwater quality measure.* A practice, or a combination of practices, to control or minimize pollutants associated with stormwater runoff.

*Stormwater runoff.* The water derived from rains falling within a tributary basin, flowing over the surface of the ground or collected in channels or conduits.

*Stormwater technical standards manual.* The Stormwater Technical Standards Manual as adopted by the Town of Porter, Indiana setting forth the design criteria, standards, and specifications applicable to the establishment, construction, implementation, operation and monitoring of stormwater management and/or erosion control facilities, systems and plans, as the same may be amended from time to time.

*Strip development.* A multi-lot project where building lots front on an existing road.

*Subdivision, major.* Any land that is divided or proposed to be divided into four or more lots, whether contiguous or subject to zoning requirements, for the purpose of sale or lease as part of a larger common plan of development or sale.

*Subdivision, minor.* Any land that is divided or proposed to be divided into less than four lots, whether contiguous or subject to zoning requirements, for the purpose of sale or lease as part of a larger common plan of development or sale.

*Subsurface drain.* A pervious backfield trench, usually containing stone and perforated pipe, for intercepting groundwater or seepage.

*Surface runoff.* Precipitation that flows onto the surfaces of roofs, streets, the ground, etc., and is not absorbed or retained by that surface but collects and runs off.

*Swale.* An elongated depression in the land surface that is at least seasonally wet, is usually heavily vegetated, and is normally without flowing water. Swales conduct stormwater into primary drainage channels and may provide some groundwater recharge.

*Temporary stabilization.* The covering of soil to ensure its resistance to erosion, sliding, or other movement. The term includes vegetative cover, anchored mulch, or other non-erosive material applied at a uniform density of 70 percent across the disturbed area.

*Tile drain.* Pipe made of perforated plastic, burned clay, concrete, or similar material, laid to a designed grade and depth, to collect and carry excess water from the soil.

*Topographic map.* Graphical portrayal of the topographic features of a land area, showing both the horizontal distances between the features and their elevations above a given datum.

*Topography.* The representation of a portion of the earth's surface showing natural and man?made features of a give locality such as rivers, streams, ditches, lakes, roads, buildings and most importantly, variations in ground elevations for the terrain of the area.

*Trained individual.* An individual who is trained and experienced in the principles of stormwater quality, including erosion and sediment control as may be demonstrated by state

registration, professional certification (such as CESSWI and/or CPESC certification), or other documented and applicable experience or coursework as deemed sufficient by the Town of Porter, IN that enable the individual to make judgments regarding stormwater control or treatment and monitoring.

*Urban drain.* A drain defined as "Urban Drain" in Indiana Drainage Code.

*Urbanization.* The development, change or improvement of any parcel of land consisting of one or more lots for residential, commercial, industrial, institutional, recreational or public utility purposes.

*Vegetated swale.* A type of vegetative practice used to filter stormwater runoff via a vegetated, shallow-channel conveyance.

*Violation.* Any action or inaction which violates the provisions of this article or the Stormwater Technical Standards Manual, the requirements of an approved stormwater management design plan or permit, and/or the requirements of a recorded stormwater maintenance agreement may be subject to the enforcement actions outlined in division 7 of this article. Any such action or inaction is deemed to be a public nuisance and may be abated by injunctive or other equitable relief in addition to, and separate from, the imposition of any of the enforcement actions described in division 7 of this article.

*Water quality.* A term used to describe the chemical, physical, and biological characteristics of water, usually in respect to its suitability for a particular purpose.

*Water resources.* The supply of groundwater and surface water in a given area.

*Waterbody.* Any accumulation of water, surface, or underground, natural or artificial, excluding water features designed and designated as water pollution control facilities.

*Watercourse.* Any river, stream, creek, brook, branch, natural or man-made drainageway in or into which stormwater runoff or floodwaters flow either continuously or intermittently.

*Watershed.* The region drained by or contributing water to a specific point that could be along a stream, lake or other stormwater facility. Watersheds are often broken down into subareas for the purpose of hydrologic modeling.

*Watershed area.* All land and water within the confines of a drainage divide. See also watershed.

*Wetlands.* Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
(Ord. No. 2024-11, § 1(Exh. A), 9-24-2024)

**Secs. 26-362—26-451. Reserved.**

Chapters 27—29

**RESERVED**

Chapter 30

# FLOODS

Sec. 30-1. Floodplain regulations incorporated by reference.

**Sec. 30-1. Floodplain regulations incorporated by reference.**

Ordinance No. 2022-07, passed on August 9, 2022, and all other ordinances amendatory thereto, are hereby incorporated by reference and continued in full force and effect, as if appearing herein in their entirety, with copies being maintained in the office of the clerk-treasurer for public inspection.

(Code 1991, § 10-20; Ord. No. 2015-06, § 1, 8-11-2015; Ord. No. 2022-07, § 2, 8-9-2022, eff. 9-29-2022)

Chapters 31—33

**RESERVED**

Chapter 34

# HUMAN RELATIONS

## Article I. In General

Secs. 34-1—34-18. Reserved.

## Article II. Discrimination

### Division 1. Generally

Secs. 34-19—34-39. Reserved.

### Division 2. Fair Housing


Sec. 34-40. Policy.
Sec. 34-41. Definitions.
Sec. 34-42. Discrimination prohibited in the sale or rental of housing.
Sec. 34-43. Discrimination prohibited in the financing of housing.
Sec. 34-44. Discrimination prohibited in the provision of brokerage services.
Sec. 34-45. Exemptions.
Sec. 34-46. Administration.
Sec. 34-47. Enforcement.
Sec. 34-48. Referral procedures.

## ARTICLE I. IN GENERAL

**Secs. 34-1—34-18. Reserved.**

## ARTICLE II. DISCRIMINATION

### DIVISION 1. GENERALLY

**Secs. 34-19—34-39. Reserved.**

### DIVISION 2. FAIR HOUSING

**Sec. 34-40. Policy.**

It is the policy of the town to provide, within the state and United States Constitutional limitations, for fair housing throughout the town.
(Code 1991, § 6-25; Ord. No. 674, § 2, 9-29-1981)

**Sec. 34-41. 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:

*Disability* means determinable physical or mental condition of an individual or a history of such condition which may result from disease, accident, condition of birth, or functional disorder which constitutes a physical or mental limitation.

*Discriminate* or *discrimination* means and includes any difference in treatment of individuals or groups in the sale, lease, rental, or financing of housing units or real estate or housing accommodations because of race, color, religion, ancestry, national or sectional origin, sex, familial status, age or disability.

*Dwelling* means any building, structure, or portion therein which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereof of any such building, structure, or portion thereof.

*Family* includes a single individual.

*National origin* means the national origin of an ancestor.

*Owner* includes the lessee, lessor, sublessee, sublessor, assignee, assignor, managing agent or other person having the right of ownership or possession of the right to sell, rent or lease any housing accommodation or any part thereof.

*Person* includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

*Real estate broker or salesman* means a person, whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents or leases real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself out as engaged in these activities, or who negotiates or attempts to negotiate a loan secured or to be secured by mortgage or other encumbrances upon real property, or who is engaged in the business of listing real property in a publication, or a person employed by or acting on behalf of any of these.

*Real property* means buildings, structures, real estate, lands, tenements, lease-holds, interest in real estate corporations, condominiums and hereditaments, corporeal or incorporeal, or any interest therein.

*To rent* includes to lease, to sublease, to let and otherwise grant for a consideration the right to occupy premises not owned by the occupant.
(Code 1991, § 6-26; Ord. No. 674, § 3, 9-29-1981)

**Sec. 34-42. Discrimination prohibited in the sale or rental of housing.**

Except as provided herein, it shall be unlawful:

(1) To refuse to sell or rent after the making of a bond 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, national origin, familial status, age or disability.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provisions of services or facilities in connection therewith, because of race, color, religion, sex, national origin, familial status, age or disability.

(3) To make, print, or publish or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling, that indicates any preference, limitation, or discrimination based on race, color, religion, sex, national origin, familial status, age or disability.

(4) To represent to any person because of race, color, religion, sex, national origin, familial status, age or disability that any dwelling is not available for inspection, sale, or rental, which such dwelling is in fact so available.

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person of a particular race, color, religion, sex, national origin, familial status, age or disability.

(Code 1991, § 6-27; Ord. No. 674, § 4, 9-29-1981)

**Sec. 34-43. Discrimination prohibited in the financing of housing.**

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, sex, national origin, familial status, age or disability of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to, which such loan or other financial assistance is to be made or given; provided, however, that nothing contained in this section shall impair the scope or effectiveness of the exemptions in section 34-45.
(Code 1991, § 6-28; Ord. No. 674, § 5, 9-29-1981)

**Sec. 34-44. Discrimination prohibited in the provision of brokerage services.**

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate broker's 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, national origin, familial status, age or disability.
(Code 1991, § 6-29; Ord. No. 674, § 6, 9-29-1981)

**Sec. 34-45. Exemptions.**

(a) Except for subsection (c) of this section, nothing in section 34-42, outlining specific discriminatory actions, shall apply to:

(1) Any single-family house sold or rented by an owner; provided that such private individual owner does not own more than three such single-family houses at one time; provided further that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who is not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any 24-month period; provided, further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to 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; provided, further, that the sale or rental or any such single-family house shall be excepted from the application of this division only if such house is sold or rented without the use in any manner of the sales or rental facilities or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent,

salesman, or person, and without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 34-42, outlining specific discriminatory actions; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other professional assistance as necessary to perfect or transfer the title.

(2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than two families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(b) For the purposes of subsection (a) of this section, a person shall be deemed to be in the business of selling or renting a dwelling if:

(1) He has within the preceding 12 months participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest thereof;

(2) He has within the preceding 12 months participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or

(3) He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

(c) 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, sex, national origin, familial status, age or disability; 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 or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(d) Nothing in this division shall require anyone owning or possessing an interest in real property to offer the property to the public at large before selling or renting such interest, nor shall this division prohibit the owner, lessor, lessee, sublessee, real estate broker, or financial or lending institution or agents of the foregoing, from refusing to enter into a real estate transaction with a person who does not have the legal capacity to enter into a self-binding contract.

(e) Housing for older persons is exempt from the prohibition against familial status discrimination if:

(1) It houses at least one person who is 55 years of age or older in at least 80 percent of the occupied units, and adheres to a policy that demonstrates an intent to house persons who are 55 years of age or older;

(2) It is occupied solely by persons who are 62 years of age or older; or

(3) The HUD secretary has determined that it is specifically designed for and occupied by elderly persons under a federal, state or local government program.

(Code 1991, § 6-30; Ord. No. 674, § 7, 9-29-1981)

**Sec. 34-46. Administration.**

The authority and responsibility for administering this division shall be in the town council or an official designated by the town council.

(Code 1991, § 6-31; Ord. No. 674, § 8, 9-29-1981)

**Sec. 34-47. Enforcement.**

(a) Procedures for filing complaints. Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur, may file a complaint with the town council or its designee. Complaints shall be in writing and shall contain such information and be in such form as the town council or its designee may require. Upon receipt of such a complaint, the town council or its designee shall furnish a copy of the same to the person or persons who allegedly committed or are about to commit the alleged discriminatory housing practice. Within 30 days after receiving a complaint, the town council or its designee shall cause the complaint to be investigated and notice to be given in writing to the person aggrieved whether he intends to resolve it. If the town council or its designee decides to resolve the complaint, they shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this division without the written consent of the persons concerned.

(b) Complaints under subsection (a) of this section shall be filed within 180 days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the permission of the town council or its designee, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaint and answer shall be certified by the clerk-treasurer.

(c) If within 30 days after a complaint is filed, the town council or its designee has been unable to obtain voluntary compliance with this division, the town council or its designee may refer the matter to the state civil rights commission for its actions as provided herein.

(Code 1991, § 6-32; Ord. No. 674, § 9, 9-29-1981)

**Sec. 34-48. Referral procedures.**

If a complaint filed under the provisions of this division is referred to the state civil rights commission by the town council or its designee and the state civil rights commission has

reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this division or denial of such right, it may bring a civil action in any appropriate court by filing with it a complaint setting forth the facts and requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person responsible for such pattern or practice or denial of rights, as he deems necessary to ensure the full enjoyment of the rights granted by this division.
(Code 1991, § 6-33; Ord. No. 674, § 10, 9-29-1981)

Chapters 35—37

**RESERVED**

Chapter 38

# LAW ENFORCEMENT

## Article I. In General


Sec. 38-1. Preservation of public peace and order.
Sec. 38-2. Traffic accident and case reports.
Sec. 38-3. Vehicle registration checks.
Sec. 38-4. Police department videotape and video fee.
Sec. 38-5. Prohibiting the purchase, possession, sale and offering for sale of substances containing synthetic cannabinoid.
Sec. 38-6. Duneland Emergency Regional Dispatch Operations Center Management Board.
Secs. 38-7—38-26. Reserved.


## Article II. Town Board of Metropolitan Police Commissioners


Sec. 38-27. Membership.
Sec. 38-28. Oaths and affirmations.
Sec. 38-29. Bond.
Sec. 38-30. Salary.
Sec. 38-31. Powers and duties.
Sec. 38-32. Residency requirements.
Sec. 38-33. Salary appropriation.
Secs. 38-34—38-54. Reserved.


## Article III. Police Reserve Unit


Sec. 38-55. Established.
Sec. 38-56. Appointment and qualifications.
Sec. 38-57. Rules and regulations.
Sec. 38-58. Benefits.
Sec. 38-59. Uniform, arms and equipment.
Secs. 38-60—38-76. Reserved.


## Article IV. Licensing of Handguns


Sec. 38-77. License application fees.
Sec. 38-78. Qualified or unlimited licenses.

## ARTICLE I. IN GENERAL

### Sec. 38-1. Preservation of public peace and order.

The town may establish, maintain, and operate a police and law enforcement system to preserve public peace and order and may provide facilities and equipment for that system.
(Code 1991, § 6-2)

**State law reference—**Police and law enforcement system, IC 36-8-2-2.

### Sec. 38-2. Traffic accident and case reports.

(a) The police department of the town is required from time to time to provide copies of traffic accident and case reports.

(b) The fee for providing these copies shall be $5.00.

### Sec. 38-3. Vehicle registration checks.

(a) The police department of the town is required from time to time to inspect and check vehicles for registration.

(b) The state statute requiring said registration check provides for a fee up to $5.00, which may be charged by the inspecting agency.

(c) The fee for vehicle registration check shall be $5.00 and shall be deposited in the police continuing education fund per state law.
(Code 1991, § 4-17; Ord. No. 738, § 1, 4-14-1987; Ord. No. 2014-04, § 1, 9-9-2014)

### Sec. 38-4. Police department videotape and video fee.

(a) *Videotape.* The town police department shall hereby and hereafter charge a fee of $50.00 to provide a copy of a videotape that has been taken by the police department and which involves an incident, accident, traffic arrest, or any other type of traffic enforcement or general police activity for which there is a videotape taken by the police department.

(1) The $50.00 fee is to be charged for each incident or each tape. In the event that the same incident, occurrence or accident involves two or more separate tapes, the charge shall be $50.00 for each such tape. The person or party requesting a copy of such tape or tapes shall be responsible for providing a blank tape or tapes for copying and reproduction purposes.

(2) All fees collected by the police department for said videotape reproduction shall be deposited in the law enforcement continuing education and development fund and may be expended at the discretion of the police chief for any departmental purposes reasonably related to keeping of incident and/or accident reports and records or the prevention of street and highway accidents, traffic related arrests, as well as the upkeep, maintenance and replacement of said video cameras, videotapes and other related paraphernalia, and any other appropriate law enforcement pursuit.

(b) *Video fee.* The town police department shall hereby and hereafter charge a fee of $50.00 to provide a copy of a video that has been taken by the police department and which involves an incident, accident, traffic arrest or any other type of traffic enforcement or general police activity for which there is a video taken by the police department.

(1) The $50.00 fee is to be charged for each incident. In the event that the same incident, occurrence or accident involves two or more separate videos, the charge shall be $50.00 for each such video.

(2) All fees collected by the police department for said video reproduction shall be deposited in the law enforcement continuing education and development fund and may be expended at the discretion of the police chief for any departmental purposes reasonably related to keeping of incident and/or accident reports and records or the prevention of street and highway accidents, traffic related arrests, as well as the upkeep, maintenance of said video cameras, videos and other related paraphernalia and any other appropriate law enforcement pursuit.

(Ord. No. 95-06, § 1, 6-27-1995; Ord. No. 2009-02, § 1, 1-24-2009)

**Sec. 38-5. Prohibiting the purchase, possession, sale and offering for sale of substances containing synthetic cannabinoid.**

(a) It is hereby declared to be unlawful for any individual or business to use, possess, purchase, attempt to purchase, sell, publicly display for sale or attempt to sell, give, or barter any one or more of the following products containing synthetic cannabinoids ("products") within the boundaries of the Town of Porter which contain one or more of the following chemical compounds:

(1) 2[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl) phenol {also known as CP 47,497 and its C6, C7, C8 and C9 homologues}.

(2) (6aR,10aR)-9-(hydroxymethyl)-6-6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c] chromen-1-ol {also known as HU-210}.

(3) Naphthalen-1-yl-(1-pentylindol-3-yl) methanone {also known as 1 Pentyl-3-(1-naphthoyl) indole or JWH-018}.

(4) Naphthalen-1-yl-(1-butylindol-3-yl) methanone {also known as 1-Butyl-3(1-napthoyl) indole or JWH-073}.

(5) Any other equivalent compound or derivative.

(b) Products may not be burned, incinerated or ignited in any public place or on any property owned, leased or controlled by the Town of Porter, Indiana.

(c) If any of the substances listed in subsection (a) herein are found in the possession of any individual or business, they may be confiscated and destroyed by law enforcement officials.

(d) It is not an offense under subsection (a) herein if the individual or business was acting at the direction of an authorized law enforcement agent to enforce or ensure compliance with this section prohibiting the aforementioned substance.

(e) This section does not apply to any individual or business who commits any act described in this section pursuant to the direction or prescription of a licensed physician or dentist authorized to direct or prescribe such act. This section likewise does not apply to the inhalation of anesthesia for a medical purpose or dental purpose.

(f) Any individual or business found to be selling, publicly display for sale or attempting to sell, give, or barter any substance listed in subsection (a) shall be considered to have violated this section and will be subject to a civil fine of $2,500.00. Any individual or business found purchasing or possessing any substance listed in subsection (a) shall be considered to have violated this section and will be subject to a civil fine of $1,000.00. Any person or entity found in violation of this section shall be responsible for payment of reasonable costs and attorneys fees associated with the enforcement of this section.

(g) The town attorney, with the approval of the town council, shall have the authority to seek an injunction to prevent the selling or offering to sell in violation of this section by any business which refuses or fails to comply with this section.

(h) This section shall remain in effect until such time as a section of the Indiana Code addressing these or similar substances becomes effective at which time this section shall automatically be revoked. All violations occurring prior to the date of revocation shall be subject to the penalties herein regardless whether legal proceedings related thereto have been filed or concluded prior to the date of revocation.

(i) Any term defined in this section by reference to a state statute shall have the same meaning whenever used in this section unless clearly inapplicable by the context in which it is used. Any reference to a state statute shall mean the statute as amended from time to time, or any similar statutory provision that may supersede it relating to the same or similar subject matter.

(j) Should any section, paragraph, sentence, clause or any other portion of this section be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provisions shall not be effected, if and only if, such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the council in adopting this section. To this end the provisions of this section are severable.

(k) This section shall be in full force and effect upon adoption and compliance with I.C. § 36-2-4-8.
(Ord. No. 2010-09, 10-12-2010)

### Sec. 38-6. Duneland Emergency Regional Dispatch Operations Center Management Board.

(a) The Duneland Emergency Regional Dispatch Operations Center Management Board ("board") was created by the town under Ordinance No. 2015-14, and in cooperation with the Town of Chesterton, Indiana. The members of the board shall be:

(1) Town of Chesterton Chief of Police;

(2) Town of Porter Chief of Police;

(3) Town of Chesterton Deputy Chief of Police;

(4) Town of Porter Deputy Chief of Police;

(5) Town of Chesterton Town Council President; and

(6) Town of Porter Town Council President.

(b) The board shall elect one of its members to serve as president on an annual basis.

(c) The board shall have the following responsibilities:

(1) Management of the operations of the center;

(2) Control of the budget with regard to personnel and equipment in the center; and

(3) Authority to enact and enforce policies concerning computer operations in the center. (Ord. No. 2015-14, § 1, 12-29-2015; Ord. No. 2016-07, § 1, 5-10-2016; Ord. No. 2025-09, § 1, 8-26-2025)

**Secs. 38-7—38-26. Reserved.**

## ARTICLE II. TOWN BOARD OF METROPOLITAN POLICE COMMISSIONERS*

### Sec. 38-27. Membership.

(a) As of June 13, 2006, the town board of metropolitan police commissioners shall consist of three citizen members and one ex officio member who shall also be a member of the town council.

(b) The three citizen members of the commission must be residents of the town and not more than two of the citizen members may be members of the same political party.

(c) The citizen members of the commission shall be appointed by the town council to staggered terms of three years expiring on January 1, of each calendar year and when a successor is appointed and qualified.

(d) The town council may remove a citizen board member for any cause that it considers significant.

(e) The town council may not appoint a police officer employed by the town to serve as a citizen member of the commission.

(f) The ex officio member of the commission shall serve until replaced by the town council or until the ex officio member is no longer a member of the town council.

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***State law references—**Town Board of Metropolitan Police Commissioners, IC 36-8-9-1 et seq.; safety boards, disciplinary procedures, IC 36-8-3-4—36-8-3-4.1.

(g) The ex officio member of the commission is not required to post the bond required by IC 36-8-9-3.1(f), nor shall the ex officio member of the commission receive compensation for membership on the commission.
(Ord. No. 95-02, §§ 1—7, 1-24-1995; Ord. No. 2004-18, 11-22-2004; Ord. No. 2006-11, 6-13-2006; Ord. No. 2011-03, 3-22-2011)

**Sec. 38-28. Oaths and affirmations.**

(a) Before performing any function of a board member of the town board of metropolitan police commissioners, an individual shall take and subscribe an oath or affirmation before the county circuit court clerk that in each appointment or removal made by the board to or from the town police department under this article, the board member will not appoint or remove a member of the town police department because of the political affiliation of the person or for another cause or reason other than that of the fitness of the person.

(b) The county circuit court clerk shall file oaths and affirmations required by this section among the county circuit court clerk's records.
(Ord. No. 95-02, § 1-7, 1-24-1995; Ord. No. 2004-18, 11-22-2004)

**Sec. 38-29. Bond.**

(a) Except for the ex officio member of the commission, a board member shall give bond in the penal sum of $5,000.00, payable to the state and conditioned upon the faithful and honest discharge of the member's duties.

(b) The bond must be approved by the town council.
(Ord. No. 95-02, § 1-7, 1-24-1995; Ord. No. 2004-18, 11-22-2004)

**Sec. 38-30. Salary.**

(a) The town council shall fix the salary of board members of the town board of metropolitan police commissioners who are not members of the town council.

(b) A board member's salary shall be payable monthly out of the town treasury.

(c) A board member's failure to attend a meeting shall result in forfeiture of that month's salary.
(Ord. No. 95-02, § 1-7, 1-24-1995; Ord. No. 2004-18, 11-22-2004)

**Sec. 38-31. Powers and duties.**

The powers and duties of the town board of metropolitan police commissioners shall be as follows:

(1) The board may appoint, subject to the qualifications for employment determined by the board and approved by the town council, as many persons as necessary to serve in the police department of the town. One person shall be appointed to serve as the police chief. The board may also appoint other employees that are necessary to carry on the work of the police department.

(2) The board may recommend, and the town council shall determine, the compensation to be paid to members of the police department in amounts that are just and reasonable.

(3) All persons appointed must be of good moral character and serve only during good behavior. The board constitutes the safety board of the town for purposes of the suspension, demotion, or dismissal of any member of the police department. Proceedings for the suspension, demotion, or dismissal of the police department shall be conducted in the manner prescribed by IC 36-8-3-4. The disciplinary provisions of IC 36-8-3-4.1 also apply to the safety board and the police chief.

(4) The board may make general and special rules for the government and discipline of the police department and may make special and general orders to the department through the police chief, who is the executive head of the department.
(Ord. No. 95-02, § 1-7, 1-24-1995; Ord. No. 2004-18, 11-22-2004)

**Sec. 38-32. Residency requirements.**

Members of the police department must:

(1) Reside within the county in which the town is located;

(2) Reside within 15 miles of the corporate boundaries of the town;

(3) Have adequate means of transportation into the town; and

(4) Maintain in their residence telephone service with the town.

(Ord. No. 95-02, § 1-7, 1-24-1995; Ord. No. 2004-18, 11-22-2004)

**Sec. 38-33. Salary appropriation.**

The town council shall appropriate a sum sufficient to pay the salaries of the members of the town police department.

(Ord. No. 95-02, § 1-7, 1-24-1995; Ord. No. 2004-18, 11-22-2004)

**Secs. 38-34—38-54. Reserved.**

## ARTICLE III. POLICE RESERVE UNIT*

**Sec. 38-55. Established.**

A police reserve unit of the town police department is hereby established to assist the police department in the performance of law enforcement and other official duties.

(Ord. No. 2004-06, § 1, 6-28-2004)

**Sec. 38-56. Appointment and qualifications.**

(a) The police chief, with the approval of the town board of metropolitan police commissioners ("the commission"), may appoint a maximum of 15 police reserve officers.

(b) A police reserve officer appointed may not:

(1) Make an arrest;

(2) Conduct a search or a seizure of a person or property; or

(3) Carry a firearm unless the police reserve officer has successfully completed a state law enforcement training board prescribed pre-basic course established under IC 5-2-1-9(f).

(c) Police reserve officers may not be regular members of the police department and may not be appointed until the completion of the training and probationary period specified by rules adopted pursuant to section 38-57. Police reserve officers shall have all the powers as the regular members of the police department, except as limited by the rules adopted pursuant to section 38-57.

(Ord. No. 2004-06, § 2, 6-28-2004)

*__State law reference—__Police reserve officers, IC 36-8-3-20.

**Sec. 38-57. Rules and regulations.**

The police commission and the police chief may adopt rules and regulations governing police reserves.
(Ord. No. 2004-06, § 3, 6-28-2004)

**Sec. 38-58. Benefits.**

(a) To the extent funds are appropriated by the town council and approved by the town council and police chief for a purpose listed in this subsection, police reserve officers may receive any of the following:

(1) A uniform allowance;

(2) Insurance for life, accident, and sickness coverage;

(3) A police reserve officer shall be covered by the medical treatment and burial expense provisions of the worker's compensation law (IC 22-3-2—22-3-6) and the worker's occupational diseases law (IC 22-3-7). Said coverage shall be included in the town's worker's compensation insurance coverage for injuries sustained by a police reserve officer while performing reserve duties. If compensability of the injury is an issue, the administrative procedures of IC 22-3-2 through 22-3-6 and IC 22-3-7 shall apply.

(b) Police reserve officers shall receive no compensation for their duties, except as may be specifically provided from time to time by an ordinance of the town council.

(c) Police reserve officers are not eligible to participate in any pension program provided for regular members of the police department.
(Ord. No. 2004-06, § 4, 6-28-2004)

**Sec. 38-59. Uniform, arms and equipment.**

The police chief may issue uniforms, arms and equipment, to the extent available, to police reserve officers. Any items issued shall immediately be returned to the police chief or designated officer upon request or separation from the police department. Any uniforms, arms or equipment purchased individually by a police reserve officer shall be without reimbursement by the police department.
(Ord. No. 2004-06, § 5, 6-28-2004)

**Secs. 38-60—38-76. Reserved.**

## ARTICLE IV. LICENSING OF HANDGUNS

**Sec. 38-77. License application fees.**

Pursuant to IC 35-47-2-1 et seq., the town establishes the following handgun license application fees, to be deposited in the law enforcement continuing education fund established under IC 5-2-8-2:

| *License Type* | *Local Fees* |
|---|---|
| Four-year hunting and target | $10.00/5.00 refundable[1] |
| Four-year personal protection | $10.00/5.00 refundable[1] |
| Lifetime hunting and target | |
| No current license | $50.00/30.00 refundable[1] |
| Current valid license | $40.00/30.00 refundable[1] |
| Lifetime personal protection | |
| No current license | $50.00/30.00 refundable[1] |
| Current valid license | $40.00/30.00 refundable[1] |
| Retired law enforcement officer | Fee exempt |
| Corrections officer | Fee exempt |
| Firearms dealer | Fee exempt |

[1]A portion of the local fee is refundable if a license is not issued. All of the state fee is refundable if no license is issued.

(Code 1991, § 4-16; Ord. No. 673, § 2, 9-8-1981; Ord. No. 2006-13, 7-25-2006)

**Sec. 38-78. Qualified or unlimited licenses.**

(a) Licenses to carry handguns shall be either qualified or unlimited, and are valid for:

(1) Four years from the date of issue in the case of a four-year license; or

(2) The life of the individual receiving the license in the case of a lifetime license.

(b) A qualified license shall be issued for hunting and target practice. Unlimited licenses shall be issued for the purpose of the protection of life and property.

(c) Fees.

(1) In addition to the application fee, the fee for a qualified license shall be:

a. For a four-year qualified license, $5.00;

b. For a lifetime qualified license from a person who does not currently possess a valid state handgun license, $25.00; or

c. For a lifetime qualified license from a person who currently possesses a valid state handgun license, $20.00; and

(2) In addition to the application fee, the fee for an unlimited license shall be:

a. For a four-year unlimited license, $30.00;

b. For a lifetime unlimited license from a person who does not currently possess a valid state handgun license, $75.00; or

c. For a lifetime unlimited license from a person who currently possesses a valid state handgun license, $60.00.

(d) Licensed dealers are exempt from the payment of fees specified in subsection (c) of this section for a qualified license or an unlimited license.

(e) Police officers, sheriffs or their deputies, law enforcement officers and correctional officers of the state or the United States, who have been honorably retired by a lawfully created pension board or its equivalent, after at least 20 years of service or because of a disability, are exempt from the payment of fees specified in subsection (c) of this section.

(f) Fees collected under this section shall be deposited to the state general fund.

Chapters 39—41

**RESERVED**

Chapter 42

# OFFENSES AND MISCELLANEOUS PROVISIONS

## Article I. In General

Sec. 42-1. Firearms and other missiles, discharge prohibited; exceptions.
Sec. 42-2. Policy regarding erroneous or irregular variances, losses, shortages and thefts.
Secs. 42-3—42-19. Reserved.

## Article II. Specific Activities Prohibited

Sec. 42-20. Disturbing the peace.
Sec. 42-21. Games or sports in public places.
Sec. 42-22. Criminal trespass.
Sec. 42-23. Disorderly conduct.
Sec. 42-24. Congregating in public places.
Sec. 42-25. Disturbing place of worship or meeting.
Sec. 42-26. Interference with public officer, official.
Sec. 42-27. Posting prohibited.
Sec. 42-28. Penalties.
Sec. 42-29 Funeral protests.
Secs. 42-30—42-59. Reserved.

## Article III. Curfew for Minors

Sec. 42-60. Restricted hours—Ages 15, 16 or 17.
Sec. 42-61. Same—Under 15 years of age.
Sec. 42-62. Detainment.
Sec. 42-63. Defense to violation.
Sec. 42-64. Penalty.

## ARTICLE I. IN GENERAL

### Sec. 42-1. Firearms and other missiles, discharge prohibited; exceptions.

(a) The town declares the discharge of firearms and other projectiles within the town limits to be a prohibited activity and a nuisance, except as provided and specifically permitted by this section.

(b) Except as provided in subsections (c) and (d) of this section, it shall be unlawful for any person, firm, corporation or other entity to discharge any firearm or projectile within the limits of the town including, but not limited to, handguns, rifles, shotguns, BB guns, air or gas powered pellet guns, arrows, or any other projectile from either a gun or any other instrumentality. Provided, however, that this prohibition shall not be construed to prohibit any police officer or other officer of the law, member of the armed forces of the United States or National Guard to discharge a firearm or other projectile in the performance of his duty, nor to any person who discharges a firearm or other projectile when lawfully defending his person or property.

(c) The firing and/or discharge of arrows for the purpose target practice shall be permitted only under the following conditions:

(1) There shall be no firing and/or discharge of arrows permitted on any land owned by the town.

(2) There shall be no firing and/or discharge of arrows permitted on any parcel of real estate consisting of less than ten acres.

(3) There shall be no firing and/or discharge of arrows permitted within 100 yards of any building, residence, traveled roadway, or park.

(4) Individuals seeking to fire or discharge arrows in conformity with this section shall first register with the town police department identifying themselves by name, address, and phone number and identifying the location where the individual intends to fire and/or discharge arrows and shall further certify, in writing, that the, individual has the permission of the property owner where the activity shall take place.

(d) Nothing in this section shall be construed as prohibiting the use or discharge of BB guns or air or gas powered pellet guns within the corporate boundaries of the town for the purpose of target practice or for the purpose of pest control by an owner of property on said property or on the property of another where written permission has been granted by that property owner.

(e) Violation of this section, upon conviction, shall be punishable by a fine of up to $250.00 for the first violation, $1,000.00 for the second violation and $2,500.00 for any subsequent violation. Each incident in violation of this section constitutes a separate violation. In addition, the town may seek injunctive relief against any person who violates the provisions of this section.

(f) If any portion of this section shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect any other portion or provision of this section.
(Ord. No. 2007-17, §§ 1—4, 6, 7, 12-27-2007)

**Sec. 42-2. Policy regarding erroneous or irregular variances, losses, shortages and thefts.**

(a) *Purpose.* This policy is intended to comply with IC 5-11-1-27 and State Examiner Directive 2015-6.

(b) *Materiality threshold.* The materiality threshold for the town shall be $100.00. If the erroneous or irregular variance, loss, shortage or theft is not cash or a cash-equivalent, the value of the item at the time of the variance, loss, shortage or theft shall be used to determine whether the materiality threshold has been met.

All erroneous or irregular variances, losses, shortages, or thefts of $100.00 or more shall be reported immediately to the state board of accounts. In addition, all erroneous or irregular variances, losses, shortages, or thefts which occur two or more times in a month and which in the aggregate total $100.00 or more shall be reported immediately to the state board of accounts.

(c) *Knowledge of misappropriation.* A public officer who has knowledge of or reasonable cause to believe that there has been a misappropriation of public funds or assets of the public office shall immediately send written notice of the misappropriation to the Indiana State Board of Accounts and the Porter County prosecuting attorney.

(d) *Maintenance of documentation*. The town shall maintain records and documentation concerning erroneous or irregular variances, losses, shortages, or thefts in accordance with generally-accepted accounting principles and the internal control standards provided by the Indiana State Board of Accounts.

(d) *Resolution of incidents not meeting the materiality threshold.* The town shall investigate all erroneous or irregular variances, losses, shortages or thefts, regardless of whether they meet the materiality threshold established by this policy. Upon conclusion of each such investigation, the town shall:

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

(2) Take appropriate disciplinary action against the employee responsible for the incident.

(Policy of 1-26-2016)

**Secs. 42-3—42-19. Reserved.**

## ARTICLE II. SPECIFIC ACTIVITIES PROHIBITED

### Sec. 42-20. Disturbing the peace.

No person shall, in a noisy or boisterous manner, or by the use of threatening, obscene or abusive language, or by the utilization of fighting words, which cause a breach of the peace of the citizens of the town, or any other person within the town.
(Code 1968, § 17-1; Code 1991, § 6-71; Ord. No. 4; Ord. No. 94-08, § 1, 4-12-1994)

### Sec. 42-21. Games or sports in public places.

(a) No person shall engage in play, or any game or sport in any public street, alley or common which shall cause any other person who may be passing by injury or the fear of being injured.

(b) No person shall engage in any sport or exercise which shall damage vehicles or obstruct the free passage of travelers upon the street or sidewalks, or injure any person or block the passage of vehicles upon the streets and highways of the town.
(Code 1968, § 17-2; Code 1991, § 6-72; Ord. No. 115, §§ 4, 6)

### Sec. 42-22. Criminal trespass.

Any person who shall trespass upon the property of another, or upon property of the town, without contractual interest or permission, is committing a criminal trespass.
(Code 1968, § 17-4; Code 1991, § 6-74; Ord. No. 513, § 1, 9-14-1971)

**State law reference—**Criminal trespass, IC 35-43-2-2.

### Sec. 42-23. Disorderly conduct.

A person commits disorderly conduct if he recklessly, knowingly, or intentionally:

(1) Engages in fighting or in conduct likely to result in serious bodily injury to a person or substantial damage to property;

(2) Makes unreasonable noise and continues to do so after being asked to stop; or

(3) Disrupts a lawful assembly of persons.

(Code 1968, § 17-5; Code 1991, § 6-75; Ord. No. 501, § 1, 10-13-1970)

**State law reference—**Disorderly conduct, IC 35-45-1-3.

### Sec. 42-24. Congregating in public places.

It is unlawful for any person to congregate or cause to be congregated a crowd of five or more persons upon any public street, alley, sidewalk, parking lot, school or school grounds, building, or any other public place within the town so as to commit an unlawful act, or a lawful act by unlawful means.
(Code 1968, § 17-6; Code 1991, § 6-76; Ord. No. 501, § 2, 10-13-1970)

**State law reference—**Unlawful assembly, IC 35-45-1-1.

**Sec. 42-25. Disturbing place of worship or meeting.**

It shall be unlawful for any person within the town by any loud or unreasonable talking or shouting or by any threatening or obscene language or violent action, or by any other behavior, intended to harass, molest, or disturb any group of persons convened for the purpose of worship, or in like manner to harass, molest, or disturb any meeting of persons met together for any lawful purpose.
(Code 1968, § 17-7; Code 1991, § 6-77; Ord. No. 501, § 3, 10-13-1970)

**State law reference—**Disorderly conduct, IC 35-45-1-3.

**Sec. 42-26. Interference with public officer, official.**

It shall be unlawful for any person to intentionally impede or interfere with or attempt to impede or interfere with any policeman, fireman or any other town official in the performance of his duty or emergency functions as a fireman, policeman or town official.
(Code 1968, § 17-9; Code 1991, § 6-79; Ord. No. 501, § 5, 10-13-1970)

**State law reference—**Resisting law enforcement, IC 35-44-3-3.

**Sec. 42-27. Posting prohibited.**

No person shall post any bills, notices other than legal notices, signs, handbills and similar material on telegraph, telephone or utility poles within the rights-of-way of the streets and roads within the town.
(Code 1968, § 24-1; Code 1991, § 6-80; Ord. No. 419, § 1)

**Sec. 42-28. Penalties.**

Any person violating any provisions of this article shall be punished by a fine as provided in section 1-8, and costs of the action.
(Code 1991, § 6-81; Ord. No. 501, § 7, 10-13-1970)

**Sec. 42-29 Funeral protests.**

(a) Every person may freely speak, write and publish the person's sentiments on all subjects, but no person shall picket or engage in other protest activities, nor shall any association or corporation cause picketing or other protest activities to occur within 300 feet of any residence, cemetery, funeral home, church, synagogue, or other establishment during or within one hour before or one hour after the conducting of any actual funeral or burial service at that place.

(b) As used in this section, "other protest activities" means any action that is disruptive or undertaken to disrupt or disturb a funeral or burial service.

(c) As used in this section, "funeral" and "burial service" mean the ceremonies and memorial services held in conjunction with the burial or cremation of the dead, but this section does not apply to processions while they are in transit beyond the 300-foot zone established under subsection (a) above.
(Ord. No. 2013-04, § 1, 4-23-2013)

**Secs. 42-30—42-59. Reserved.**

## ARTICLE III. CURFEW FOR MINORS*

### Sec. 42-60. Restricted hours—Ages 15, 16 or 17.

It is a curfew violation for a child 15, 16, or 17 years of age to be in a public place:

(1) Between 1:00 a.m. and 5:00 a.m. on Saturday or Sunday;

(2) After 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday; or

(3) Before 5:00 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.

(Ord. No. 2007-11, § 1, 6-26-2007)

### Sec. 42-61. Same—Under 15 years of age.

It is also a curfew violation for a child less than 15 years of age to be in a public place after 11:00 p.m. or before 5:00 a.m. on any day.

(Ord. No. 2007-11, § 2, 6-26-2007)

### Sec. 42-62. Detainment.

A law enforcement officer may not detain a child or take a child into custody based on a violation of sections 42-60 and 42-61, unless the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that:

(1) The child has violated this article; and

(2) There is no legal defense to the violation.

(Ord. No. 2007-11, § 3, 6-26-2007)

### Sec. 42-63. Defense to violation.

It is a defense to a violation under this article that at the time that the child engaged in conduct prohibited by this article the child was:

(1) Emancipated pursuant to IC 31-37-19-27 or by virtue of being married or in accordance with the laws of another state or jurisdiction;

(2) Accompanied by the child's parents, guardian, or custodian;

(3) Accompanied by an adult specified by the child's parent, guardian, or custodian;

(4) Participating in, going to, or returning from:

a. Lawful employment;

b. A school-sanctioned activity;

c. A religious event;

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***State law reference—**Curfew violations, IC 31-37-3-2 et seq.

d. An emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;

e. An activity involving the exercise of the child's rights protected under the First Amendment to the United States Constitution or article 1, section 31 of the state Constitution, or both, such as freedom of speech and the right of assembly; or

f. An activity conducted by a nonprofit or governmental entity that provides recreation, education, training, or other care under the supervision of one or more adults;

(5) Participating in an activity undertaken at the prior written direction of the child's parent, guardian, or custodian; or

(6) Engaged in interstate or international travel from a location outside the state to another location outside the state.

(Ord. No. 2007-11, § 4, 6-26-2007)

**Sec. 42-64. Penalty.**

Any individual found in violation of this article shall be charged a fine of $50.00 for the first offense and $100.00 for the second offense if within one year.

(Ord. No. 2007-11, § 6, 6-26-2007)

Chapters 43—45

**RESERVED**

Chapter 46

# PARKS AND RECREATION

## Article I. In General

Sec. 46-1. Authority to operate.
Secs. 46-2—46-20. Reserved.

## Article II. Department of Parks and Recreation

Sec. 46-21. Establishment; composition.
Sec. 46-22. Establishment, operation and maintenance of public parks and programs.
Sec. 46-23. Powers and duties concerning public parks and programs.
Sec. 46-24. Creation of committees.
Sec. 46-25. Establishment of rules and regulations.
Secs. 46-26—46-55. Reserved.

## Article III. Park Rules and Regulations

Sec. 46-56. Responsible persons.
Sec. 46-57. Prohibited acts.
Sec. 46-58. Hours of operation.
Sec. 46-59. Organization using the parks.
Sec. 46-60. Designated activities.
Sec. 46-61. Specific regulations of activities.
Sec. 46-62. Advertising prohibited.
Sec. 46-63. Role of park superintendent and police department.
Sec. 46-64. Penalties.
Sec. 46-65. Parks department properties.
Sec. 46-66. Geocache policy and guidelines.

## ARTICLE I. IN GENERAL

### Sec. 46-1. Authority to operate.

The town may establish, aid, maintain, and operate public parks, playgrounds, recreation facilities, and programs.
(Code 1991, § 5-1)

**State law reference—**Recreation facilities and programs, IC 36-10-2-2 et seq.

### Secs. 46-2—46-20. Reserved.

## ARTICLE II. DEPARTMENT OF PARKS AND RECREATION*

### Sec. 46-21. Establishment; composition.

The department of parks and recreation is re-established, composed of the Porter Town Council (council), the superintendent and such other personnel as the council shall determine.
(Ord. No. 2013-13, § 2, 10-22-2013)

### Sec. 46-22. Establishment, operation and maintenance of public parks and programs.

The council shall have full authority and responsibility to establish, aid, maintain and operate public parks, playgrounds and recreational facilities and programs.
(Ord. No. 2013-13, § 2, 10-22-2013)

### Sec. 46-23. Powers and duties concerning public parks and programs.

The council shall have and exercise all powers necessary to establish, aid, maintain and operate public parks, playgrounds, and recreational facilities and programs, including but not limited to the powers previously vested in the parks and recreation board, including the authority to hire and fix the compensation of the superintendent and such other personnel as the council shall determine.
(Ord. No. 2013-13, § 2, 10-22-2013)

### Sec. 46-24. Creation of committees.

The council may create an advisory council and/or special committees composed of citizens interested in the issue of parks and recreation.
(Ord. No. 2013-13, § 2, 10-22-2013)

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***Editor's note—**Ord. No. 2013-13, § 1, adopted Oct. 22, 2013, repealed the former Art. II, §§ 46-21—46-26, and § 2 of said ordinance enacted a new Art. II as set out herein. The former Art. II pertained to similar subject matter and derived from Code 1968, §§ 18-31, 18-32, 18-34—18-36; Code 1991, §§ 5-1, 5-5—5-10; Ord. No. 535, §§ 1—6, adopted Apr. 10, 1973; Ord. No. 586, § 2, adopted Jan. 13, 1976; Ord. No. 2011-03, adopted March 22, 2011.

**State law reference—**General Park and Recreation Law, IC 36-10-3-1 et seq.

**Sec. 46-25. Establishment of rules and regulations.**

The council may establish comprehensive rules and regulations for the governance of park land, property, activities and employees.
(Ord. No. 2013-13, § 2, 10-22-2013)

**Secs. 46-26—46-55. Reserved.**

## ARTICLE III. PARK RULES AND REGULATIONS

**Sec. 46-56. Responsible persons.**

Each person using the public parks and grounds shall clean up all debris, extinguish all fires when such fires are permitted, and leave the premises in good order, and the facilities in a neat and sanitary condition.
(Code 1991, § 5-15; Ord. No. 554, § 1, 3-26-1974)

**Sec. 46-57. Prohibited acts.**

It shall be unlawful for any person using the public parks and grounds to either perform or permit to be performed any of the following acts:

(1) Willfully mark, deface, disfigure, injure, tamper with, or displace or remove, any building, bridges, tables, benches, fireplaces, railings, paving or paving material, water lines or other public utilities or parts or appurtenances thereof, signs, notices, or placards, whether temporary or permanent, monuments, stakes, posts or other boundary markers or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.

(2) Throw, discharge, or otherwise place or caused to be placed in the waters of any fountain, pond, lake, stream, bay or other body of water in or adjacent to any park or any tributary, stream, storm sewer or drain flowing in such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of said water.

(3) Bring in or dump, or deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, wastes, garbage or refuse; or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park, or left anywhere on ground thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such rubbish or wastes shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.

(4) Disturb the peace, or use any obscene or threatening language.

(5) Endanger the safety of any person by any conduct or act.

(6) Commit any assault or battery or engage in fighting.

(7) Violate any rules for the use of parks, made or approved by the park and recreation board.

(8) Prevent any person from using any park or any of its facilities or interfere with such compliance with this article and the rules applicable to such use.

(9) Swim, bathe, or wade in any waters or waterways in or adjacent to any park, except in such waters and at such places as are provided therefor, and in compliance with such regulations as are herein set forth or may hereafter be adopted by the town council or the park and recreation board.

(Code 1991, § 5-16; Ord. No. 554, § 2, 3-26-1974)

**State law reference—**Offenses against public order, IC 35-45-1-1 et seq.

**Sec. 46-58. Hours of operation.**

(a) The council shall establish days and hours during such days that parks shall be open to the public, and it shall be unlawful for any person or persons, other than town personnel conducting town business therein, to occupy or be present in said parks during any hours in which the park or parks are not open to the public.

(b) Any section or part of any park, or any park, may be declared closed to the public by the park administrator at any time and for any interval of time, either temporarily or at regular or stated intervals.

(c) Signs shall be properly posted listing the regular hours that the parks shall be open.

(Code 1991, § 5-17; Ord. No. 554, § 3, 3-26-1974; Ord. No. 2013-13, § 2, 10-22-2013)

**Sec. 46-59. Organization using the parks.**

(a) Whenever any group, association or organization desires to use park facilities for a particular purpose, such as picnics, parties, etc., a representative of said group, association or organization shall first obtain and execute a contract with the park administrator for such purposes. The council may draft and approve any contract form to be used by the park administrator for such situations.

(b) The park administrator shall grant the contract if it appears that the group, association or organization will not interfere with the general use of the park by the individual members of the public and if said group, association or organization meets all of the conditions contained in the contract. The contract may contain a requirement for an indemnity bond to protect the town from any liability of any kind or character and to protect town property from damage and to ensure cleanup of said park after use by said group, association or organization.

(Code 1991, § 5-18; Ord. No. 554, § 4, 3-26-1974; Ord. No. 2013-13, § 2, 10-22-2013)

**Sec. 46-60. Designated activities.**

(a) No person in a park shall picnic or lunch in a place other than those designated for that purpose. Park department administration shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. Visitors shall comply with any directions given to achieve this.

(b) No person in a park shall use any portion of the picnic areas or any of the buildings or structures therein for the purpose of holding picnics to the exclusion of other persons, nor shall any person use such area and facilities for an unreasonable time if the facilities are crowded unless they have secured necessary prior permission from the park and recreation board.
(Code 1991, § 5-19; Ord. No. 554, § 5, 3-26-1974)

**Sec. 46-61. Specific regulations of activities.**

(a) It shall be unlawful to engage in special activities, including model airplanes, golf practice, ice skating, games and picnics, except at locations specifically designated for such activities by the park administrator. Areas for such activities may be reserved by the groups for use at specified times.

(b) It shall be unlawful to drive or park any automobile or motor vehicle except on a street, driveway or parking lot in any park; or to park or leave any such vehicle in any place other than one established for public parking, unless so designated.

(c) It shall be unlawful to bring any dangerous animal into any park and it shall be unlawful to permit any dog to be in any park unless such dog is on a leash not more than six feet long and in no event shall equines be allowed to be brought into or harbored in any of the parks of the town.

(d) It shall be unlawful for any person other than employees and officials of the department of parks and recreation to vend, sell, peddle or offer for sale any commodity or article within the park, unless permission for sales has been granted by the council.
(Code 1991, § 5-20; Ord. No. 554, § 6, 3-26-1974; Ord. No. 2013-13, § 2, 10-22-2013)

**State law reference—**Regulation of public gatherings, IC 36-8-2-9.

**Sec. 46-62. Advertising prohibited.**

It shall be unlawful for anyone to paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatsoever, nor shall any person erect or cause to be erected any sign whatsoever on any public lands or highways or roads adjacent to a park; provided that these provisions shall not apply to any properly authorized government official in pursuit of his official duties.
(Code 1991, § 5-21; Ord. No. 554, § 7, 3-26-1974)

**Sec. 46-63. Role of park superintendent and police department.**

The park administrator and his duly authorized agents are granted authority to enforce the provisions of this article and the police department and the members thereof of the town are specifically directed and authorized to enforce the provisions of this article.
(Code 1991, § 5-22; Ord. No. 554, § 8, 3-26-1974)

**Sec. 46-64. Penalties.**

Any person who violates any of the sections of this article shall be subject to a fine of $40.00 per violation, which shall be payable through the ordinance violations bureau. The ordinance violations bureau shall be responsible for all monies received and fees collected. (Code 1991, § 5-23; Ord. No. 554, § 8, 3-26-1974)

**Sec. 46-65. Parks department properties.**

(a) The Hawthorne Community Building, Millennium Gazebo, East Shelter, West Shelter and Porter Cove Shelter are available for rental.

(b) Reservations must be made with the park administrator.
(Code 1991, § 5-26)

**Sec. 46-66. Geocache policy and guidelines.**

The Town of Porter Geocache Policy and Guidelines have been created as a response to the growing recreation activity of geocaching in a way that both encourages responsible geocaching and ensures that it does not inappropriately impact parks, properties, assets, staff or the public.

The Town of Porter supports and encourages the sport of geocaching as an activity that promotes exploration of our varied landscapes. Town of Porter public parks, recreational facilities, and trails are intended to provide visitors with safe and enjoyable recreational opportunities. This policy establishes procedures to facilitate and control geocaching on Town of Porter property to provide a balance of responsible stewardship and recreational opportunity.

(1) *Procedures and guidelines.* All geocaches, both new and existing on Town of Porter property, must be in compliance with this policy for the placement and maintenance of caches.

a. Geocaching is allowed in all Town of Porter Parks and within the public easement of any town-owned trail.

b. Geocaches (new and existing) must be registered with the Town of Porter Park Department using the Town of Porter Geocaching Placement Permit. There is no fee to complete this permit.

c. A person that holds a Town of Porter Geocaching Placement Permit must inspect the cache at least once a month to help ensure compliance with these guidelines.

d. A Town of Porter Geocaching Placement Permit is valid for one calendar year from the date of issue, and is available for renewal upon expiration.

e. Placement of geocaches is not allowed at the following facilities: Town of Porter Police Department, Town of Porter Town Hall, Hawthorne Park Community

Center, Hawthorne Park West Shelter, Hawthorne Park East Shelter, Millennium Gazebo, Porter Cove Park Shelter, playgrounds, established plant beds, or Porter Beach.

f. Geocaches must not be placed with 0.10 miles (528 ft.) of another geocache.

g. Geocaches cannot contain food, weapons, hazardous materials, or items that are offensive, dangerous, or illegal.

h. Cache containers must be non-breakable, waterproof or sealable, and have some form of latch or other closing mechanism to prohibit exposure to wildlife.

i. Caches must be identified as a geocache, either with the word "geocache", or a geocaching sticker or logo.

j. Access to geocaches will be subject to established town policies, ordinances, and resolutions, including but not limited to, hours of operation, designated trail uses, security, and maintenance standards.

k. The Town of Porter retains the right to remove a cache if determined to be in an inappropriate location, in violation of the above guidelines, or if it is not registered with the Town of Porter Park Department.

(Res. No. 2016-06, 4-26-2016)

Chapters 47—49

**RESERVED**

Chapter 50

# PLANNING

Sec. 50-1. Authority to regulate.
Sec. 50-2. Planning regulations.

**Sec. 50-1. Authority to regulate.**

The town may establish local planning and zoning regulations pursuant to applicable state laws.
(Code 1991, § 10-1)

**State law reference—**Local planning and zoning, IC 36-7-4-100 et seq.

**Sec. 50-2. Planning regulations.**

Chapter 20 of the 1968 Porter Town Code and all other ordinances amendatory thereto, are hereby incorporated by reference and continued in full force and effect, as if appearing herein in their entirety, with copies being maintained in the office of the clerk-treasurer for public inspection.
(Code 1991, § 10-5)

Chapters 51—53

**RESERVED**

Chapter 54

# SOLID WASTE

## Article I. In General

Secs. 54-1—54-18. Reserved.

## Article II. Recycling Containers, Cost and Content

Sec. 54-19. Container specifications.
Sec. 54-20. Ownership of contents.
Sec. 54-21. Cost of containers.
Sec. 54-22. Unlawful removal.
Secs. 54-23—54-47. Reserved.

## Article III. Collection and Disposal

Sec. 54-48. Purpose.
Sec. 54-49. Definitions.
Sec. 54-50. Containers required.
Sec. 54-51. Times for containers to be delivered.
Sec. 54-52. Pickup of large bulk items and brush regulated.
Sec. 54-53 Charges for refuse, garbage collection and recycling collection and disposal.

## ARTICLE I. IN GENERAL

**Secs. 54-1—54-18. Reserved.**

## ARTICLE II. RECYCLING CONTAINERS, COST AND CONTENT

### Sec. 54-19. Container specifications.

Recycling containers shall be 18-gallon blue plastic containers, stamped "Town of Porter" and issued by the town to its residents for the purpose of holding recyclable items.
(Ord. No. 92-12-819, § 1, 11-10-1992)

### Sec. 54-20. Ownership of contents.

The recycling containers are the property of the residents. The contents within the containers at the time they are placed at the curbside alley for collection become the property of the recycling contractor.
(Ord. No. 92-12-819, § 1, 11-10-1992)

### Sec. 54-21. Cost of containers.

The cost of the container will be $10.00. This fee is to be paid no later than 30 days after delivery. If the fee is not paid, the resident will have to contract trash pickup at the resident's expense. The fee is to be paid to the town clerk-treasurer.
(Ord. No. 92-12-819, § 1, 11-10-1992)

### Sec. 54-22. Unlawful removal.

It shall be unlawful for any person, other than the successful bidder under contract with the town for removal of recyclable items, to remove any items in or adjacent to the residential recycling containers, including, but not limited to, newspaper, aluminum cans, plastic jugs and glass bottles or containers.
(Ord. No. 92-12-819, § 1, 11-10-1992)

**Secs. 54-23—54-47. Reserved.**

## ARTICLE III. COLLECTION AND DISPOSAL*

### Sec. 54-48. Purpose.

The purpose of this article is to eliminate dangerous, unhealthy, unsanitary and unsightly conditions in the town, caused by the deposit and accumulation of refuse, garbage and rubbish,

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***State law reference—**Disposal of waste substances and domestic or sanitary sewage, IC 36-9-2-16.

and at the same time, insofar as practicable, to limit the volume or bulk of refuse, garbage and rubbish which the town will be required to pick up and remove, thereby keeping at a minimum the equipment and labor which the town will require for these purposes.
(Code 1991, § 6-36; Ord. No. 620, § 1, 9-12-1978)

**Sec. 54-49. 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:

*Container* means a container for the storage of garbage, refuse or rubbish which is:

(1) Provided with a handle and tightfitting cover;

(2) Watertight;

(3) Substantially made of galvanized metal or other nonrusting material;

(4) Of a size that may be conveniently handled by the collector, but of a capacity of not less than ten gallons or more than 20 gallons; and

(5) Trash compactor bags that have been processed in trash compactors.

*Garbage* includes all animal, fruit, vegetable and other waste resulting from the preparation of food and drink.

*Person* includes an individual, firm, corporation, trust or any other organized group, excepting any government.

*Refuse* includes all garbage, rubbish, ashes or other substances offensive to sight or smell, dangerous to the public health or detrimental to the best interests of the community, except dead animals.

*Rubbish* includes all other refuse not falling within the term "garbage," except those objects too large to be placed in cans.
(Code 1991, § 6-37; Ord. No. 620, § 2, 9-12-1978; Ord. No. 624, § 1, 9-26-1978)

**Sec. 54-50. Containers required.**

All premises where garbage, refuse or rubbish accumulates shall, by the owner or occupant thereof, be provided with a container or containers for the storage of such garbage, refuse and rubbish. Such containers shall be kept covered and reasonably clean at all times. They shall be placed alongside of, but not in, the alley along which a truck will travel to collect the same and in a position readily accessible to the collector, or if there is no alley, at some location on the premises out of view from the street, or at such other locations as the street commissioner shall designate.
(Code 1991, § 6-38; Ord. No. 620, § 3, 9-12-1978)

**Sec. 54-51. Times for containers to be delivered.**

If a person is required by the street commissioner to deliver garbage, refuse and rubbish to the street or to a location away from the premises owned or occupied by said person for the purpose of collection, said person shall deliver said garbage, refuse and rubbish to said location no earlier than 6:00 p.m. the day before the date of said collection, and shall return all containers to the premises owned or occupied by said person by 11:00 p.m. the day of said collection. Section 54-50 notwithstanding, a person required to deliver garbage, refuse and rubbish to the street or to a location away from the premises owned by said person, may deliver to and leave said garbage, refuse and rubbish at said location in a heavy duty plastic disposable container of a size of not more than 20 gallons and sufficiently closed with a rope, wire twist or other fastener to prevent accidental spillage. On all other occasions, except for the delivery to any storage area of garbage, refuse and rubbish to the street or at a location away from said premises for the purpose of collection, section 54-50 shall apply concerning the storage of garbage, refuse and rubbish.
(Code 1991, § 6-39; Ord. No. 620, § 4, 9-12-1978)

**Sec. 54-52. Pickup of large bulk items and brush regulated.**

(a) In addition to garbage, refuse and rubbish placed in containers, the town will pick up and remove such other types and classes of refuse, too large to be placed in containers, as would ordinarily be accumulated by an average family living on the ordinary lot or plot of ground; provided that such refuse is neatly piled or stacked in a convenient place to be picked up in a manner so that the same may be easily handled and is compressed in bulk. If the owner or occupant of such premises desires for the town to pick up any wooden boxes, paper boxes or cartons, or brush, which he has been unable to dispose of, he shall break up and compress the same into as small a bulk as practicable and cut into lengths not exceeding four feet. All other out-of-the-ordinary accumulations of refuse, such as those resulting from the operation of a business or from construction repair or remodeling work, shall be removed or disposed of by the owner or occupant of the premises at his own expense and shall not be handled by the town. Said owner or occupant may dispose of certain refuse and rubbish at the town brush pile; provided that written consent is first obtained from the street commissioner.

(b) The following rules shall apply to the removal of brush:

(1) The town will pick up and remove brush for residents doing normal pruning and trimming of trees and bushes.

(2) The town will not pick up brush or other debris left from a contracted job. This is the responsibility of the contractor or property owner.

(3) The town will not pick up or handle debris or brush from the clearing of a lot by a contractor.

(4) Brush or debris must be set in front of homes at the curb or next to the alley.

(5) In order for brush or debris to be removed by the public works department, it may not be longer than four feet in length.

(Code 1991, § 6-42; Ord. No. 620, § 7, 9-12-1978; Ord. No. 2001-07, 4-10-2001; Ord. No. 2005-05, 5-24-2005)

**Sec. 54-53 Charges for refuse, garbage collection and recycling collection and disposal.**

(a) The monthly charge for refuse and garbage collection and disposal, including recycling collection and disposal, shall be $19.96 per month per residential household until December 31, 2024. The monthly charge for refuse and garbage collection and disposal, including recycling collection and disposal, shall be $20.75 in 2025, $21.58 in 2026 and $22.45 in 2027, and thereafter until changed by the Town Council, per month per residential household served. The town currently contracts with Republic Services of Indiana, LP d/b/a Republic Services of Northern Indiana for garbage collection and disposal, including recycling collection and disposal, in accordance with public bidding laws. The establishment of a garbage collection and disposal charge, including recycling collection and disposal, is intended to assist the town in defraying a portion of the costs associated with that contract. The per month charge per residential household served is mandatory for all residential households contained in structures that have four or less separate residential units in the town. There shall be no exceptions for the payment of fees for garbage and recycling collection, except as agreed by the town council.

(b) The monthly charge shall be invoiced and included with sewer bills, and shall be paid in the same manner and fashion as current sewer billings, which are issued bi-monthly and due by the 15$^{th}$ of month. The garbage pickup and disposal (including recycling) billing shall continue on a month-to-month basis until further action by the town council. All rates and charges that are not paid by the 15$^{th}$ of the month in which they are due, are declared delinquent and a penalty of ten percent shall attach thereto. The amount of the charge, the penalty and a reasonable attorney fee may be recovered by the town in a civil action in the name of the municipality in accordance with IC 36-9-23-31. Additionally, payments or penalties that have been due and unpaid for at least 90 days may be filed as a lien against the real property served by the garbage pickup and disposal in accordance with IC 36-9-23-33.

(c) All fees collected pursuant to this article shall be deposited in the town sewer fund and shall be used exclusively to defray a portion of the expense of the aforementioned contract for garage collection and disposal including recycling collection and disposal.

(Ord. No. 94-18, §§ 2—4, 8-29-1994; Ord. No. 95-03, § 1, 1-24-1995; Ord. No. 2007-04, § 1, 5-9-2007; Ord. No. 2008-20, §§ 1, 2, 12-30-2008; Ord. No. 2011-04, 3-22-2011; Ord. No. 2012-11, §§ 1a., 1b., 12-11-2012; Ord. No. 2016-14, § 1, 12-13-2016; Ord. No. 2019-12, § 1, 11-12-2019; Ord. No. 2024-16, § 1, 11-26-2024)

Chapters 55—57

**RESERVED**

Chapter 58

# STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

## Article I. In General

Sec. 58-1. Authority to regulate public gatherings.
Sec. 58-2. Littering.
Secs. 58-3—58-14. Reserved.

## Article II. Parades, Assemblages and Pickets

### Division 1. Generally

Sec. 58-15. Definitions.
Sec. 58-16. Compliance with permit, laws, etc., required.
Sec. 58-17. Exceptions.
Sec. 58-18. Form of parade, assemblage, picket application.
Sec. 58-19. Form of parade, assemblage, picket permit.
Secs. 58-20—58-27. Reserved.

### Division 2. Permit

Sec. 58-28. Required.
Sec. 58-29. Application.
Sec. 58-30. Standards for issuance.
Sec. 58-31. Notice of denial.
Sec. 58-32. Alternative.
Sec. 58-33. Contents.
Sec. 58-34. Revocation.
Sec. 58-35. Possession.
Secs. 58-36—58-58. Reserved.

## Article III. Numbering Required of All Structures Designed for Human Habitation

Sec. 58-59. House numbering system adopted.
Sec. 58-60. Official copy.
Sec. 58-61. Administration and enforcement.
Sec. 58-62. Numbering alterations and name changes.
Sec. 58-63. Apartment structures must be numbered.
Sec. 58-64. Separate apartment; separate number.
Sec. 58-65. Duty to comply—Apartment owners.
Sec. 58-66. Same—New house owners.
Sec. 58-67. Same—Existing house owners.
Sec. 58-68. Same—Structures of public accommodation.
Sec. 58-69. Violations; penalties; separate offenses.
Secs. 58-70—58-96. Reserved.

## Article IV. Regulations Governing Drive Entrance Culverts

Sec. 58-97. Driveway culvert regulations.
Sec. 58-98. Ditch blockage prohibited.
Sec. 58-99. Duty of property owner.
Sec. 58-100. Driveway entrance culvert permit.
Sec. 58-101. Penalty.
Sec. 58-102. Reserved.
Secs. 58-103—58-132. Reserved.

## Article V. Poles and Wires

Sec. 58-133. General requirements.
Sec. 58-134. Duties of town electrician or his designee.
Sec. 58-135. Maps and records.
Sec. 58-136. Permits required.
Sec. 58-137. Application.
Sec. 58-138. Records.
Sec. 58-139. Issuance.
Sec. 58-140. Construction deemed agreement to comply with provisions.
Sec. 58-141. Inspections.
Sec. 58-142. Scraps on streets.
Sec. 58-143. Owners to furnish information upon request.
Sec. 58-144. Names of owners stenciled on poles.
Sec. 58-145. No vested rights in streets; removal of poles and wires.
Sec. 58-146. Town to be held harmless.
Sec. 58-147. Placing wires underground.
Sec. 58-148. Adoption of new devices and safeguards.
Secs. 58-149—58-179. Reserved.

## Article VI. Sand, Soil, and Earth Removal

Sec. 58-180. Permit required.
Sec. 58-181. Duty to prevent spilling and blowing.
Sec. 58-182. Restrictions upon issuance of permits.
Sec. 58-183. Application for permit; effect upon adjoining public ways, properties to be determined.
Sec. 58-184. Permit fee.
Sec. 58-185. Indemnity bond to be furnished by applicant for permit.
Sec. 58-186. Issuance, scope of permit; duty to restore land.
Sec. 58-187. Performance bond required when removal will be below grade or water level.
Sec. 58-188. Provisions inapplicable to work done pursuant to building permit.
Sec. 58-189. Penalties.
Secs. 58-190—58-205. Reserved.

## Article VII. Streets and Sidewalks

### Division 1. Generally

Sec. 58-206. Obstructions prohibited.
Sec. 58-207. Permit required; application.

Sec. 58-208. Obstructions at intersections prohibited.
Sec. 58-209. Parking restrictions for purposes of snow removal.
Sec. 58-210. Removal of snow and ice from sidewalks.
Secs. 58-211—58-220. Reserved.

Division 2. Excavations

Sec. 58-221. Permit required.
Sec. 58-222. Application; performance bond.
Sec. 58-223. Consideration of application; issuance.
Sec. 58-224. Fees.
Sec. 58-225. Materials.
Sec. 58-226. Backfilling; restoring surface.
Sec. 58-227. Time limit for remaining open.
Sec. 58-228. Protection.
Secs. 58-229—58-244. Reserved.

Division 3. New Street Construction

Sec. 58-245. Preliminary approval.
Sec. 58-246. Design width.
Sec. 58-247. Payment.
Sec. 58-248. Town council action.
Sec. 58-249. Design phase.
Sec. 58-250. Plan composition.
Sec. 58-251. Plan review.
Sec. 58-252. Construction agreement.
Sec. 58-253. Bonds and insurance.
Sec. 58-254. Fees.
Secs. 58-255—58-280. Reserved.

## Article VIII. Golf Carts

Sec. 58-281. Local ordinance, authority.
Sec. 58-282. Definitions.
Sec. 58-283. Use of golf carts on town streets and highways.
Sec. 58-284. Occupants.
Sec. 58-285. Proof of financial responsibility.
Sec. 58-286. License.
Sec. 58-287. Golf cart traffic regulations.
Sec. 58-288. Exemptions.
Sec. 58-289. Violations.

## ARTICLE I. IN GENERAL

### Sec. 58-1. Authority to regulate public gatherings.

The town may regulate public gatherings, such as shows, demonstrations, fairs, conventions, sporting events, and exhibitions.
(Code 1991, § 6-4)

**State law reference—**Regulation of public gatherings, IC 36-8-2-9.

### Sec. 58-2. Littering.

No person shall throw, scatter or otherwise deposit loose papers of any kind or description, such as advertisement bills, notices, newspapers or other loose papers of any kind or description, upon the streets, alleys and public places or where the same may be blown or carried by the wind upon such streets, alleys and public places.
(Code 1968, § 25-1; Code 1991, § 6-82; Ord. No. 244, 5-3-1932)

### Secs. 58-3—58-14. Reserved.

## ARTICLE II. PARADES, ASSEMBLAGES AND PICKETS

### DIVISION 1. GENERALLY

### Sec. 58-15. 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:

*Assemblage* means any group of persons gathered together in one place.

*Parade* means any parade, march, ceremony, show, exhibition, pageant, or procession of any kind, or any similar display, in or upon any street, park or other public place in the town.

*Picket* means any person or group of persons gathered together to protest, or watch for something to happen.
(Ord. No. 2004-05, 6-8-2004)

### Sec. 58-16. Compliance with permit, laws, etc., required.

A permittee under this article shall comply with all permit directions and conditions and with all applicable state laws and town laws and ordinances.
(Ord. No. 2004-05, 6-8-2004)

### Sec. 58-17. Exceptions.

This article shall not apply to:

(1) Funeral processions.

(2) Students going to and from school classes or participating in educational activities, providing such conduct is under the immediate direction and supervision of the proper school authorities.

(3) A governmental agency acting within the scope of its functions.

(4) Family assemblages.

(Ord. No. 2004-05, 6-8-2004)

**Sec. 58-18. Form of parade, assemblage, picket application.**

The form of the parade, assemblage, picket application shall be as follows:

PARADE, ASSEMBLAGE, OR PICKET APPLICATION

Town of Porter Ordinance #2004-05

No person shall engage in, participate in, aid, form or start any parade, assemblage or picket unless a parade permit shall have been obtained from the chief of police. A person seeking issuance of a parade permit shall file an application with the chief of police on forms provided by such officer 30 days before the date on which it is proposed to conduct the parade, assemblage or picket.

NAME: _____

ADDRESS: _____

_____

TELEPHONE NUMBER: _____

ORGANIZATION: _____

ADDRESS: _____

_____

TELEPHONE NUMBER: _____

CHAIRMAN OF THE EVENT: _____

ADDRESS: _____

_____

TELEPHONE NUMBER: _____

DATE OF PARADE, ASSEMBLAGE, PICKET: _____

TIME OF PARADE, ASSEMBLAGE, PICKET: _____

ROUTE TO BE TRAVELED (INCLUDE STARTING & TERMINATION POINTS): _____

_____

_____

NUMBER OF PERSONS & DESCRIPTIONS OF ANY ANIMALS/VEHICLES IN PARADE:

_____

_____

_____

(Ord. No. 2004-05, 6-8-2004)

**Sec. 58-19. Form of parade, assemblage, picket permit.**

The form of the permit for a parade, assemblage, or picket shall be as follows:

PARADE, ASSEMBLAGE, OR PICKET PERMIT

Town of Porter Ordinance #2004-05

The following are to be provided by the chief of police:

A. Staffing Time: Police:_____ Man Hours
Public Works:_____ Man Hours

B. Minimum Speed:_____

C. Maximum Speed:_____

D. Maximum interval of space to be maintained between the units of the parade:

_____

E. What portions of the streets to be traversed may be occupied by the parade:

_____

F. The maximum length of the parade in miles or fractions of:

_____

G. Such other information as the chief of police shall find necessary to the enforcement of this ordinance:

_____

_____

_____

_____

_____

_____

DATE APPROVED BY TOWN COUNCIL:_____

DATE ISSUED BY CHIEF OF POLICE:_____

SIGNATURE CHIEF OF POLICE:_____
(Ord. No. 2004-05, 6-8-2004)

**Secs. 58-20—58-27. Reserved.**

DIVISION 2. PERMIT

**Sec. 58-28. Required.**

No person shall engage in, participate in, aid, form or start any parades, assemblages, or pickets unless a parade permit shall have been obtained from the chief of police after approval by the town council.
(Ord. No. 2004-05, 6-8-2004)

**Sec. 58-29. Application.**

(a) A person seeking issuance of a parade permit shall file an application with the chief of police on forms provided by such officer not less than 30 days before the date on which it is proposed to conduct the parade, assemblage or picket.

(b) The chief of police shall forward the application to the town council no more than five working days after receiving the application.

(c) The application for a parade permit shall set forth the following information:

(1) The name, address and telephone number of the person seeking to conduct such parade, assemblage, or picket;

(2) If the parade, assemblage, or picket is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization;

(3) The name, address and telephone number of the person who will be the parade, assemblage, or picket chairman and who will be responsible for its conduct;

(4) The date when the parade, assemblage or picket is to be conducted;

(5) The route the parade is to travel or the location of the assemblage or picket, including the starting point and the termination point;

(6) The approximate number of persons who, and animals and vehicles which, will constitute such parade, assemblage, picket; and the type of animals, and description of the vehicles;

(7) The hours when such parade, assemblage or picket will start and terminate;

(8) A statement as to whether the parade, assemblage or picket will occupy all or only a portion of the width of the streets proposed to be traversed;

(9) The location by streets of any assembly areas for such parade, assemblage or picket;

(10) The time that units of the parade, assemblage, pickets will begin to assemble at any such assembly area;

(11) The interval of space to be maintained between units of such parade;

(12) If the parade, assemblage, or picket is designed to be held by, and on behalf of or for any person other than the applicant, the applicant for such permit shall file with the chief of police a communication in writing from the person proposing to hold the parade, assemblage, or picket, authorizing the applicant to apply for the permit on his behalf.

(13) Any additional information that the chief of police shall find reasonably necessary to a fair determination as to whether a permit should be issued.

(d) The town council, where good cause is shown therefor, shall have the authority to consider any application hereunder which is filed less than 30 days before the date such parade, assemblage, or picket is proposed to be conducted.

(e) It is the policy of the town that the town council shall consider applications filed hereunder on less than 30 days' notice so long as the application is complete, meets the standards for issuance, and the chief of police has a reasonable opportunity to review the application prior to the parade, assemblage, or picket.
(Ord. No. 2004-05, 6-8-2004)

**Sec. 58-30. Standards for issuance.**

(a) The chief of police shall issue a permit approved by the town council, as provided for hereunder when, from a consideration of the application and from such other information as may otherwise be obtained, finds that:

(1) The conduct of the parade, assemblage or picket will not substantially interrupt the safe and orderly movement of the other traffic contiguous to its route;

(2) The conduct of the parade, assemblage, or picket will not require the diversion of so great a number of police officers of the town to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the town;

(3) The conduct of such parade, assemblage, or picket will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the town other than that to be occupied by the proposed line of march and areas contiguous thereto;

(4) The concentration of persons, animals and vehicles at assembly points of the parade, assemblage, or picket will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas;

(5) The conduct of such parade, assemblage or picket will not interfere with the movement of firefighting equipment en route to a fire;

(6) The conduct of the parade, assemblage or picket is not reasonably likely to cause injury to persons or property;

(7) The parade, assemblage, or picket is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route;

(8) The parade, assemblage, or picket is not being held for the sole purpose of advertising products, goods or events and is not designed to be held purely for private profit.

(b) No such permit, however, shall be granted unless liability insurance with the following minimum limits and listing the town as a certificate holder has first been filed with the town as security for the payment of any damages or injury which may occur as the result of the parade, assemblage, or picket:

(1) $1,000,000.00 each occurrence.

(2) $300,000.00 damage to premises.

(3) $5,000.00 medical.

(4) $1,000,000.00 personal injury.

Provided, however, that for cause shown, the town council may waive the requirement of such insurance.
(Ord. No. 2004-05, 6-8-2004; Ord. No. 2018-03, § 1, 5-22-2018)

**Sec. 58-31. Notice of denial.**

If the town council disapproves the application for a parade permit, the chief of police shall mail to the applicant, within two days after the date upon which the application was voted on by the town council, a written notice of their action.
(Ord. No. 2004-05, 6-8-2004)

**Sec. 58-32. Alternative.**

The town council, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time, or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within four days after notice of the action of the town council, file a written notice of acceptance with the chief of police. An alternate parade permit shall conform to the requirements of, and shall have the effect of a parade permit under, this article.
(Ord. No. 2004-05, 6-8-2004)

**Sec. 58-33. Contents.**

Each parade permit shall state the following information:

(1) Staffing time;

(2) Minimum speed;

(3) Maximum speed;

(4) Maximum interval of space to be maintained between the units of the parade;

(5) The portions of the streets to be traversed that may be occupied by the parade;

(6) The maximum length of the parade in miles or fractions thereof;

(7) Such other information as the chief of police shall find necessary to the enforcement of this article.

(Ord. No. 2004-05, 6-8-2004)

**Sec. 58-34. Revocation.**

The chief of police shall have the authority to revoke a parade permit issued hereunder upon a determination that the applicant or proposed parade no longer meets one or more of the standards for issuance as set forth in this article.

(Ord. No. 2004-05, 6-8-2004)

**Sec. 58-35. Possession.**

The parade, assemblage, picket chairman or other person heading or leading such activity shall carry the parade permit upon his person during the conduct of the parade, assemblage or picket.

(Ord. No. 2004-05, 6-8-2004)

**Secs. 58-36—58-58. Reserved.**

## ARTICLE III. NUMBERING REQUIRED OF ALL STRUCTURES DESIGNED FOR HUMAN HABITATION

**Sec. 58-59. House numbering system adopted.**

The house numbering system and street names as shown on the set of maps entitled "Porter, Indiana, Address System" which, together with all explanatory matter thereon, is adopted by reference and declared to be a part of this Code with two copies available for public inspection in the office of the clerk-treasurer during regular business hours.

(Code 1991, § 6-98; Ord. No. 615, §§ 1—4, 4-11-1978; Ord. No. 625, §§ 1—7, 9-26-1978; Ord. No. 631, § 1, 11-28-1978)

**Sec. 58-60. Official copy.**

The official set of maps entitled "Porter, Indiana, Address System" shall be the final authority as to current street names, subject to such authorized amendments which may be in effect after this passage.

(Code 1991, § 6-98; Ord. No. 615, §§ 1—4, 4-11-1978; Ord. No. 625, §§ 1—7, 9-26-1978; Ord. No. 631, § 1, 11-28-1978)

**Sec. 58-61. Administration and enforcement.**

The building and plumbing inspector shall administer and enforce this article and, in addition thereto and furtherance of said authority, shall make such adjustments to the house numbering system as will not be contrary to the public interest and welfare, and not alter the intent of this article.

(Code 1991, § 6-98; Ord. No. 615, §§ 1—4, 4-11-1978; Ord. No. 625, §§ 1—7, 9-26-1978; Ord. No. 631, § 1, 11-28-1978)

**Sec. 58-62. Numbering alterations and name changes.**

The building and plumbing inspector shall enter any house numbering alterations and any street name changes on the official set of maps entitled "Porter, Indiana, Address System."
(Code 1991, § 6-98; Ord. No. 615, §§ 1—4, 4-11-1978; Ord. No. 625, §§ 1—7, 9-26-1978; Ord. No. 631, § 1, 11-28-1978)

**Sec. 58-63. Apartment structures must be numbered.**

It shall be the duty of the owner of every apartment structure in the town to identify by letters or numbers, which shall be not less than three inches high, visible from the street, the number of such apartment building.
(Code 1991, § 6-98; Ord. No. 615, §§ 1—4, 4-11-1978; Ord. No. 625, §§ 1—7, 9-26-1978; Ord. No. 631, § 1, 11-28-1978)

**Sec. 58-64. Separate apartment; separate number.**

In the event more than one such apartment structure is located on a single zoning lot or within a development bearing a common name, each separate apartment structure shall have a separate and distinct number or letter, which number or letter shall not be less than three inches high and visible from the street.
(Code 1991, § 6-98; Ord. No. 615, §§ 1—4, 4-11-1978; Ord. No. 625, §§ 1—7, 9-26-1978; Ord. No. 631, § 1, 11-28-1978)

**Sec. 58-65. Duty to comply—Apartment owners.**

All owners of apartment structures shall comply with the provisions of this article.
(Code 1991, § 6-98; Ord. No. 615, §§ 1—4, 4-11-1978; Ord. No. 625, §§ 1—7, 9-26-1978; Ord. No. 631, § 1, 11-28-1978)

**Sec. 58-66. Same—New house owners.**

It shall be the duty of the owner of each house erected in the town from and after the effective date of the ordinance from which this article is derived to have placed on such structure, at the time of occupancy thereof, in a place visible from the street, letters or numerals not less than three inches high, showing the number of the house.
(Code 1991, § 6-98; Ord. No. 615, §§ 1—4, 4-11-1978; Ord. No. 625, §§ 1—7, 9-26-1978; Ord. No. 631, § 1, 11-28-1978)

**Sec. 58-67. Same—Existing house owners.**

It shall be the duty of the owner of each house now existing in the town to have placed on such structure, in a place visible from the street, letters or numerals, not less than three inches high, showing the number of the house. Where the house is not clearly visible from the street due to shrubs, trees, or other vegetation, and/or three inch numerals are indistinguishable due to the house being a great distance from the street, it is permissible to place such numerals on

mail delivery box. Where such conditions exist and no mail delivery box is available, numerals may be placed upon such device as is approved by the building and plumbing inspector.
(Code 1991, § 6-98; Ord. No. 615, §§ 1—4, 4-11-1978; Ord. No. 625, §§ 1—7, 9-26-1978; Ord. No. 631, § 1, 11-28-1978)

**Sec. 58-68. Same—Structures of public accommodation.**

It shall be the duty of the owner of each structure of public accommodation in the town to have placed on such structure, in a place visible from the street, letters or numerals, not less than three inches high, showing the number of such structure.
(Code 1991, § 6-98; Ord. No. 615, §§ 1—4, 4-11-1978; Ord. No. 625, §§ 1—7, 9-26-1978; Ord. No. 631, § 1, 11-28-1978)

**Sec. 58-69. Violations; penalties; separate offenses.**

The violation of any part, portion or section of this article shall constitute a Code violation, and, upon conviction thereof, be subject to a fine as provided in section 1-8.
(Code 1991, § 6-98; Ord. No. 615, §§ 1—4, 4-11-1978; Ord. No. 625, §§ 1—7, 9-26-1978; Ord. No. 631, § 1, 11-28-1978)

**Secs. 58-70—58-96. Reserved.**

## ARTICLE IV. REGULATIONS GOVERNING DRIVE ENTRANCE CULVERTS

**Sec. 58-97. Driveway culvert regulations.**

To facilitate proper roadside drainage alongside each public road and street within the town, any property owner installing a driveway entrance to such property is required to install and maintain at no cost or expense to the town, a 12-inch minimum diameter corrugated metal pipe of galvanized steel, (aluminum not permitted) of at least 20 feet in length with concrete headwalls or culvert end section, or a properly dipped or swaled concrete pavement 20 feet in length, six feet in width and six inches thick designed so as not to create a hazard to the under parts of automobiles or motor vehicles, at the entrance of each driveway.
(Code 1991, § 7-32; Ord. No. 557, § 1, 4-23-1974)

**Sec. 58-98. Ditch blockage prohibited.**

No property owner shall fill, impede, or otherwise block roadside drainage ditches along the public streets and/or roads in the town.
(Code 1991, § 7-33; Ord. No. 557, § 2, 4-23-1974)

**Sec. 58-99. Duty of property owner.**

It shall be the duty of each property owner to ensure that the driveway culvert or drainage ditch is of sufficient capacity and in the proper location to comply with sections 58-97 and 58-98.
(Code 1991, § 7-34; Ord. No. 557, § 3, 4-23-1974)

**Sec. 58-100. Driveway entrance culvert permit.**

It shall be the duty of each property owner to obtain a driveway entrance culvert permit prior to compliance with section 58-97. Said permit shall be available from the clerk-treasurer on a form prescribed by the town, and a $60.00 permit fee shall be paid by the permittee.
(Code 1991, § 7-35; Ord. No. 557, § 4, 4-23-1974; Ord. No. 2026-01, § 4, 1-27-2026)

**Sec. 58-101. Penalty.**

A violation of this article shall constitute a Code violation and, upon conviction, a penalty shall be assessed as provided in section 1-8.
(Code 1991, § 7-36; Ord. No. 557, § 5, 4-23-1974)

**Sec. 58-102. Reserved.**

**Editor's note—**Ord. No. 2013-08, § 1, adopted June 25, 2013, repealed § 58-102, which pertained to program for installation or replacement of driveway culverts and derived from Ord. No. 95-17, § 1, adopted Oct. 10, 1995.

**Secs. 58-103—58-132. Reserved.**

## ARTICLE V. POLES AND WIRES

**Sec. 58-133. General requirements.**

Every person owing or operating a line of wires in either streets or buildings in the town shall use only wires that are suitable and strong; shall suitably and safely attach them to strong and sufficient supports and properly insulate them at all points of attachment; shall

suitably insulate every wire where it enters a building; and if such wire is other than to carry an electric light or power current, shall attach to it at suitable and convenient points in the circuit in order to prevent danger from fire, and at the place of entering the building, an appliance calculated to prevent at all times a current of electricity of any intensity or volume capable of injuring the electrical installation or causing fire, from entering the building by means of such wire.
(Code 1968, § 8-130; Code 1991, § 7-91; Ord. No. 104, § 4, 6-14-1923)

**Sec. 58-134. Duties of town electrician or his designee.**

The town electrician or his designee shall supervise any wire or cable over or under streets or buildings, and in buildings; he shall notify the person or corporation owning or operating any such wire or cable whenever its attachments, insulation, supports or appliances are suitable or unsafe; and shall have removed at the expense of the owner thereof every wire abandoned for future use; he shall see that all statutes, ordinances and regulations regulating conduits, and to the location, erection, maintenance, installation and removal of wires or cables, over or under streets, or buildings, and in buildings, are strictly complied with and enforced.
(Code 1968, § 8-131; Code 1991, § 7-92; Ord. No. 104, § 6, 6-14-1923)

**Sec. 58-135. Maps and records.**

(a) The town electrician shall make and keep in his office maps showing the location of all wires over, in or laid under the streets and other public places, and over buildings in the town; and a record of the names or owners of each and all such wires; and the same shall be available for the use of the town electrician and building inspector and the engineer in charge of the public works department.

(b) Upon the request of the town electrician, the person operating electric or other wires upon, over or under any street or building, shall, within 15 days thereafter, furnish accurate lists of the location of their poles and the number of crossarms thereto affixed, and the number of wires thereto attached; the location of subways, manholes and other information in relation to their methods, together with the location where service if rendered, via telegraphic, telephonic, electric lighting, (specifying either arc or incandescent) or for an electric permit.
(Code 1968, § 8-132; Code 1991, § 7-93; Ord. No. 104, §§ 7, 9, 6-14-1923)

**Sec. 58-136. Permits required.**

(a) No person shall lay any electrical conduits without first filing with the town electrician plans and specifications of the work to be done, and obtaining a written approval of the application and a permit for such work, which application so approved, shall be filed in the office of the town electrician.

(b) No person shall string, add to, change or alter any wire or wires for the transmission of electric current for lighting, power, telephone, telegraph or any other purpose, including radio telegraph or radio telephone, or cause the same to be done or to make any electrical

connections whatsoever, or to erect poles or wire supports, without first filing with the town electrician plans and specifications of the work to be done, and obtaining from the town electrician a written approval of the application and a permit for such work.
(Code 1968, § 8-133; Code 1991, § 7-94; Ord. No. 104, § 16, 6-14-1923)

**Sec. 58-137. Application.**

The town electrician shall examine every application for the erection of any wire, or poles or posts for the support thereof, in or over any street or public places, or for conduits under any street or public place for such wires, and he shall report to the town council any facts which, in his opinion, bear upon the question of granting or refusing to grant such application.
(Code 1968, § 8-134; Code 1991, § 7-95; Ord. No. 104, § 5, 6-14-1923)

**Sec. 58-138. Records.**

(a) The town electrician shall keep a record of all applications for permits to string wires in streets or houses, and for any other electrical construction, and all approvals of applications for permits, and of all inspections made by him, with the dates of such inspection.

(b) The books and records shall be approved as to form by the town council and shall be at all times open for public inspection during office hours.
(Code 1968, § 8-135; Code 1991, § 7-96; Ord. No. 16, 4-27-1909)

**Sec. 58-139. Issuance.**

After approval by the town electrician, and after compliance with all the laws and ordinances in such case made and provided, the town electrician shall authorize the issuing of permits through the clerk-treasurer.
(Code 1968, § 8-136; Code 1991, § 7-97; Ord. No. 104, § 16, 6-14-1923)

**Sec. 58-140. Construction deemed agreement to comply with provisions.**

The erection by any person of any wire, pole or other fixtures, for the purpose aforesaid in the town, after the passage of the ordinance from which this article is derived, shall be held to be an agreement on the part of such person to all the requirements, rules, conditions, and obligations contained in this article.
(Code 1968, § 8-137; Code 1991, § 7-98; Ord. No. 104, § 13, 6-14-1923)

**Sec. 58-141. Inspections.**

(a) No person shall arrange, fix or change any and all wires, appliances and apparatus in the interior of public buildings, or in private premises, which are intended for carrying an electric light or power current, without first giving the town electrician reasonable opportunity to inspect such wire and all other arrangement and fixtures before such changes are made; and he shall furthermore be given an opportunity to inspect all such wires and other arrangement and fixtures after they are installed, and before the same are covered or enclosed.

(b) No such wires shall be placed in any building in process of construction until all gas, steam, sewer, water and furnace pipes have been placed in proper position.

(c) Any such wires in the interior of buildings, or on private premises, shall not be connected with an outside circuit which crosses or runs along, over or under any street or way of the municipality without written permission therefor having been first obtained from the town electrician.
(Code 1968, § 8-138; Code 1991, § 7-99; Ord. No. 104, § 8, 6-14-1923)

**Sec. 58-142. Scraps on streets.**

No person owning, leasing or operating wires within the town shall permit pieces of wire to be left on the surface of any street or sidewalk, nor permit unused coils or loosened ends of wire to become attached to any crossarm or post more than 24 hours.
(Code 1968, § 8-139; Code 1991, § 7-100; Ord. No. 104, § 9, 6-14-1923)

**Sec. 58-143. Owners to furnish information upon request.**

Upon the request of the town electrician, every person operating electric or other wires within the town shall furnish such information as to the kind, size, and tested strength of supporting or service wires, the average volts charged and current used, together with such other information as may be by the town electrician considered necessary to the faithful and effectual discharge of his duties.
(Code 1968, § 8-140; Code 1991, § 7-101; Ord. No. 104, § 10, 6-14-1923)

**Sec. 58-144. Names of owners stenciled on poles.**

Upon the request of the town electrician, all poles carrying wires shall be designated by stencil or other identifying mark or medallion with the names of companies or persons owning or using the same.
(Code 1968, § 8-141; Code 1991, § 7-102; Ord. No. 104, § 11, 6-14-1923)

**Sec. 58-145. No vested rights in streets; removal of poles and wires.**

All wires used within the town for the purpose of carrying electric current shall be subject to the following conditions:

(1) No permanent rights shall be obtained in the streets or public grounds by reason of such use;

(2) Such wires shall be subject to change, or location or removal, when deemed necessary for the public interests, or upon orders of the town council; and

(3) In case of fire, if necessary, such wires may be cut or removed by order of the town electrician or officers in command of the fire department, without claims upon the town therefor.
(Code 1968, § 8-142; Code 1991, § 7-103; Ord. No. 104, § 15, 6-14-1923)

**Sec. 58-146. Town to be held harmless.**

Every person erecting, maintaining or using poles or wires shall, in case of loss or damage, indemnify and save harmless the town, and its officers, agents and servants, from and against all lawful claims and demands for injuries to persons or property occasioned by the existence of such poles or wires, or the transmission of electric current by means thereof; and the town council, its agents and servants, exercising the rights and powers given herein, shall not be held liable by such person.
(Code 1968, § 8-143; Code 1991, § 7-104)

**Sec. 58-147. Placing wires underground.**

Whenever the laying of electrical wires beneath the ground shall be deemed by the town council practicable for the purpose aforesaid, and so expressed by a resolution of the council, every person maintaining or using wires above the ground shall, when required by the town council, take down and remove, at their own expense, all poles used for the support of such wires, and place their mains and conducting wires beneath the ground, and all authority to erect and maintain poles for the purpose aforesaid shall then cease.
(Code 1968, § 8-144; Code 1991, § 7-105; Ord. No. 104, § 12, 6-14-1923)

**Sec. 58-148. Adoption of new devices and safeguards.**

Any person exercising any privileges under this article shall adopt and use in his business any device and safeguards which may be from time to time discovered or invented for the protection of persons and property against injury growing out of the use of electric currents for the purposes aforesaid.
(Code 1968, § 8-145; Code 1991, § 7-106; Ord. No. 104, § 12, 6-14-1923)

**Secs. 58-149—58-179. Reserved.**

## ARTICLE VI. SAND, SOIL, AND EARTH REMOVAL

**Sec. 58-180. Permit required.**

It shall be unlawful for any person to excavate or remove any sand, soil or earth from the surface of any land within the corporate limits of the town for the purpose of gift, sale, off-site fill or other construction usage unless said person shall first have procured from the town council, or its designee, a permit for such purposes.
(Code 1968, § 23-11; Code 1991, § 7-123; Ord. No. 484, § 1, 6-10-1969)

**Sec. 58-181. Duty to prevent spilling and blowing.**

All persons procuring and receiving the permit required in section 58-180 shall make reasonable provisions to prevent sand, dirt or other loose earth from blowing or spilling over and upon the premises of others or upon any public way during any excavation operation or while any sand, dirt or loose earth is being transported from the site.
(Code 1968, § 23-12; Code 1991, § 7-124; Ord. No. 484, § 1(a), 6-10-1969)

**Sec. 58-182. Restrictions upon issuance of permits.**

No permit shall be issued for the removal of any soil, sand or earth, which shall be unduly detrimental to the adjoining or surrounding properties or shall be unduly detrimental to safety, health or general welfare of the public.
(Code 1968, § 23-13; Code 1991, § 7-125; Ord. No. 484, § 1(b), 6-10-1969)

**Sec. 58-183. Application for permit; effect upon adjoining public ways, properties to be determined.**

Any person desiring to remove any sand, soil or earth within the corporate limits of the town shall make application to the town council, or its designee, said application to include a drawing showing the location and elevation to which the proposed excavation will be made in relationship to the elevation of adjoining streets and highways, if any, and/or adjoining improved properties. If there are adjoining improved streets and highways within any reasonable distance, then the town engineer shall determine the elevation below which no excavation shall be made.
(Code 1968, § 23-14; Code 1991, § 7-126; Ord. No. 484, § 2, 6-10-1969)

**Sec. 58-184. Permit fee.**

Upon approval of the application for a permit, the applicant shall pay the sum of $60.00 per permit for each parcel of land to be excavated to the town clerk-treasurer.
(Code 1968, § 23-15; Code 1991, § 7-127; Ord. No. 484, § 3, 6-10-1969; Ord. No. 2026-01, § 5, 1-27-2026)

**Sec. 58-185. Indemnity bond to be furnished by applicant for permit.**

Upon the approval of the application, the applicant shall give bond with surety to be approved by the town council, the form thereof to be approved by the town attorney, to be conditioned that the person removing sand, soil or earth shall conform with this article, specifications, rules, regulations and conditions prescribed by the town council, or their designee, and shall protect and save harmless the town from any and all liability, damages and expenses which said town may sustain by reason of granting of such permit.
(Code 1968, § 23-16; Code 1991, § 7-128; Ord. No. 484, § 4, 6-10-1969)

**Sec. 58-186. Issuance, scope of permit; duty to restore land.**

Upon compliance with sections 58-180 through 58-185, and the obtaining of all approvals provided therein, said permit shall be issued, and the permittee named in said permit may, thereafter, conduct removal operations as per the terms of said permit and all applicable ordinances, rules, regulations and conditions prescribed as a condition precedent to issuance thereof. Upon completion of the operation for which a permit is granted or when the permit therefor has expired, by the passage of time or otherwise, the permittee shall, within the

time fixed by the town council or its designee, cause said land to be restored to the existing grade or grade fixed by the town engineer in absence of an existing grade. Such excavation shall be filled with dirt or such other materials as shall be approved by the town council.
(Code 1968, § 23-17; Code 1991, § 7-129; Ord. No. 484, § 5, 6-10-1969)

**Sec. 58-187. Performance bond required when removal will be below grade or water level.**

Where the application for a permit indicates that removal of material will be below the existing grade level, or below the grade fixed by the town engineer in the absence of existing grades, or below the water table leaving an excavation, the applicant shall, in addition to the indemnity bond required in section 58-185, furnish a performance bond conditioned upon restoring the land to its former grade or to a grade approved by the town engineer, in such amount to be fixed by the town council, which shall be not less than the estimated cost of refilling the excavation and bringing the land back to the original grade based upon the maximum amount of sand or other material anticipated to be removed as set forth in the application for a permit. Said performance bond shall further provide that, as a condition thereof, the permittee will conform to the ordinances of the town and any and all regulations and conditions prescribed by the town council, or its designee.
(Code 1968, § 23-28; Code 1991, § 7-130; Ord. No. 484, § 6, 6-10-1969)

**Sec. 58-188. Provisions inapplicable to work done pursuant to building permit.**

The foregoing provisions of this article shall not apply to work necessary for the erection or alteration of a building or structure pursuant to a valid building permit issued by the building commissioner or his duly authorized representative; provided that such person shall diligently and without unnecessary or unreasonable delay prosecute said improvement work to completion.
(Code 1968, § 23-19; Code 1991, § 7-131; Ord. No. 484, § 7, 6-10-1969)

**Sec. 58-189. Penalties.**

(a) Any person violating any of the provisions of this article shall, upon conviction thereof, be punished by a fine as prescribed in section 1-8, subject to the provisions of this section dealing with ordinances concerning license.

(b) Where the subject matter deals with licenses and the issuance thereof by the town, the penalty for violation shall be a fine in a sum equal to the amount required to be paid for such license, and subsection (a) of this section shall be inapplicable in such cases.
(Code 1968, § 23-20; Code 1991, § 7-132; Ord. No. 499, § 2, 5-12-1970)

**Secs. 58-190—58-205. Reserved.**

# ARTICLE VII. STREETS AND SIDEWALKS

## DIVISION 1. GENERALLY

### Sec. 58-206. Obstructions prohibited.

No person shall make or cause to be made any obstruction on or in any street, alley or other public place within the town without first having obtained permission so to do.
(Code 1968, § 25-12; Code 1991, § 7-136; Ord. No. 54, § 1)

### Sec. 58-207. Permit required; application.

(a) Any person desiring to cause to be made or to make any obstruction in or on any street, alley or other public place in the town shall first obtain from the clerk-treasurer a written permit granting permission for such obstruction upon proper conditions and for a reasonable length of time, providing the same be reasonably necessary.

(b) Before any permit shall be granted, the applicant therefor shall file with the clerk-treasurer a written application therefor, which application shall set forth in a clear and concise manner the obstruction which it is desired to make or construct and shall guarantee the prompt and proper filling or removal of such excavation or obstruction at the expiration of the time for which such permit may be granted.
(Code 1968, §§ 15-14, 25-13; Code 1991, § 7-137; Ord. No. 54, § 2)

### Sec. 58-208. Obstructions at intersections prohibited.

Every person owning real property at intersections of streets, alleys or roadways shall remove trees, brush, shrubs, weeds or other obstructions that obstruct a full view of traffic at any intersection.
(Code 1968, § 25-15; Code 1991, § 7-138; Ord. No. 351, § 16, 9-8-1953)

### Sec. 58-209. Parking restrictions for purposes of snow removal.

(a) It is necessary for the public health and safety that the streets of the town be cleared of snow and, if the clearing of the snow is impeded and delayed by vehicles parked on the streets, that such impediment and delay is detrimental to the public health and safety.

(b) Whenever there has been snowfall of three inches or more, in order not to delay the clearing of such streets, all vehicles parked on all streets of the following subdivisions shall be removed by their owners: Baillytown, Dune Meadows, Hunter's Glen, Indian Trails, Marquette Point, Porter Beach, Porter Cove, Summer Tree, Wagner Hills, Woodlake Springs and Woodlawn Acres.

(c) If such vehicles are not removed from the streets after three inches of snowfall, as determined by the Porter Public Works Department, it shall be the duty of the Porter Police Department, after issuing citations for said vehicles at $50.00 per violation, to forthwith employ a professional towing company to remove such vehicles from the streets and store

them at a vehicle impound garage or lot. The reasonable cost of such removal and storage shall be paid by the owner of the vehicle to the owner of the impound garage or lot prior to the owner taking possession of their vehicle.
(Ord. No. 2015-10, § 1, 11-10-2015)

**Sec. 58-210. Removal of snow and ice from sidewalks.**

(a) The owner and/or the occupant of any dwelling, building or subdivided lot or property shall keep the sidewalks in front thereof clean at all times of the year. Within 24 hours after any snowfall or formation of ice, such snow or ice shall be removed from the sidewalks.

(b) It shall be unlawful for any person or private contractor to throw, blow, push or deposit in any manner snow, slush or ice onto any public street, alley or sidewalk.

(c) Persons who violate this code section:

(1) Shall be subject to a penalty of $50.00 per violation. Each day that a violation exists shall constitute a separate violation.

(2) Shall be responsible for the costs incurred by the town to remove the impediment to safe progress and movement of vehicular and pedestrian traffic, which costs shall be determined by equipment and labor hourly rates.

(Ord. No. 2015-10, § 1, 11-10-2015)

**Secs. 58-211—58-220. Reserved.**

## DIVISION 2. EXCAVATIONS

**Sec. 58-221. Permit required.**

No person shall excavate or dig in any of the streets, highways, alleys, or public grounds of the town without first obtaining a permit.
(Code 1968, § 25-44; Code 1991, § 7-161; Ord. No. 375, § 1)

**Sec. 58-222. Application; performance bond.**

(a) Any person desiring to make any opening in any of the streets, alleys, highways or public grounds of the town or excavate or dig therein, shall first file an application in triplicate for general authority so to do with the clerk-treasurer.

(b) Said application shall state specifically whether the applicant desires to make only one excavation or whether the applicant applies for general authorization to make excavations in the streets, alleys, highways or public grounds of the town.

(c) At the time of the filing of the application, such applicant shall also file, where the applicant desires to make only one excavation, a performance bond in the sum of $1,000.00.

(d) Where the applicant makes application for general authority to make excavations in the streets, alleys, highways and public grounds for the yearly period, said applicant, at the time of filing such application, shall also file a performance bond in the sum of $2,000.00, which bond shall be conditioned to include any and all excavations made in the yearly period.

(e) If the applicant files an application for general authority to excavate in the street, alleys, highways or public grounds of the town for an unlimited period of time, the applicant, at the time of filing such application, shall file a performance bond in unlimited amount.

(f) All bonds filed shall be in a form prescribed by the town council and shall be conditioned for the performance of the work according to the terms of this article and the payment of all damages occasioned by the doing of such work, with two resident freeholders of the county as sureties thereon, or with a surety company authorized to do business in the county as sureties thereon, or with a surety company authorized to do business in the county, conditioned for the performance of all of the terms of this article on the part of such person to be performed, and also conditioned to save the town harmless on account of any loss or damage by reason of such excavation sustained by any person up to and including the specified sums for individual excavation bonds and general yearly excavation bonds; but in the case of general bonds unlimited in time, there shall be no limit of liability specified in said bond.

(g) Each bond shall provide for the recovery of reasonable attorney fees where action in a suit at law or in equity shall be necessary to recover upon such bond any damages or loss sustained to the town.

(h) If the town council approves, applicants may be self-insurers.

(i) The approval of an application for a yearly authorization to excavate shall authorize the applicant to so excavate for the entire period or any part thereof, from June 1 of the year in which application is made to May 31 next following.

(j) All yearly applications shall be automatically extinguished on May 31 of each year and yearly applicants shall be required to make such application on or before each succeeding May 31 of each year and to file bonds at such times as provided in this section.
(Code 1968, § 25-45; Code 1991, § 7-162; Ord. No. 375, § 2; Ord. No. 380, § 1, 8-25-1957)

**Sec. 58-223. Consideration of application; issuance.**

(a) The clerk-treasurer, upon the filing of the application and bond, shall, at the next regular meeting of the town council, present to the town council the application, together with the bond filed therewith, for consideration.

(b) The town council shall consider the application and bond. If the applicant shall be determined to be a person whose business and business practices are suited to the making of excavations in the streets, alleys, highways and public grounds of the town, and if the bond shall be found to be in due form according to the terms of this article, the town council shall

endorse the approval of the applicant upon the application, and the applicant shall thereafter be entitled to apply for individual permits for each excavation to be made under the terms of this article and the terms of the application filed.

(c) After approval of the application by the town council, the applicant may apply for individual permits for separate openings or excavations to be made. Such application for a permit, with reasonable certainty, shall state the location of the opening or excavation to be made, the reason for such opening or excavation, and the length of time such excavation shall remain open.

(d) Upon the filing of such application for permit to make an opening or excavation, if the applicant has been approved by the town council, and if the application shall conform with the authority given by the town council and the terms of this article, the clerk-treasurer or chief of police, or his deputies, shall issue such permit upon the payment of the fees for such permit specified in this division.
(Code 1968, § 25-46; Code 1991, § 7-163; Ord. No. 380, § 1, 8-25-1957)

**Sec. 58-224. Fees.**

(a) The fee for issuance of the first permit to make an opening or excavation shall be $60.00 (see section 14-118).

(b) The fee for all subsequent openings or excavations shall be $20.00 for each and every such subsequent opening or excavation.

(c) No permit shall be issued until such fees have been paid in advance.
(Code 1968, § 25-47; Code 1991, § 7-164; Ord. No. 380, § 1, 8-25-1957; Ord. No. 2026-01, § 6, 1-27-2026)

**Sec. 58-225. Materials.**

(a) Where any digging, excavation or opening has been made in any of the streets, highways or alleys or public grounds in the town, the original earth or other material taken from such digging, excavation or opening shall not be replaced therein.

(b) Such digging, excavation or opening shall be filled with sand from the bottom of such digging, excavation or opening to the top thereof.

(c) The earth or other material removed originally from such digging, excavation or opening shall be removed from such location and disposed of so as not to interfere with the flow of traffic thereon.

(d) No mound of earth or other material shall be left laying at or near the site of such digging, excavation or opening, but shall be completely removed therefrom.
(Code 1968, § 25-48; Code 1991, § 7-165; Ord. No. 375, § 3)

**Sec. 58-226. Backfilling; restoring surface.**

After completion of the digging, excavation or opening and its backfilling with sand, as provided in section 58-225, the surface of the street, highway, alley or public grounds shall be resurfaced in the same manner and with the same material as was originally at the point of such digging, excavation or opening before such surface was disturbed, to the end that the surface shall be restored to its original condition.
(Code 1968, § 25-49; Code 1991, § 7-166; Ord. No. 375, § 4)

**Sec. 58-227. Time limit for remaining open.**

(a) No opening in any street, highway, alley or public grounds shall remain open for more than ten consecutive days.

(b) The street commissioner may grant an extension of time for good and sufficient reason.
(Code 1968, § 25-50; Code 1991, § 7-167; Ord. No. 375, § 5)

**Sec. 58-228. Protection.**

(a) No person shall leave any basement, excavation or pit open or unprotected upon any of the street or alleys, or within a distance of five feet of any streets or alleys in the town, without properly protecting the same, as herein provided.

(b) Every open basement, excavation or pit which shall be made or found existing in the streets of the town, or upon the alleys thereof, or upon any lot or parcel of land within a distance of five feet of the line of any street or alley shall, while the same is being constructed or remains open and maintained, be securely guarded, fenced or barricaded in such a way as to ensure the safety and protect from injury all persons using the streets and alleys of the town, and who might, if the same were unprotected, fall into such basement, excavation or pit and thereby become injured.

(c) In case any open basement, excavation or pit cannot be adequately fenced or barricaded so as to properly protect the person who shall be using the streets and alleys, then such fences or barricades as shall be practicable shall be maintained and, in addition thereto, the person who shall have the charge of any such basement, excavation or pit shall, in addition to such inadequate fence or barricade, place thereon during the entire period of each night a sufficient number of red lights and keep the same burning in order to properly protect all persons from injury during the time such open basement, excavation or pit shall be maintained in a dangerous condition.
(Code 1968, § 25-51; Code 1991, § 7-168; Ord. No. 99, 7-27-1920)

**Secs. 58-229—58-244. Reserved.**

## DIVISION 3. NEW STREET CONSTRUCTION

### Sec. 58-245. Preliminary approval.

(a) *Letter request.* A letter must be submitted to the town council advising the council of the intent to build a street. It must describe the location of the proposed street and advise the council whether the right-of-way is a dedicated right-of-way or a right-of-way that will be dedicated.

(b) *Map.* A map must be submitted showing the proposed street location. Town maps may be secured from the clerk-treasurer for this purpose. Quarter-section maps may be secured from the clerk-treasurer, county surveyor, or town engineer.

(c) *Designer.* The council must be advised as to whom the designer will be. Plans must be signed by a professional engineer or surveyor registered in the state.
(Code 1991, § 7-175; Ord. No. 721, §§ 1.1—1.3, 10-8-1985)

**Sec. 58-246. Design width.**

The petitioner must request authorization to design:

(1) Without a curb, using American Association of State Highway and Transportation Officials (AASHTO) Criteria for Lane and Shoulder Widths, and with drainage in a roadside ditch.

(2) A curb and gutter 27 feet measured back-to-back of curbs. No parking will be permitted on this street. Enclosed storm drainage system.

(3) A curb and gutter 32 feet measured back-to-back of curbs. Parking will be permitted on one side. Enclosed storm drainage system.

(4) A curb and gutter 38 feet measured back-to-back of curbs. Parking will be permitted on both sides. Enclosed storm drainage system.
(Code 1991, § 7-176; Ord. No. 721, § 1.4, 10-8-1985)

**Sec. 58-247. Payment.**

The petitioner must state whether:

(1) Payment will be made by the petitioner with a 100 percent performance and payment bond posted with the town; or

(2) Payment will be made from an escrow account which the developer will open in a local bank and from which funds cannot be released without the concurrence of the town.
(Code 1991, § 7-177; Ord. No. 721, § 1.5, 10-8-1985)

**Sec. 58-248. Town council action.**

The town council will do one of the following:

(1) *Approval.* The town council may approve the information as presented and advise the petitioners to proceed to the design phase.

(2) *Investigation.* The town council may take the request under advisement and/or request additional information from the petitioner.

(3) *Denial.* The town council may deny the petition.
(Code 1991, § 7-178; Ord. No. 721, § 2, 10-8-1985)

**Sec. 58-249. Design phase.**

After the town council has approved the request to make a street improvement for which the town will assume operational and maintenance responsibility, the petitioner may proceed with the design phase of the plans.

(1) All designs shall conform to the AASHTO book entitled "A Policy on Geometric Design of Highways and Streets."

(2) Pavement shall be designed for the anticipated traffic. Consideration must be given to town trash pickup and snowplowing.

(3) Design speed shall be 40 miles per hour unless an exception is approved in writing by the town council.

(4) Maximum super elevation shall be 0.08 feet per foot.

(5) The right-of-way shall be designated to include all construction within the right-of-way. A minimum of three feet shall be allowed from the construction limits to the right-of-way line.

(Code 1991, § 7-179; Ord. No. 721, § 3, 10-8-1985)

**Sec. 58-250. Plan composition.**

(a) *Sheet size.* The petitioner must use 24-inch by 36-inch sheets with the plan view shown on the upper portion of the sheet and the portion of the sheet and the profile on the lower portion of the sheet.

(b) *Format.* The format shall be as follows:

(1) Title sheet showing project location, the designer seal and signature and spaces for the town council's signature.

(2) Typical section. The typical section may, at the designer's discretion, be shown on the first plan and profile sheet; however, it must be shown on the left portion of the sheet and the roadway plan and profile must start to the right of any space reserved for the typical section.

(c) *Quantities.* The plans shall include a list of quantities upon which the contract is to be based and the contractor is to be paid.

(d) *Specifications.* State department of transportation (INDOT) standard specifications (latest issue) are to be used. Special provisions may be written modifying these specifications, as required.

(Code 1991, § 7-180; Ord. No. 721, § 4, 10-8-1985)

**Sec. 58-251. Plan review.**

(a) Plans and specifications shall be submitted to the town engineer for review prior to construction. The town engineer will review the plans and specifications for conformance with these requirements and the design criteria set forth herein. The engineer whose seal and signature appear on the plans is responsible for the actual design.

(b) If comments require revision, a resubmittal may be required.
(Code 1991, § 7-181; Ord. No. 721, § 5, 10-8-1985)

**Sec. 58-252. Construction agreement.**

If the petitioner contracts directly for any of the work, the proposed contract must be submitted to the town for review and approval. Approval must be received prior to the start of construction.
(Code 1991, § 7-182; Ord. No. 721, § 6, 10-8-1985)

**Sec. 58-253. Bonds and insurance.**

(a) The contractor shall be required to provide a performance and payment bond and a one-year maintenance bond.

(b) Upon completion of construction, receipt of waiver of lien for suppliers and subcontractors and other such documents as may be required, the performance and payment bond will be released.

(c) The petitioner, either directly or through a contractor, must show proof of public liability and property damage insurance, and such other insurance as may be required by local or state law, in such amounts as may be required by the town council.
(Code 1991, § 7-183; Ord. No. 721, § 7, 10-8-1985)

**Sec. 58-254. Fees.**

(a) When plans are initially submitted for review, the petitioner shall submit a nonrefundable fee of $200.00. This fee will cover all costs associated with the plan and contract review. Any permits required are the responsibility of the petitioner and all costs associated thereto shall be borne by the petitioner.

(b) When the plans are submitted for a bid-letting, the petitioner shall submit a nonrefundable fee, equal to 1.5 percent of the construction cost less $200.00, but not less than $1,000.00. This fee shall cover the costs of the construction review, the preparation of construction, progress payment estimates, and the preparation of change orders and all final paperwork.
(Code 1991, § 7-184; Ord. No. 721, § 8, 10-8-1985)

**Secs. 58-255—58-280. Reserved.**

## ARTICLE VIII. GOLF CARTS

**Sec. 58-281. Local ordinance, authority.**

The town council has the authority, pursuant to I.C. 9-21-1-3.3 to adopt by ordinance, additional traffic regulations concerning the use of golf carts on streets within the jurisdictional limits of the town.
(Ord. No. 2010-07, § 1, 7-13-2010)

**Sec. 58-282. Definitions.**

"Financial responsibility" shall have the meaning as liability insurance coverage on a golf cart in the amount not less than required by Indiana law for motor vehicles operated on public highways in the State of Indiana.

"Golf cart" shall have the meaning set forth in I.C. 9-13-2-69.7, as a four-wheeled motor vehicle originally and specifically designed and intended to transport one or more individuals and golf clubs for the purpose of playing the game of golf on a golf course.

Definitions may be amended from time to time.
(Ord. No. 2010-07, § 1, 7-13-2010)

**Sec. 58-283. Use of golf carts on town streets and highways.**

Subject to the regulations contained within this article, the operation of golf carts shall be permitted on streets within the jurisdictional limits of the town, with the exceptions of State Road 49, US 20 and US 12.
(Ord. No. 2010-07, § 1, 7-13-2010)

**Sec. 58-284. Occupants.**

The number of occupants in a golf cart shall be limited to the number of persons for whom factory seating is installed and provided on the golf cart. The operator and all occupants shall be seated in the golf cart and no part of the body of the operator or occupant shall extend outside the perimeter of the golf cart while the golf cart is being operated.
(Ord. No. 2010-07, § 1, 7-13-2010)

**Sec. 58-285. Proof of financial responsibility.**

The operator of a golf cart must show financial responsibility when operating a golf cart. Written proof of financial responsibility must be available either on the golf cart or carried by the operator at all times.
(Ord. No. 2010-07, § 1, 7-13-2010)

**Sec. 58-286. License.**

Golf carts may not be operated on the town's streets by a person who has not obtained an operator's license under I.C. 9-24.
(Ord. No. 2010-07, § 1, 7-13-2010)

**Sec. 58-287. Golf cart traffic regulations.**

(a) Golf carts shall obey all traffic regulations applicable to motor vehicles.

(b) Golf carts shall display a slow-moving vehicle emblem in accordance with I.C. 9-21-9.

(c) Golf carts shall not be permitted to operate on State Road 49, US 20 and US 12 or at any grade crossing of State Road 49, US 20, and US 12. Golf carts shall not be permitted to operate on any sidewalks, trails, or multi-use paths in the town.

(d) The operation of golf carts on public streets shall be limited to daylight hours, unless the golf cart is equipped with headlamps, tail lamps and stop lamps. In addition, as provided under I.C. 9-21-9-4 if operated after dark, red or amber flashing lamps must be attached to the rear of the golf cart and visible from at least 500 feet.

(e) No overnight parking of golf carts on public streets.
(Ord. No. 2010-07, § 1, 7-13-2010)

**Sec. 58-288. Exemptions.**

The use of golf carts by public safety personnel or by town employees during special events shall be exempt from the regulations contained in this article. All such personnel shall be clearly identified, shall be insured and shall maintain a valid operator's permit pursuant to I.C. 9-24.
(Ord. No. 2010-07, § 1, 7-13-2010)

**Sec. 58-289. Violations.**

Violation of this article VIII shall be subject to a penalty in the sum of one hundred dollars. Fines not paid within 30 days shall be filed with a court of competent jurisdiction. All amounts collected pursuant to this section shall be deposited in the general fund.
(Ord. No. 2010-07, § 1, 7-13-2010)

Chapters 59—61

**RESERVED**

Chapter 62

# TELECOMMUNICATIONS

## Article I. In General

Secs. 62-1—62-19. Reserved.

## Article II. CATV Franchise Code

Sec. 62-20. Definitions.
Sec. 62-21. Grant of nonexclusive authority.
Sec. 62-22. Use of existing pole line facilities.
Sec. 62-23. Duration and acceptance of franchise.
Sec. 62-24. Renewal procedure.
Sec. 62-25. Compliance with applicable laws and ordinances.
Sec. 62-26. Territorial area involved.
Sec. 62-27. System construction and description.
Sec. 62-28. Liability and indemnification.
Sec. 62-29. Color TV.
Sec. 62-30. Safety requirements.
Sec. 62-31. Conditions of street occupancy.
Sec. 62-32. Filings and communications with regulatory agencies.
Sec. 62-33. Operational standards.
Sec. 62-34. Preferential or discriminatory practices prohibited.
Sec. 62-35. Payment to the town.
Sec. 62-36. Service connections.
Sec. 62-37. Public, educational and municipal access.
Sec. 62-38. Interface of CATV companies.
Sec. 62-39. Emergency use of facilities.
Sec. 62-40. Rates.
Sec. 62-41. Program planning committee.
Sec. 62-42. Publication costs.
Sec. 62-43. Transfers.
Sec. 62-44. Nondiscrimination in employment practices.
Sec. 62-45. Forfeiture.
Sec. 62-46. Additional regulations.
Sec. 62-47. Inspection and administration.
Sec. 62-48. Automatic amendments.
Sec. 62-49. Unlawful acts.
Sec. 62-50. Acceptance of franchise.
Sec. 62-51. Force majeure.
Secs. 62-52—62-79. Reserved.

## Article III. Other Franchise Agreements

Sec. 62-80. Authority; content of franchise agreements.
Sec. 62-81. Ordinance required.

## ARTICLE I. IN GENERAL

**Secs. 62-1—62-19. Reserved.**

## ARTICLE II. CATV FRANCHISE CODE

### Sec. 62-20. 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:

*Community antenna system, CATV system* or *system* means a system of coaxial cables or other electrical conductors and equipment used or to be used primarily to receive television signals directly or indirectly off-the-air and transmit them to subscribers for a fee, and to provide other related services as shall become available in the CATV industry from time to time.

*Franchise* means and includes any authorization granted hereunder in terms of a franchise, privilege, permit, license or otherwise to construct, operate and maintain a cable television system within all or a specified area of the town. Any such authorization, in whatever form granted, shall not be deemed to include any license or permit required for the privileges of transacting and carrying on such business with the town.

*Grantee* means any person who complies with the term of this article and is granted a franchise, and shall include its successors or assigns, if any.

*Gross auxiliary revenues* means any and all compensation and other consideration received directly or indirectly by the franchisee from subscribers or users in payment of the receipt of signals other than broadcast television, radio or original cable cast programming of the franchisee, whether for pay television, facsimile transmission, return or subscriber response communication, and whether or not transmitted encoded or processed to permit reception by only selected subscribers.

*Gross subscriber revenues* means and includes any and all compensation or receipts derived by the grantee from the operation within the town of the cable television system authorized herein, but shall not include any refunds or credits made to subscribers or any taxes imposed on the services furnished by the grantee.

*Person* means any person, firm, partnership, corporation, company, association, or organization of any kind.

*Regular subscriber services* means and includes, at a minimum, the carriage of broadcast signals and FCC mandated nonbroadcast services together with the community television station, but need not include ancillary or auxiliary services, which include, but are not limited to, advertising, leased channels, and programming supplied on a program or per-channel charge basis, or security claim services or other interactive services which may become available and offered by the grantee in the future.

*Street* means any street, road, highway, alley or public way in the town, between the right-of-way lines thereof, now laid out or dedicated or which may hereinafter be laid out or dedicated.

*Subscriber* or *user* means any person or entity receiving for any purpose any service of the franchisee's cable communication system including, but not limited to, the conventional broadcast signals, the franchisee's original cable-casting, and the local government, education and public access channels; and other services, such as leasing of channels, data and facsimile transmission, pay television, and police, fire, similar public service communication.
(Code 1991, § 4-27; Ord. No. 663, § 2, 9-30-1980)

**Sec. 62-21. Grant of nonexclusive authority.**

When consideration of the promises and representations are made to the town council by the representatives of cable television companies complying with the terms of this article, the town may grant the right to the grantee to construct, erect, operate and maintain a community antenna television service. This franchise is a nonexclusive franchise. The grantee may have the right under this franchise to construct, erect, operate and maintain all lines and equipment necessary to a cable television system in, over, under and upon the streets, sidewalks, alleys and public ways within the town, subject to the terms and provisions of this article, and the right to make connections to subscribers of grantee. The grantee must first obtain the consent of the lessee or the specific consent of the town council prior to in any way operating in, over, under or upon public property leased to another. The rights granted herein shall not be exclusive and the council reserves the right to grant the use of all streets, sidewalks, alleys and public ways to any person at any time during the period of this franchise.
(Code 1991, § 4-28; Ord. No. 663, § 3, 9-30-1980)

**Sec. 62-22. Use of existing pole line facilities.**

There may be granted the further right, privilege, and authority to the grantee to lease, rent or in any other manner obtain the use of towers, poles, lines, cables and other equipment and facilities from any and all holders of public licenses and franchises within the limits of the town including the Northern Indiana Public Service Company and General Telephone Company, and to use such tower, poles, lines, cables and other equipment and facilities, subject to all existing and future ordinances and regulations of the town and federal rules and regulations both present and future covering the area of the Indiana Dunes National Lakeshore National Park Service. When and where practicable, the poles used for the grantee's distribution system shall be those erected and maintained by Northern Indiana Public Service Company or General Telephone Company; provided that mutually satisfactory rental agreements can be entered into by the grantee with said companies; otherwise, the grantee may erect its own poles when and where required, subject to the approval of the town. The town may, at its discretion, withhold approval of erection of the grantee's own poles; however, if the grantee is unable to utilize existing poles, and if the town does not approve the grantee's request to erect its own poles when and where so required, then the grantee is relieved of any and all obligations, under this franchise, to provide service to any and all areas

beyond the point at which it is unable to obtain pole line facilities through joint poles agreements with Northern Indiana Public Service Company or General Telephone Company, or by means of the erection of its own poles. At no time will the lines being used by the grantee be located less than 18 feet above ground level. In areas or locations where underground conduit is in use, or shall at some future date be used by either of the above-named where practicable, will join in the use of underground facilities provided mutually satisfactory agreements can be entered into with said companies, otherwise, the grantee shall install its own underground conduit and facilities subject to the approval of the council, commission or department of the town or federal government having jurisdiction thereof.
(Code 1991, § 4-29; Ord. No. 663, § 4, 9-30-1980)

**Sec. 62-23. Duration and acceptance of franchise.**

(a) The franchise and the rights, privileges and authority granted as provided for by this article shall take effect and be in force from and after final passage of an ordinance granting such franchise and incorporating by reference all items, conditions and requirements of this article, as provided by law, and shall continue in force and effect for a term of 15 years; provided that within 30 days after the date of the granting of said franchise the grantee shall file with the town clerk its unconditional acceptance of the franchise and promise to comply with and abide by all its provisions, terms and conditions. Such acceptance and promise shall be in writing, duly executed and sworn to by or on behalf of the grantee, before a notary public or other officer authorized to administer oaths.

(b) Should the grantee fail to comply with subsection (a) of this section, it shall acquire no rights, privileges or authority whatsoever, under said franchise.
(Code 1991, § 4-30; Ord. No. 663, § 5, 9-30-1980)

**Sec. 62-24. Renewal procedure.**

The grantee may have the option to request renewal of this franchise for an additional period not to exceed ten years. Should the grantee desire to exercise this option, it shall so notify the town, in writing, not less than six months prior to expiration of this franchise. Upon exercise of this option by the grantee, the town shall conduct a full, open, and public renewal proceeding upon prior notice and opportunity of all interested parties to be heard. The renewal proceeding shall be held under this franchise and any other factors deemed relevant in determining whether to renew this franchise. Renewal shall not be unreasonably denied. If this franchise is renewed by the town, all of the terms and provisions contained herein shall be controlling during the renewal period, except to the extent that said terms and provisions are modified by the town, or unless this franchise is superseded by a new franchise. Should the town, for any reason, be unable to complete the renewal proceeding prior to expiration of this franchise, the grantee shall have the right to continue operation of its cable television system pursuant to the terms of this franchise until such time as the renewal proceeding is concluded. Should the town deny any renewal of this franchise, such denial shall be accompanied by a written statement setting forth the reasons for the denial.
(Code 1991, § 4-31; Ord. No. 663, § 6, 9-30-1980)

**Sec. 62-25. Compliance with applicable laws and ordinances.**

The grantee shall, at all times during the life of a franchise as provided for by this article, be subject to all lawful exercise of the police power by the town and to such reasonable regulation as the town shall hereafter provide.
(Code 1991, § 4-32; Ord. No. 663, § 7, 9-30-1980)

**Sec. 62-26. Territorial area involved.**

A franchise, as provided for by this article, relates to the present corporate boundaries of the town and to any area henceforth added to the corporate boundaries of the town during the term of such franchise. As new streets, areas, or subdivisions in the town's corporate boundaries are developed, it will be the obligation of the grantee to make service available within 18 months following written notice from the developer of the subdivisions or owner of property to be served that the site is ready and available for the grantee's trunk and feeder lines to be installed. The failure of the grantee to comply with any of the time deadlines set forth in this section shall result in the grantee paying to the town the sum of $200.00 per day for each day that such violation exists, as liquidated damages and not as a penalty, as the actual amount of damages in this situation to the town would be very difficult to determine; provided, prior to any such liquidated damages being imposed, the town will, by written notice delivered to the grantee, afford the grantee a 30-day period in which to cure any default of this section. The grantee may appeal its obligations contained in this section to the town council for any areas of subdivisions containing only a few or widely separated residences on the bases of financial hardship to the grantee. Any decision on such an appeal by the town council is agreed to be in the sole, reasonable discretion of the town council. The grantee shall make service available to residents in the town who currently have access to cable.
(Code 1991, § 4-33; Ord. No. 663, § 8, 9-30-1980; Ord. No. 95-13, § 1, 9-26-1995)

**Sec. 62-27. System construction and description.**

(a) The grantee's transmission and distribution system poles, wires and appurtenances shall be located, erected and maintained so as not to endanger or interfere with the lives of persons or to interfere with new improvements the town may deem proper to make, or to unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, or other public property; removal of poles to avoid such interference will be the grantee's expense. No transmission and distribution poles, wires and appurtenances and no towers or other structures shall be located, constructed, erected or maintained within the town until and unless the nature and location of such poles, wires, appurtenances, towers and/or other structures have been approved in writing by the council in advance of their location, construction, erection or maintenance.

(b) All installations of equipment shall be durable, and installed in accordance with good engineering practice, and of sufficient height to comply with all existing town regulations and ordinances and applicable state and federal laws so as not to interfere in any manner with the

right of the public or individual property owner, and shall not interfere with the travel and use of public places by the public and during the construction, repair, or removal thereof, shall not obstruct or impede traffic.

(c) In the maintenance and operation of its television transmission and distribution system in the streets, alleys and other public places, and in the course of any new construction or addition to its facilities, the grantee shall proceed so as to cause the least possible inconvenience to the general public; any opening or obstruction in the streets or other public places made by the grantee in the course of its operations shall be guarded and protected at all times by the placement of adequate barriers, fences, or boardings, the bounds of which, during periods of dusk and darkness, shall be clearly designated by red warning lights.

(d) It is the stated intention of the council that all other holders of public licenses and franchises within the limits of the town shall cooperate with the grantee to allow the grantee's joint usage of their poles, pole line facilities, and underground trenching and lines whenever possible or wherever such usage does not interfere with the normal operation of said poles and pole lines so that a number of new or additional poles constructed by the grantee within the town may be minimized. Such cooperation shall include the rights of joint usage at reasonable rates and on reasonable terms.

(e) The grantee shall grant to the town, free of expense, joint use of any and all poles owned by it for any compatible and proper municipal purpose, insofar as it may be done without interfering with the free use and enjoyment of the grantee's own wires and provided that all such joint use shall be in full compliance with all rules, regulations and requirements enacted upon the grantee and provided that it shall be in accordance with the provisions of the National Electrical Safety Code prepared by the National Bureau of Standards, the National Electrical Code of the National Board of Fire Underwriters affecting electrical installations which may be presently in effect or future changes thereto.

(f) Construction of the systems shall commence within 30 days after all utility company approvals have been obtained by the grantee and service shall be available to every resident of the town within 12 months from the date of acceptance of the franchise by the grantee. In no case shall construction commence later than 90 days from said date of acceptance.

(g) The grantee shall furnish such progress reports during the period of construction as are requested by the council.
(Code 1991, § 4-34; Ord. No. 663, § 9, 9-30-1980)

**Sec. 62-28. Liability and indemnification.**

(a) The grantee shall pay and by its acceptance of a franchise as provided for by this article, the grantee specifically agrees that it will pay all damages and penalties which the town may legally be required to pay as a result of granting a franchise as provided for by this article. These damages or penalties shall include, but shall not be limited to, damages arising out of

copyright infringement and all other damages arising out of the installation, operation or maintenance of the CATV system authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by said franchise.

(b) The grantee shall pay and by its acceptance of said franchise specifically agrees that it will pay all expenses incurred by the town in defending itself with regard to all damages and penalties mentioned in subsection (a) of this section. These expenses shall include all out-of-pocket expenses, such as attorney fees, and shall also include the reasonable value of any services rendered by the town attorney or his assistants or any employee of the town.

(c) The grantee shall maintain on file with the town proof of insurance for bodily injury or death to any person in an amount of $300,000.00 with a total limit for any one occurrence of $5,000,000.00 and for $1,000,000.00 for property damage resulting from any one incident. Proof of the aforementioned insurance coverage shall be provided in a satisfactory form to the town which shall be named as an additional insured on any insurance policy.

(d) The grantee shall maintain, at commencement of construction, and by its acceptance of a franchise granted as provided by this article, specifically agrees that it will maintain throughout the terms of said franchise a faithful performance bond running to the town, with good and sufficient sureties approved by the town, in the penal sum of $50,000.00 conditioned that the grantee shall well and truly observe, fulfill and perform each term and condition of said franchise and that in case of any breach of condition of the bond, the amount thereof shall be recoverable from the principal and sureties thereof by the town of all damages proximately resulting from the failure of the grantee to well and faithfully observe and perform any provision of said franchise. The grantee may submit a letter of credit in the penal sum of $50,000.00 and in a form acceptable to the town attorney in lieu of a performance bond issued by a surety.

(e) The insurance policy and bond obtained by the grantee in compliance with this article along with written evidence of payment of required premiums, shall be filed and maintained in full force with the town clerk-treasurer during the term of the franchise, issued as provided for by this article and shall contain a provision requiring not less than 30 days' notice to the town of cancellation.

(f) The grantee shall use due diligence to obtain all necessary permits and authorizations which may be required in the conduct of its business including, without limitation, utility joint use agreement, microwave radio licenses and authorizations from appropriate town, county, state or federal regulatory agencies. Further, the grantee shall continuously and diligently prosecute all such filings until all necessary approvals and permits are in hand. Within one month after final authorizations and permits, the grantee shall commence construction within the town and said construction shall be substantially complete in all areas of the town within 12 months from commencement or upon a date set by the council, whichever occurs first. Failure by the grantee to pursue and adhere to the above schedule shall constitute grounds for revocation of its franchise, unless the grantee has proceeded in good faith and such failure has been by virtue of factors beyond its reasonable control.

(Code 1991, § 4-35; Ord. No. 663, § 10, 9-30-1980; Ord. No. 95-13, § 2, 9-26-1995)

**Sec. 62-29. Color TV.**

The facilities used by the grantee shall be capable of distributing color TV signals, and when the signals the grantee distributes are received in color, they shall be distributed in color where technically feasible
(Code 1991, § 4-36; Ord. No. 663, § 11, 9-30-1980)

**Sec. 62-30. Safety requirements.**

(a) The grantee shall at all times employ ordinary care and shall maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public.

(b) The grantee shall install and maintain its wires, cables, fixtures and other equipment in accordance with the requirements of the National Code of Electrical Standards, as they may exist or be hereafter amended, or replaced by a later and subsequent electrical code, and in such manner that they will not interfere with any installations of the town or of a public utility serving the town.

(c) All structures and all lines, equipment and connections in, over under and upon the streets, sidewalks, alleys and public ways or places of the town, wherever situated or located, shall at all times be kept and maintained in a safe, suitable, substantial condition, and in good order and repair, by the grantee.

(d) The grantee shall maintain a force of one or more resident agents or employees at all times and shall have sufficient employees to provide safe, adequate and prompt service for its facilities.
(Code 1991, § 4-37; Ord. No. 663, § 12, 9-30-1980)

**Sec. 62-31. Conditions of street occupancy.**

(a) All transmission and distribution structures, lines and equipment erected by the grantee within the town shall be so located as to cause minimum interference with proper use of streets, alleys and other public ways and places, and to cause a minimum interference with the rights and reasonable convenience of a person whose property adjoins any of the said streets, alleys or other public ways and places.

(b) In the case of a disturbance of any street, sidewalk, alley, public way or paved area, the grantee shall first obtain an excavation permit from the town engineer, and in a manner approved by the town engineer, replace and restore such street, sidewalk, alley, public way or paved area in as good a condition as before the work involving such disturbance was done.

(c) If at any time during the period of this franchise the town shall lawfully elect to vacate, relocate, alter or change the grade of any street, sidewalk, alley or other public way, the grantee upon reasonable notice by the town, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

(d) Any poles or other fixtures placed in any public way by the grantee shall be placed in such manner as to not interfere with the usual travel on such public way.

(e) The grantee shall, upon request of any person holding a building or moving permit issued by the town, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same. The grantee shall be given not less than five business days' advance notice to arrange for such temporary wire changes.

(f) The grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public ways from coming in contact with the wires and cables of the grantee; provided that such trimming is done by the town or if by others, under the direct supervision or by a duly authorized employee of the town. Any service performed by the town in trimming or in supervision thereof shall be done at the expense of the grantee.

(g) There may be granted the further right, privilege, and authority to the grantee to lease, rent or in any other manner obtain the use of towers, poles, lines, cables and other equipment and facilities from any and all holders of public licenses and franchises within the limits of the town, including the Northern Indiana Public Service Company and General Telephone, and to use such owner, poles, lines, cables and other equipment and facilities, subject to all existing and future ordinances and regulations of the town. When and where practicable, the poles used for the grantee's distribution system shall be those erected and maintained by Northern Indiana Public Service Company or Indiana Bell Telephone; provided that mutually satisfactory rental agreements can be entered into by the grantee with said companies; otherwise, the grantee may erect its own poles when and where required, subject to the approval of the town. The town may, at its discretion, withhold approval of the erection of the grantee's own poles; however, if the grantee is unable to utilize existing poles, and if the town does not approve the grantee's request to erect its own poles when and where so required, then the grantee is hereby relieved of any and all obligations, under this franchise, to provide service to any and all areas beyond the point at which it is unable to obtain pole line facilities through joint pole agreements with Northern Indiana Public Service Company or General Telephone, or by means of the erection of its own poles. In areas or locations where underground conduit is in use, or shall at some future date be used by either of the above-named utility companies, the grantee, by negotiation with said companies when and where practicable, will join in the use of underground facilities provided mutually satisfactory agreements can be entered into with said companies, otherwise, the grantee shall install its own underground conduit and facilities subject to the approval of the council, commission or department of the town having jurisdiction thereof.
(Code 1991, § 4-38; Ord. No. 663, § 13, 9-30-1980)

**Sec. 62-32. Filings and communications with regulatory agencies.**

Copies of all petitioner and/or applications submitted by the grantee to the Federal Communications Commission, Securities and Exchange Commission or any other federal,

state or local regulatory commission or agency having jurisdiction in respect to any manners affecting CATV operations authorized pursuant to a franchise, as provided for in this article, shall also be submitted simultaneously to the chairman of the council.
(Code 1991, § 4-39; Ord. No. 663, § 14, 9-30-1980)

**Sec. 62-33. Operational standards.**

The town council shall require that the grantee's CATV system shall be installed, maintained and operated in accordance with the highest accepted standards of the industry to the end that the subscriber may receive the best and most desirable form of service. Toward accomplishment of this purpose, the grantee and its CATV system shall meet the following minimum standards and service offerings:

(1) *Compliance with FCC rules.* The grantee shall comply with present and future rules and regulations of the FCC in connection with and relating to the operation of its CATV system. The grantee shall register this franchise with the FCC within 60 days of the effective date of the ordinance from which this article is derived.

(2) *Quality of color signals.* The grantee's CATV system shall be capable of transmitting and passing the entire color television spectrum without the introduction of material degradation of color intelligence and fidelity.

(3) *Rated for continuous operation.* The grantee's CATV system shall be designed and rated for 24-hour-a-day continuous operation.

(4) *Quality picture.* The grantee's CATV system shall be capable of and shall produce a picture upon any subscriber's television screen in black and white or color, provided the subscriber's television set is capable of producing a color picture, that is undistorted and free from ghost images and accompanied by proper sound, assuming the technical, standard production television set is in good repair and the televisions broadcast signal transmission is satisfactory. In any event, the picture produced shall be as good as the state-of-the-art allows.

(5) *No cross modulation or interference.* The grantee's CATV system shall transmit or distribute signals of adequate strength to produce good pictures with good sound in all television receivers of all subscribers without causing cross modulation in the cables of interference with other electrical or electronic systems.

(6) *Channel capacity.* The grantee's CATV system shall have a minimum channel capacity of 35 television channels.

(7) *Signals to be carried.* The grantee shall carry on its own CATV system the signals of all stations significantly viewed in Chicago, Illinois, and the signals of no less than two distant independent commercial stations as well as the signals of such distant educational and non-English language stations as may be technically and economically feasible.

(8) *Temperature range.* The grantee's CATV system shall be capable of operating throughout the air temperature range of -20 to 100 degrees Fahrenheit (-29 to +38 degrees Celsius) without degradation of audio or video fidelity.

(9) *Standard of care.* The grantee shall at all times employ a high standard of care and shall install, maintain and use approved methods and devised for preventing failures or accidents which are likely to cause damages, injuries or nuisances to the public.

(10) *Service and repair.* The grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible. Insofar as possible, such interruptions shall be preceded by 48 hours' notice and shall occur during periods of minimum use of the CATV system. The grantee shall provide a daily prorated credit to any subscriber who is without service for any continuous period in excess of 24 hours due to the fault of the grantee.

(11) *Duty to maintain office or warehouse.* The grantee shall maintain a business office, shop or warehouse which shall be used in the grantee's business and located within the Town of Porter and/or the Town of Chesterton.

(12) *Service calls.* The grantee shall respond to all service calls within 24 hours and correct malfunctions as promptly as possible, but, in all events, within a reasonable time which shall be 72 hours after notice thereof, except during times of general breakdown due to weather or other catastrophe. For such purpose, the grantee shall maintain a competent staff of employees sufficient in size to provide adequate and prompt service to subscribers. The grantee shall keep a written report of all complaints and will submit the same to the town from time to time as requested.

(13) *State of the art.* The grantee shall undertake any and all construction and installation necessary to keep current with the latest developments in the state of the art of CATV, whether with respect to increasing channel capacity, developing other new services, instituting more extensive two-way service or otherwise.

(14) *Cable locator.* A cable locator shall be available at no cost to the town at said town's request.

(Code 1991, § 4-40; Ord. No. 663, § 15, 9-30-1980; Ord. No. 95-13, § 3, 9-26-1995)

**Sec. 62-34. Preferential or discriminatory practices prohibited.**

The grantee shall not, as to rates, charges, service, service facilities, rules, regulations or any other respect, grant any undue preference or advantage to any person nor subject any person to prejudice or disadvantage.

(Code 1991, § 4-41; Ord. No. 663, § 16, 9-30-1980)

**Sec. 62-35. Payment to the town.**

The grantee shall pay to the town annually an amount equal to five percent of the annual gross operating revenues taken in and received by it on all sales of television or other signals with the town. This payment shall not be less than $500.00 per year from the date of

acceptance of said franchise and shall be in lieu of other fees or assessments imposed by the town, except the tax upon real and/or personal property. Said fee shall be paid quarter-annually within 60 days following the last day of each calendar quarter and shall be computed on the basis of such revenues received in the previous calendar quarter.
(Code 1991, § 4-42; Ord. No. 663, § 17, 9-30-1980; Ord. No. 95-13, § 4, 9-26-1995)

**Sec. 62-36. Service connections.**

(a) The grantee's only charge for a connection to CATV service shall be a fee not to exceed $25.00, or such other amount as approved by the town council, for each connection to the community television station which is located 200 feet or less from the property line of the resident requesting the service. For aerial connections in excess of 200 feet, such cost shall be submitted to the resident in writing in advance of installation. No additional charge shall be made for regular underground installations required by this article.

(b) The grantee agrees to and shall, without charge for installation or monthly service, make and maintain at its expense one outside connection for service to the town hall, town public works garage, and other municipal buildings designated by the council, to the library, and to all public and parochial elementary, secondary and college level schools if any, located within the town, and to all police and fire stations.

(c) The grantee shall make all tie-ins and connections under this section at the location designated by the appropriate public official as the location of the head end of the internal distribution system of the premises. The responsibility or performance of the internal distribution system and for distribution of transmissions throughout such system shall be solely that of the premises. The grantee makes no representation or warranty as to the ability of such distribution system to carry the programs transmitted over its cable system; however, the grantee will offer, without charge, technical consulting services to the premises in order to make the internal system work effectively for the purposes intended herein.

(d) The procedure for making connections under this section shall be as follows:

(1) Connections will be made at the time the grantee is serving the area within which the premises are located.

(2) At that time, the grantee shall send written notification of the provisions of this section to such premises.

(3) Thereafter, upon written request from the recipient official the grantee will make the above-described tie-in and connection to the internal distribution systems of such premises.

(4) All such premises will be constructed according to the orderly progress and construction of the system.
(Code 1991, § 4-43; Ord. No. 663, § 18, 9-30-1980)

**Sec. 62-37. Public, educational and municipal access.**

(a) The grantee shall provide and maintain, without charge, an access channel for each of the following purposes:

(1) At least one specially designated, noncommercial public access channel;

(2) At least one specially designated channel for use by local educational authorities;

(3) At least one specially designated channel for use by local governmental authorities;

(4) At least one specially designated channel for leased access uses.

(b) Until such time as there is demand for each channel full time for its designated use, public, educational, government and leased access channel programming may be combined on one or more composite access channel. The grantee may utilize any time not otherwise used on such access channels for its own programming.

(c) The grantee shall make available to the fire department, without charge, channel capacity to communicate with fire call boxes located along the dual trunk system. Technical assistance shall also be provided without charge relative to interfacing with the cable system.
(Code 1991, § 4-44; Ord. No. 663, § 19, 9-30-1980)

**Sec. 62-38. Interface of CATV companies.**

Subject to the applicable rules and regulations of the FCC, in the event that more than one franchise is issued within, or immediately adjacent to the town, and if such operating systems are contiguous and technically compatible with the grantee, and have allocated access channels, the grantee shall provide suitable interconnection facilities for one access channel at the boundary of its service areas. The grantee shall not be required to interconnect at any point beyond any area where it has trunk or feeder service.
(Code 1991, § 4-45; Ord. No. 663, § 20, 9-30-1980)

**Sec. 62-39. Emergency use of facilities.**

In the case of any emergency or disaster, the grantee shall, upon request of the council, make available its facilities to the town for emergency use during the emergency or disaster period. The president of the town council is given the authority to use the override capacity of the grantee's service to inform the community of the pending emergency.
(Code 1991, § 4-46; Ord. No. 663, § 21, 9-30-1980)

**Sec. 62-40. Rates.**

By its acceptance of this franchise renewal as provided for by this article, the grantee specifically agrees that its rates and charges to its subscribers for television signals shall be fair, reasonable and in accordance with applicable federal and state laws.
(Code 1991, § 4-47; Ord. No. 663, § 22, 9-30-1980; Ord. No. 95-13, § 5, 9-26-1995)

**Sec. 62-41. Program planning committee.**

(a) The chairman of the council may appoint a special program planning committee of three persons, not more than two of whom shall be of the same sex. The duties of this committee shall be to promote and to advise and assist in the production of programs of local origin and local interest.

(b) This committee shall function in an advisory capacity only, and it shall have no authority whatsoever to regulate, to censor nor to unduly interfere with the grantee in its preparation of and/or presentation of any program material.
(Code 1991, § 4-48; Ord. No. 663, § 23, 9-30-1980)

**Sec. 62-42. Publication costs.**

The grantee, upon reviewing the franchise provided for herein, shall reimburse and pay to the town the cost of publication of this article as such publication is required by law, and a nonrefundable application fee of $750.00.
(Code 1991, § 4-49; Ord. No. 663, § 24, 9-30-1980)

**Sec. 62-43. Transfers.**

(a) In the event that this franchise is transferred, in whole or in part, prior consent of the council to such transfer shall be required.

(b) All of the rights, privileges, obligations, duties and liabilities of the grantee under this article may be assigned or transferred to another person only upon approval by the town council. Notice of intent to transfer shall be given at least 60 days prior to the proposed date of transfer and no such transfer shall be effective unless the transferee, within that 60-day period, shall file a written statement with the town council agreeing to be bound by all of the terms and provisions of this article.

(c) In the event the grantee is, in whole or in part, a corporation and any person comes to own or control more than 50 percent of such corporation's voting stock, such acquisition shall be deemed a transfer under this section.

(d) In the event the grantee is a partnership, any transfer having the effect of changing in the aggregate more than 50 percent of the voting or equity rights, or having the effect of increasing the ownership of any single owner by an amount of 20 percent or more shall be deemed a transfer.
(Code 1991, § 4-50; Ord. No. 663, § 25, 9-30-1980)

**Sec. 62-44. Nondiscrimination in employment practices.**

The company shall not refuse to hire or employ, nor bear or discharge from employment, nor discriminate against any person in compensation or in terms, conditions or privileges of employment because of sex, age, race, creed, color or national origin.
(Code 1991, § 4-51; Ord. No. 663, § 26, 9-30-1980)

**Sec. 62-45. Forfeiture.**

(a) If the grantee should violate any of the terms, conditions or provisions of this franchise or if the grantee should fail to comply with the provisions of any ordinance of the town regulating the use by the grantee of the streets, alleys, easements or public ways of the town, and should the grantee further continue to violate or fail to comply with the same for a period of 30 days after the grantee shall have been notified in writing by the council to cease and desist from any such violation or failure to comply so specified, then the council shall have the right to declare all rights and privileges granted by this franchise to be forfeited; provided that such forfeiture shall be declared only by written decision of the council after an appropriate public proceeding affording the grantee due process and full opportunity to be heard and to respond to any such notice of violation or failure to comply upon a showing by the grantee of mitigating circumstances.

(b) For certain violations of the provisions of this article, civil penalties shall be chargeable to the grantee as follows:

(1) For failure to provide data and reports as requested by the council or required by this article, the grantee shall forfeit $50.00 each day or part thereof that the failure continues after written notice of violation given by the council to the grantee.

(2) For failure to pay the franchise fee when due, the franchise holders shall forfeit $250.00 each day or part thereof that the failure continues upon notice given.

(3) For persistent failure to comply with such reasonable requests and recommendations as may be made by the council pursuant to authority granted by this article, the franchise holder shall forfeit $50.00 each day or part thereof that the failure continues after written notice of such violation is given by the council to the grantee.

(Code 1991, § 4-52; Ord. No. 663, § 27, 9-30-1980)

**Sec. 62-46. Additional regulations.**

The council reserves the right to adopt, in addition to the provisions included in this franchise and in all existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of its police power; provided, however, that:

(1) Such regulations are reasonable and not materially in conflict with the privileges granted by this franchise;

(2) Any such regulation shall not require the grantee to redesign or reconstruct its plant and facilities.

(Code 1991, § 4-53; Ord. No. 663, § 28, 9-30-1980)

**Sec. 62-47. Inspection and administration.**

(a) The town council is responsible for the continuing administration of any franchise granted under this article. The council, any member of the council, the clerk-treasurer, or any council agent shall have the right to inspect all pertinent books, records, maps, plans, financial

statements, and other like materials of the grantee related to this franchise. Such materials will be made available by the grantee in its town office within normal business hours, upon receipt of reasonable notice from the council.

(b) The grantee shall file with the council true and accurate maps or plats of all existing and proposed installations. The grantee shall file annually with the council not later than 120 days after the end of the grantee's fiscal year, a financial statement including its gross income and expenditures derived from its operations under the franchising agreement during the preceding 12 month period, prepared or approved by a certified public accountant as being in accordance with generally accepted accounting practices. Upon the request of the council, the grantee shall file with the council written evidence of payment of premiums on insurance policies required by this agreement. The grantee shall keep on file or keep on file with the council any information which the council reasonably deems necessary to ensure that the duties of the grantee, to its customers, and the council are carried out.
(Code 1991, § 4-54; Ord. No. 663, § 29, 9-30-1980)

**Sec. 62-48. Automatic amendments.**

Upon written notification to the grantee by the town, the franchise granted herein shall be deemed automatically amended to include favorable terms or conditions of any other franchise granted by a municipality within the county to the grantee.
(Code 1991, § 4-56; Ord. No. 663, § 31, 9-30-1980)

**Sec. 62-49. Unlawful acts.**

(a) It shall be unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of the grantee's cable television system for the purpose of enabling himself or others to receive any television signals, radio signals, pictures, programs, sounds or other information or intelligence transmitted over grantee's cable system without payment to grantee or its lessee.

(b) It shall be unlawful for any person, without the consent of the owners, to willfully tamper with, remove, or injure any cable, wires, or other equipment used for the distribution of television signals, radio signals, pictures, programs, sounds, or any other information or intelligence transmitted over the grantee's cable system.

(c) It shall be a Code violation punishable by a fine according to the provisions of section 1-8 for any person to violate any of the provisions of this section.
(Code 1991, § 4-58; Ord. No. 663, § 33, 9-30-1980)

**Sec. 62-50. Acceptance of franchise.**

Any franchise granted pursuant to this article shall become effective when accepted by the grantee and shall then be and become a valid and binding agreement between the town and the grantee. The grantee shall accept the terms of this article by filing a written statement of acceptance with the town clerk-treasurer within 30 days from the final passage of the ordinance from which this article is derived. That acceptance shall recite that the grantee

accepts the terms of the ordinance, all of the terms and conditions of this article and the franchise granted by this article subject to those terms and conditions. Should the grantee fail to file such written acceptance with the town clerk within 30 days after the date of final passage of the ordinance from which this article is derived, the grantee shall no longer have the right to bind the town and any written acceptance filed later than said 30-day period shall constitute a request or offer by the grantee to accept such franchise, which request or offer the town shall be free to accept or reject as it sees fit.
(Code 1991, § 4-59; Ord. No. 663, § 34, 9-30-1980)

**Sec. 62-51. Force majeure.**

The grantee shall not be declared in default or be subject to any sanction under any provision of this franchise in those cases in which performance of such provision is prevented by reasons beyond its control.
(Code 1991, § 4-61; Ord. No. 663, § 36, 9-30-1980)

**Editor's note—**Ord. No. 749 was proposed by the town council on May 24, 1988, approving an assignment and transfer pursuant to the terms of Ordinance No. 663. "Force majeure" is a French phrase meaning a superior or irresistible force in the law of insurance.

**Secs. 62-52—62-79. Reserved.**

## ARTICLE III. OTHER FRANCHISE AGREEMENTS

**Sec. 62-80. Authority; content of franchise agreements.**

(a) The town council may enter into written franchise agreements for companies to serve the town.

(b) Such agreements shall be binding on the parties as to rental amounts, safety requirements, inspections, indemnification, bond requirements, and other related areas.
(Code 1991, § 4-65(a), (b))

**Sec. 62-81. Ordinance required.**

Such agreements, in order to be approved, must be passed by an appropriate ordinance of the town council, and shall be kept on file and open for public inspection during regular business hours in the office of the clerk-treasurer.
(Code 1991, § 4-65(c))

Chapters 63—65

**RESERVED**

Chapter 66

# TRAFFIC AND VEHICLES*

## Article I. In General

Sec. 66-1. Adoption of additional regulations.
Sec. 66-2. Powers of local authorities.
Secs. 66-3—66-22. Reserved.

## Article II. Bicycle Regulations

Sec. 66-23. Definitions.
Sec. 66-24. Applicability of provisions.
Sec. 66-25. Compliance with state law.
Sec. 66-26. Parent or guardian permitting violations.
Sec. 66-27. Penalty.
Sec. 66-28. Warning devices.
Sec. 66-29. Lights; reflectors.
Sec. 66-30. Operations subject to state law.
Sec. 66-31. Riding on permanent seat; passengers.
Sec. 66-32. Riding on sidewalks.
Secs. 66-33—66-54. Reserved.

## Article III. Traffic Regulations

Sec. 66-55. Definitions.
Sec. 66-56. Authority of policemen and firemen.
Sec. 66-57. Obedience to provisions.
Sec. 66-58. Persons propelling pushcarts.
Sec. 66-59. Emergency vehicles.
Sec. 66-60. Following fire apparatus; parking near fires.
Sec. 66-61. Driving over fire hose.
Sec. 66-62. Driving on sidewalks.
Sec. 66-63. Driving on play streets.
Secs. 66-64—66-84. Reserved.

## Article IV. Pedestrians

Sec. 66-85. Drivers yielding to pedestrians.
Sec. 66-86. Yielding to vehicles.
Sec. 66-87. Walking along roadways.
Secs. 66-88—66-115. Reserved.

## Article V. Snow Removal, Emergency, Repair Regulations

Sec. 66-116. Public works/street commissioner's duties.

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***State law references—**Application of traffic regulations, IC 9-21-1-1 et seq.; Indiana Manual on Uniform Traffic Control Devises for Streets and Highways, IC 9-21-2-1 et seq.

Sec. 66-117. Parking prohibited signs.
Sec. 66-118. Towing of vehicles.
Sec. 66-119. Role of police department.
Sec. 66-120. Responsible party.
Sec. 66-121. Penalties.
Sec. 66-122. Towing and storage costs.
Sec. 66-123. Settling claims.
Sec. 66-124. Prohibited parking after one inch of snowfall.
Secs. 66-125—66-146. Reserved.

## Article VI. Weight Restrictions

Sec. 66-147. Truck weighing five tons or more prohibited on designated streets.
Sec. 66-148. Weight restrictions for East Washington Street.
Sec. 66-149. Trucks weighing seven tons or more prohibited on certain streets.
Sec. 66-150. Frost law regulations for vehicles in excess of 10,000 pounds.
Sec. 66-151. Written permits.
Sec. 66-152. Signs.
Sec. 66-153. Penalty.
Secs. 66-154—66-172. Reserved.

## Article VII. Parking, Stopping and Standing

### Division 1. Generally

Sec. 66-173. No-parking zones.
Sec. 66-174. Parking vehicles on Oak Hill Road.
Sec. 66-175. Definitions.
Sec. 66-176. Parking on narrow roadways.
Sec. 66-177. Parking in prohibited places.
Sec. 66-178. Parking as to obstruct traffic.
Sec. 66-179. No parking on sidewalks.
Sec. 66-180. Reserved.
Sec. 66-181. Fifteen-minute parking zone.
Sec. 66-182. No parking when sweeping, cleaning or plowing streets (nonemergency).
Sec. 66-183. Storage of vehicles on streets; permit application.
Sec. 66-184. Angle parking.
Sec. 66-185. Towing.
Sec. 66-186. Disabled parking spaces.
Sec. 66-187. Parking of vehicles in residential districts.
Sec. 66-188. Impoundment fee.
Sec. 66-189. Additional parking regulations.
Sec. 66-190. Obstruction of a mailbox prohibited.
Secs. 66-191—66-215. Reserved.

### Division 2. Beach Parking

#### *Subdivision I. In General*

Sec. 66-216. Application.

Sec. 66-217. Definitions.
Sec. 66-218. Rules of evidence.
Secs. 66-219—66-244. Reserved.

*Subdivision II. Payments and Collections*

Sec. 66-245. Payment location; accepted methods.
Sec. 66-246. Reserved.
Secs. 66-247—66-270. Reserved.

*Subdivision III. Parking*

Sec. 66-271. Definitions.
Sec. 66-272. Prohibited places.
Secs. 66-273—66-292. Reserved.

*Subdivision IV. Parking Permits*

Sec. 66-293. Permit—Types.
Sec. 66-294. Same—Display.
Sec. 66-295. Beach area parking permits.
Secs. 66-296—66-323. Reserved.

*Subdivision V. Enforcement*

Sec. 66-324. Enforcement.
Sec. 66-325. Penalties.
Secs. 66-326—66-353. Reserved.

**Article VIII. Speeding and No Passing Regulations**

Sec. 66-354. No-passing zones.
Sec. 66-355. Applicability of state law.
Sec. 66-356. Twenty mile-per-hour speed zones.
Sec. 66-357. Business areas and school areas.
Sec. 66-358. Thirty mile-per-hour speed zones.
Sec. 66-359. Forty mile-per-hour speed zone.
Sec. 66-360. Forty-five mile-per-hour speed zone.
Sec. 66-361. Fifty mile-per-hour speed zone.
Secs. 66-362—66-380. Reserved.

**Article IX. Sign Designations**

Sec. 66-381. Manual and specifications for traffic control devices.
Sec. 66-382. Traffic lanes; crosswalks; safety zones.
Sec. 66-383. "Slow-school" signs.
Sec. 66-384. Stop streets.
Sec. 66-385. Four-way stop intersections.
Sec. 66-386. No right turn on red at certain intersections.
Sec. 66-387. No left turn.
Secs. 66-388—66-417. Reserved.

## Article X. Town Inventory of Roads and Streets

Sec. 66-418. Incorporation by reference.

## ARTICLE I. IN GENERAL

### Sec. 66-1. Adoption of additional regulations.

(a) Except as provided in IC 9-21-1-3.5, the town council may adopt, by ordinance, traffic regulations in addition to those enacted by the state, with respect to highways under the town's jurisdiction. An ordinance adopted under this subsection may not conflict with or duplicate a state statute.

(b) A fine assessed for a violation of a traffic ordinance adopted by the town council may be deposited into the general fund of the town.

### Sec. 66-2. Powers of local authorities.

(a) The town council, with respect to private roads and highways under the town's jurisdiction, in accordance with section 66-1, and within the reasonable exercise of the police power, may do the following:

(1) Regulate the standing or parking of vehicles.

(2) Regulate traffic by means of police officers or traffic control signals.

(3) Regulate or prohibit processions or assemblages on the highways.

(4) Designate a highway as a one-way highway and require that all vehicles operated on the highway be moved in one specific direction.

(5) Regulate the speed of vehicles in public parks.

(6) Designate a highway as a through highway and require that all vehicles stop before entering or crossing the highway.

(7) Designate an intersection as a stop intersection and require all vehicles to stop at one or more entrances to the intersection.

(8) Restrict the use of highways as authorized in IC 9-21-4-7.

(9) Regulate the operation of bicycles and require the registration and licensing of bicycles, including the requirement of a registration fee.

(10) Regulate or prohibit the turning of vehicles at intersections.

(11) Alter the prima facie speed limits authorized under IC 9-21-5.

(12) Adopt other traffic regulations specifically authorized by state statute.

(13) Adopt traffic regulations governing traffic control on public school grounds when requested by the governing body of the school corporations.

(14) Regulate or prohibit the operation of low-speed vehicles on highways.

(b) An ordinance or regulation adopted under subsection (a)(4), (a)(5), (a)(6), (a)(7), (a)(8), (a)(10), (a)(11), (a)(12), (a)(13), or (a)(14) of this section is effective when signs giving notice of the local traffic regulations are posted upon or at the entrances to the highway or part of the highway that is affected.

**Secs. 66-3—66-22. Reserved.**

## ARTICLE II. BICYCLE REGULATIONS*

### Sec. 66-23. 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:

*Bicycle* means any foot-propelled vehicle, irrespective of the number of wheels in contact with the ground.
(Code 1991, § 8-1)

**State law reference—**Bicycle definition, IC 9-13-2-14.

### Sec. 66-24. Applicability of provisions.

The provisions of this article shall apply whenever a bicycle is operated upon any sidewalk, street or roadway.
(Code 1968, § 4-1; Code 1991, § 8-2; Ord. No. 351, § 15, 9-8-1953)

### Sec. 66-25. Compliance with state law.

No person shall do any act forbidden, or fail to perform any act required, in this article or under the laws of the state which are incorporated herein and made a part hereof, or by any officer engaged in a lawful discharge of his official duties.
(Code 1968, § 4-2; Code 1991, § 8-3; Ord. No. 351, § 15, 9-8-1953)

### Sec. 66-26. Parent or guardian permitting violations.

No parent or guardian shall authorize or knowingly permit any child or ward to violate any of the provisions of this article.
(Code 1968, § 4-3; Code 1991, § 8-4; Ord. No. 351, § 15, 9-8-1953)

### Sec. 66-27. Penalty.

(a) Every person convicted of violating any provisions of this article shall be punished as provided in section 1-8.

(b) In addition to the penalty provided in section 1-8, such person's bicycle may be impounded by the police department for a period of time not to exceed 15 days.
(Code 1968, § 4-4; Code 1991, § 8-5; Ord. No. 351, § 15, 9-8-1953)

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***State law reference—**Bicycles and motorized bicycles, IC 9-21-11-1 et seq.

**Sec. 66-28. Warning devices.**

No person shall ride a bicycle unless it is equipped with a bell, or other device, except a siren or whistle, which can be heard for a distance of at least 100 feet.
(Code 1968, § 4-15; Code 1991, § 8-6; Ord. No. 351, § 15, 9-8-1953)

**Sec. 66-29. Lights; reflectors.**

Every bicycle, when in use at night, shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front, and with a lamp on the rear or a red light reflector visible from a distance of 500 feet to the rear.
(Code 1968, § 4-16; Code 1991, § 8-7; Ord. No. 351, § 15, 9-8-1953)

**Sec. 66-30. Operations subject to state law.**

Every person riding a bicycle upon the sidewalks, streets and roadways of the town shall be subject to the provisions of this article, and traffic regulations of the state, applicable to the driver of a vehicle.
(Code 1968, § 4-22; Code 1991, § 8-8; Ord. No. 351, § 15, 9-8-1953)

**Sec. 66-31. Riding on permanent seat; passengers.**

A person propelling a bicycle shall not ride other than upon the permanent and regular seat attached thereto, nor carry any other person upon such bicycle otherwise than upon a firmly attached and regular seat thereon.
(Code 1968, § 4-23; Code 1991, § 8-9; Ord. No. 351, § 15, 9-8-1953)

**Sec. 66-32. Riding on sidewalks.**

No person shall ride a bicycle upon a sidewalk within a business district, and no person more than 15 years of age shall ride a bicycle upon any sidewalk within the town.
(Code 1968, § 4-24; Code 1991, § 8-10; Ord. No. 351, § 15, 9-8-1953)

**Secs. 66-33—66-54. Reserved.**

## ARTICLE III. TRAFFIC REGULATIONS

**Sec. 66-55. 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:

*Roadway* means that portion of a street between regularly established curblines.

*Sidewalk* means that portion of a street between the curblines and the adjacent property lines.

*Street* means every way set apart for public travel, except alleyways, bridle paths and foot paths.

*Vehicle* means any device by which any person or property may be transported upon a public highway, except those devices operated upon rails and permanent tracks.
(Code 1968, § 28-1; Code 1991, § 8-15; Ord. No. 374, § 1B, 3-26-1957)

**Sec. 66-56. Authority of policemen and firemen.**

(a) The officers of the police department shall enforce all street traffic laws of the town and all of the state vehicle laws applicable to street traffic within the town.

(b) Officers of the police department may direct traffic by voice, hand or signal in conformance with traffic laws. In the event of a fire or other emergency, or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require, notwithstanding the provisions of the traffic laws.

(c) Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity thereof.
(Code 1968, § 28-2; Code 1991, § 8-16; Ord. No. 351, § 1, 9-8-1953)

**Sec. 66-57. Obedience to provisions.**

(a) No person shall do any act forbidden by this article or fail to perform any act required in this article.

(b) No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official.
(Code 1968, § 28-3; Code 1991, § 8-17; Ord. No. 351, § 2, 9-8-1953)

**Sec. 66-58. Persons propelling pushcarts.**

Every person propelling a pushcart upon public streets shall be subject to the provisions of this article applicable to the driver of any vehicle.
(Code 1968, § 28-4; Code 1991, § 8-18; Ord. No. 351, § 3, 9-8-1953)

**Sec. 66-59. Emergency vehicles.**

The provisions of this article regulating the operation, parking and standing of vehicles shall apply to authorized police, fire and ambulance vehicles, except as follows:

(1) A driver, when operating any such vehicle in an emergency, except when otherwise directed by a police officer, may:

   a. Park or stand notwithstanding the provisions of this article.

   b. Proceed past a stop signal or sign, but only after slowing down as may be necessary for the safety or life or property.

(2) Those exemptions herein granted shall apply only when the driver of the vehicle sounds a siren, bell or whistle as may be reasonably necessary, and the vehicle displays

a lighted red lamp visible as a warning to others, or displays such other lights as are approved by the laws of the state indicating that the vehicle is an emergency vehicle.

(3) The foregoing exemptions shall not protect the drive of any such vehicle from the consequences of his reckless disregard of the safety of others.

(Code 1968, § 28-5; Code 1991, § 8-19; Ord. No. 351, § 4, 9-8-1953)

**Sec. 66-60. Following fire apparatus; parking near fires.**

No driver of any vehicle other than one on official business shall follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within the block where the fire apparatus has stopped in answer to a fire alarm. (IC 9-4-1-120)
(Code 1968, § 28-24; Code 1991, § 8-20; Ord. No. 351, § 14, 9-8-1953)

**Sec. 66-61. Driving over fire hose.**

No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street, alley or private driveway, to be used at any fire alarm or fire, without the consent of the fire department official in command. (IC 9-4-1-121)
(Code 1968, § 28-25; Code 1991, § 8-21; Ord. No. 351, § 14, 9-8-1953)

**Sec. 66-62. Driving on sidewalks.**

No person shall drive a vehicle over or upon a sidewalk except for the purpose of entering a permanent or temporary driveway.
(Code 1968, § 28-26; Code 1991, § 8-22; Ord. No. 351, § 14, 9-8-1953)

**Sec. 66-63. Driving on play streets.**

(a) The town council shall close such streets or parts of streets as it deems proper for use as play streets.

(b) Whenever authorized signs or barricades are erected indicating a street as a play street, no person shall drive a vehicle thereon except drivers of vehicles having residences within such closed areas, and those drivers shall exercise the greatest of caution.
(Code 1968, § 28-27; Code 1991, § 8-23; Ord. No. 351, § 8, 9-8-1953)

**Secs. 66-64—66-84. Reserved.**

## ARTICLE IV. PEDESTRIANS*

**Sec. 66-85. Drivers yielding to pedestrians.**

(a) The driver of a vehicle shall yield the right-of-way to a pedestrian crossing a street within a crosswalk when the pedestrian is upon the half of the street upon which the vehicle is traveling, or when the pedestrian is so close on the opposite half of the street as to be in danger.

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***State law reference—**Pedestrian regulations, IC 9-21-17-1 et seq.

(b) No pedestrian shall suddenly leave a curb and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield the right-of-way.
(Code 1968, § 28-16; Code 1991, § 8-31; Ord. No. 351, § 12, 9-8-1953)

**Sec. 66-86. Yielding to vehicles.**

Every pedestrian crossing a street at any point other than within a marked or unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.
(Code 1968, § 28-17; Code 1991, § 8-32; Ord. No. 351, § 12, 9-8-1953)

**Sec. 66-87. Walking along roadways.**

Where sidewalks are not provided, any pedestrian walking along and upon a highway shall walk only on the left side of the roadway or its shoulder, facing traffic which may approach from the opposite direction.
(Code 1968, § 28-18; Code 1991, § 8-33; Ord. No. 351, § 12, 9-8-1953)

**Secs. 66-88—66-115. Reserved.**

## ARTICLE V. SNOW REMOVAL, EMERGENCY, REPAIR REGULATIONS

**Sec. 66-116. Public works/street commissioner's duties.**

The public works/street commissioner of the town is authorized and empowered to prohibit parking on the streets and alleys of the town for the purpose of snow removal, emergencies, repairs and maintenance.
(Code 1991, § 8-39; Ord. No. 597-A, § 1, 3-8-1977)

**Sec. 66-117. Parking prohibited signs.**

Whenever the public works/street commissioner shall determine that parking should be prohibited upon any street or alley in order to expedite the orderly and sufficient removal of snow, or for the purpose of repairs and maintenance or in any emergency, as so determined by the public works/street commissioner, the public works/street commissioner shall cause signs at least 8½ inches by 11 inches in size to be posted within the right-of-way of said street or alley, at least every 300 feet, which signs shall be substantially as follows:

NO PARKING FROM _____ TO _____

PUBLIC WORKS/STREET COMMISSIONER, TOWN OF PORTER
(Code 1991, § 8-40; Ord. No. 597-A, § 2, 3-8-1977)

**Sec. 66-118. Towing of vehicles.**

The signs specified in section 66-117 shall prohibit parking for no more than eight hours and shall be posted for at least four hours before it shall be lawful to tow or remove vehicles parked on the street or alley so posted.
(Code 1991, § 8-41; Ord. No. 597-A, § 3, 3-8-1977)

**Sec. 66-119. Role of police department.**

The police department and all members thereof are authorized to have removed and towed away by commercial towing service any vehicle parked on any street or alley so posted, as set forth in section 66-118, for a period of four hours or more.
(Code 1991, § 8-39; Ord. No. 597-A, § 4, 3-8-1977)

**Sec. 66-120. Responsible party.**

The fact that a vehicle which is illegally parked is registered in a name of a person shall be considered prima facie proof that such person was in control of the automobile at the time of such parking.
(Code 1991, § 8-43; Ord. No. 597-A, § 4, 3-8-1977)

**Sec. 66-121. Penalties.**

Any person violating any provision of this article shall be guilty of a Code violation and, upon conviction, shall be fined as provided in section 1-8 for each offense.
(Code 1991, § 8-44; Ord. No. 597-A, § 6, 3-8-1977)

**Sec. 66-122. Towing and storage costs.**

Any person who shall own or operate a vehicle towed away, as heretofore provided, shall be responsible for and pay the towing and storage charge, if any, incurred in connection with the removal of said vehicle in addition to any fine and costs imposed by this article.
(Code 1991, § 8-45; Ord. No. 597-A, § 7, 3-8-1977)

**Sec. 66-123. Settling claims.**

Any person accused of a violation of this article may settle and compromise the claim against him for such illegal parking by paying to the town the sum of $25.00 for the first violation within 72 hours of the time such alleged offense was committed. Such payment may be made at the town police station and a receipt shall be issued for all monies so received. Second and subsequent violations shall require the appearance of the person so charged before a court of proper jurisdiction within the county.
(Code 1991, § 8-46; Ord. No. 597-A, § 8, 3-8-1977)

**Sec. 66-124. Prohibited parking after one inch of snowfall.**

After an accumulation of one inch of snowfall, no person shall park a vehicle on the right-of-way of the following streets between the hours of 4:00 a.m. and 6:00 a.m.:

| *Street* | *From* | *To* |
|---|---|---|
| Lincoln | Francis | Wagner |

(Code 1991, § 8-47; Ord. No. 615, § 4, 4-11-1978)

**Secs. 66-125—66-146. Reserved.**

## ARTICLE VI. WEIGHT RESTRICTIONS

### Sec. 66-147. Truck weighing five tons or more prohibited on designated streets.

(a) No truck weighing five tons or more shall use any part of the following streets, except when engaged in making local deliveries:

(1) Beam.

(2) Howe.

(3) Mineral Springs.

(4) Oak Hill.

(5) Old Porter Road.

(6) Waverly.

(7) Main.

(8) Hjelm.

(9) Tremont.

(10) Lincoln Street.

(11) Franklin Street.

(12) Michigan Avenue.

(13) Indiana Avenue.

(b) When making any local deliveries, no truck weighing five tons or more shall travel on any of the streets designated a distance greater than the minimum distance necessary to arrive at its destination.

(Code 1968, § 28-89; Code 1991, § 8-53; Ord. No. 442, § 1; Ord. No. 731, § 1, 8-27-1986; Ord. No. 2008-14, 8-26-2008)

**State law reference—**Reduction of weight allowed, IC 9-20-7-2.

### Sec. 66-148. Weight restrictions for East Washington Street.

(a) No vehicle with a weight of six tons or more shall be allowed to use East Washington Street.

(b) Upon approval by the town council, signs shall be posted on or near East Washington Street to advise the public of this weight restriction.

(c) The town police department shall have the authority to enforce this section.

(Ord. No. 2005-11, 11-22-2005)

**State law reference—**Reduction of weight allowed, IC 9-20-7-2.

**Sec. 66-149. Trucks weighing seven tons or more prohibited on certain streets.**

(a) From and after the effective date of the ordinance from which this section is derived, vehicles having a gross weight of seven tons or more shall not be driven or operated upon any part or portion of Wagner Road in the town.

(b) Violation of this section shall constitute a Code violation punishable by a fine as provided in section 1-8.

(Code 1968, § 28-90; Code 1991, § 8-54; Ord. No. 498, §§ 1, 2, 3-24-1970; Ord. No. 499, § 2, 5-12-1970)

**State law reference—**Reduction of weight allowed, IC 9-20-7-2.

**Sec. 66-150. Frost law regulations for vehicles in excess of 10,000 pounds.**

For and at all times during a period of days, not to exceed 90 days in any one calendar year, which shall be those days as designated by the town council, when in the opinion and judgment of the public works/street commissioner, it becomes necessary by reason of deterioration, rain, snow or other climatic conditions to prohibit the operation of vehicles or impose restrictions as to the weight of vehicles to be operated on streets and highways within the town limits, excepting therefrom any highways in the state highway system and the state maintained routes thereof, any motor vehicle or combination of vehicles having a combined total gross weight, including load, in excess of 10,000 pounds, except when a written permit therefor shall have been first obtained from the public works/street commissioner of the town.

(Code 1991, § 8-55; Ord. No. 555, § 1, 3-26-1974)

**State law reference—**Local authorities, weight restrictions, IC 9-20-1-3.

**Sec. 66-151. Written permits.**

Any permit issued by the public works/street commissioner of the town, as referred to in section 66-150, shall specify and direct in writing the streets and highways of the town that may be utilized by the permittee.

(Code 1991, § 8-56; Ord. No. 555, § 2, 3-26-1974)

**Sec. 66-152. Signs.**

The limitation of gross weight of vehicles operating on the streets and highways, as referred to in section 66-150, shall be effective upon a directive from the town council to the public works/street commissioner to erect and maintain signs designating said gross weight limitation at each end of that portion of any road, street or highway affected thereby and at intersecting roads, streets or highways. Said limitation of gross weight of vehicles shall cease upon a directive from the town council to the public works/street commissioner to remove said signs.

(Code 1991, § 8-57; Ord. No. 555, § 3, 3-26-1974)

**Sec. 66-153. Penalty.**

A violation of this article shall constitute a Code violation and, upon conviction, a penalty shall be assessed as provided in section 1-8.
(Code 1991, § 8-58; Ord. No. 555, § 4, 3-26-1974)

**Secs. 66-154—66-172. Reserved.**

## ARTICLE VII. PARKING, STOPPING AND STANDING

### DIVISION 1. GENERALLY

**Sec. 66-173. No-parking zones.**

When signs are erected giving notice of parking restrictions prohibiting parking in certain locations, no person shall park any vehicle or trailer at any time on any of the following streets or easements:

| *Street* | *Side* | *From* | *To* |
|---|---|---|---|
| Wagner Rd | Both | Lincoln St | Michigan St |
| Waverly Rd | Both | State Park Rd | Roskin Rd |
| Waverly Rd | Both | Woodlawn Ave | Little Calumet River |
| Old Porter Rd | Both | Mineral Springs Rd | Babcock Rd |
| Wabash Ave | Both | All | All |
| State St | Both | All | All |
| Francis St | West | Rankin St | Franklin St |
| Pleasant Ave | Both | Lincoln St | Franklin St |
| Pleasant Ave | West | Franklin St | Rankin St |
| Porter Ave | Both | Lincoln St | Franklin St |
| Porter Ave | West | Franklin St | Beam St |
| Woodlawn Ave | North | Locust St | Town Limits |
| Roskin Rd | Both | All | All |
| Duneland Dr | Both | All | All |
| Johnson Beach Rd | Both | All | All |
| Brockmeier St | Both | All | All |
| Dearborn St | Both | All | All |
| Glacier Trail | Both | All | All |
| Dudley Dr | Both | All | All |
| Market St | Both | All | All |
| Monroe St | Both | N Mineral Springs Rd | Vine St |
| Vine St | Both | Monroe St | End |
| 19th St | West side | Wood St | Broadway |
| Ash St | Both | Knoelke Dr | End |

| *Street* | *Side* | *From* | *To* |
|---|---|---|---|
| Birch St | Both | Knoelke Dr | End |
| Cedar St | Both | Knoelke Dr | End |
| Clark St | Both | US Highway 12 | End |
| Knoelke St | Both | Clark St | Waverly Rd |
| Dune Forest Trl | Both | Clark St | Waverly Rd |
| N Triangle Dr | Both | Dune Forest Trl | E Triangle Dr |
| E Triangle Dr | Both | N Triangle Dr | Dune Forest Trl |
| Park Ave | Both | 23rd St | Cul-de-Sac |
| Johnson St | Both | Park Ave | South dead end |
| Portage Ave | Both | 23rd St | 1300' to west |
| Eugene St | Both | 23rd St | 1300' to west |
| 24th Pl (Johnson St) | Both | Eugene St | South to Town limit |
| 25th Pl | Both | Eugene St | South to Town limit |
| Johnson St | Both | Marquette Rd | Wood St |
| Krieger St | Both | Johnson St | 23rd St |
| N Bailey Dr | Both | All | All |
| S Bailey Dr | Both | All | All |
| Ballard Dr | Both | All | All |
| Hjelm Rd | Both | All | All |
| Fleming St | Both | All | All |
| Coleman St | Both | All | All |
| Ryan Ct | Both | All | All |
| North River Dr | Both | US Highway 20 | End |
| Planet Ct | Both | US Highway 20 | N Mineral Springs Rd |
| Howe Rd | Both | US Highway 20 | N Mineral Springs Rd |

(Code 1968, § 28-44; Code 1991, § 8-63; Ord. No. 559, § 1, 5-28-1974; Ord. No. 591, § 5, 5-25-1976; Ord. No. 608, § 1, 1-10-1978; Ord. No. 615, § 4, 4-11-1978; Ord. No. 2006-12, §§ 1, 2, 6-13-2006; Ord. No. 2013-11, § 1, 9-5-2013; Ord. No. 2020-07, § 1, 6-9-2020; Ord. No. 2025-05, § 1, 5-27-2025)

**Sec. 66-174. Parking vehicles on Oak Hill Road.**

(a) *Prohibited; where.* Parking of automotive vehicles shall be prohibited on Oak Hill Road between State Road 49 and Highway 12.

(b) *Enforcement.* The town police department shall be authorized and empowered to enforce the vehicular parking prohibitions contained herein. Such enforcement may include:

(1) Impoundment of the unlawfully parked vehicle and issuance of a citation to the owner of the vehicle for violating this section of this Code.

(2) Removal of the unlawfully parked vehicle by a commercial towing service which shall hold the vehicle until a proper release form is provided by the police department.

Any commercial towing service removing and towing a vehicle under the provisions of this section shall use ordinary care and responsibility in the removal, towing and storage of the vehicle. A commercial towing service shall be entitled to assess the vehicle owner reasonable towing and storage charges. The commercial towing service shall not be obligated to release any towed vehicles other than during normal business hours.

(Ord. No. 2007-13, 7-24-2007; Ord. No. 2021-11, § 1, 6-22-2021)

**Sec. 66-175. 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:

*Agricultural equipment* means any motorized or non-motorized equipment which is used for agricultural tasks, including without limitation a tractor or any vehicle or device used to mount, tow or move agricultural implements.

*Commercial vehicle* means any motor vehicle with more than two axles; any motor vehicle with a declared gross vehicle weight of more than 10,000 pounds; any vehicle which is not a passenger vehicle as defined herein; all semi-tractors and/or trailers; or any trailer, any portion of which is designed for commercial, professional, or business purposes.

*Construction equipment* means any motorized or non-motorized equipment, which is used off-premises for the purpose of construction related tasks, including, but not limited to excavation, compaction, paving, spreading, hauling, loading, leveling, or cutting.

*Emergency vehicle* means a vehicle used for the purpose of responding to emergencies involving injuries to persons, damage to property or the environment, law enforcement, or traffic control or response, and operated specifically by, but not limited to the following: fire department, police department, sheriff's department, ambulance provider, hazardous materials response unit, armed forces, county coroner, and/or the national lakeshore or national park service.

*Passenger vehicle* means any automobile, pick-up truck, sport utility vehicle, motorcycle, or van with a maximum of two axles, and with a declared gross vehicle weight of no more than 10,000 pounds.

*Recreational vehicle* means a portable vehicular structure designed as a temporary dwelling for travel and vacation uses which is identified on the unit by the manufacturer as a travel trailer or a motor home; is of a size that is street legal; is a structure mounted on an automobile or truck; and is designed to be used for sleeping and human habitation and/or hauling of "toy" vehicles such as ATVs, motorcycles or dirt bikes. This includes, without limitation, all class A through class C, super C and bus conversion motor homes, $5^{th}$ wheel recreational vehicles, toy haulers and travel trailers.

*Utility service vehicle* means a truck owned by an electric, gas, telephone, pipeline, or other similar utility, or a tow truck, or similar vehicle driven to the residence of an employee for the purpose of responding directly in case of emergency.

*Vehicle* means an automobile, a motorcycle, a truck, a trailer, a semitrailer, a tractor, a bus, a school bus, a recreational vehicle, a motorized bicycle, or any other device by which any person, property or equipment may be transported or moved.

*Yard* means an open space on a zoning lot which is unoccupied and unobstructed from the ground level or lowest level otherwise specified, to the sky, extending along a lot line at right angles to such lot line to a depth or width specified in the yard regulations for the zoning district in which such zoning lot is located.

*Yard, front* means a yard extending along the full length of the front lot line between the side lot lines.

*Yard, rear* means a yard extending along the full length of the rear lot line between the side lot lines.

*Yard, side* means a yard extending along a side lot line from the front yard (or front lot line when there is no front yard) to the rear yard (or rear lot line when there is no rear yard).
(Ord. No. 2023-04, § 1, 6-27-2023; Ord. No. 2024-13, §§ 1, 2, 10-8-2024)

**Sec. 66-176. Parking on narrow roadways.**

No person shall park a vehicle on any roadway within the town used for public ingress and egress which is less than ten feet wide.
(Code 1968, § 28-46; Code 1991, § 8-65; Ord. No. 351, § 13, 9-8-1953; Ord. No. 424, § 2, 4-7-1964)

**Sec. 66-177. Parking in prohibited places.**

No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the law or the directions of a police officer, in any of the following places:

(a) On a sidewalk.

(b) In front of a public or private driveway.

(c) Within an intersection.

(d) Within 15 feet of a fire hydrant.

(e) On a crosswalk.

(f) Within 20 feet of a crosswalk at an intersection.

(g) Reserved.

(h) Within 50 feet of the nearest rail of a railroad crossing.

(i) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic.

(j) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

(k) Upon any bridge or other elevated structure.

(l) At any place where official signs prohibit stopping.

(Code 1968, § 28-46; Code 1991, § 8-66)

**Sec. 66-178. Parking as to obstruct traffic.**

(a) No person shall park any vehicle upon any street in such a manner or under such conditions as to leave available less than ten feet of the width of any street, alley or roadway for free movement of vehicular traffic.

(b) No person shall stop, stand or park a vehicle within an alley in such position as to block the driveway entrance to any abutting property.

(Code 1968, § 28-49; Code 1991, § 8-67)

**Sec. 66-179. No parking on sidewalks.**

No person shall leave any motor vehicle standing upon a sidewalk in such a way as to obstruct such sidewalk.

(Code 1968, § 28-50; Code 1991, § 8-68; Ord. No. 102, § 2)

**Sec. 66-180. Reserved.**

**Editor's note—**Ord. No. 2025-05, § 2, adopted May 27, 2025, repealed § 66-180, which pertained to parking restrictions in certain subdivisions and derived from Code 1991, § 8-69; Ord. No. 615, § 14, 4-11-1978.

**Sec. 66-181. Fifteen-minute parking zone.**

When signs are erected giving notice thereof, no person shall park a vehicle for more than 15 consecutive minutes in any of the following locations:

| *Street* | *Side* | *From* | *To* |
|---|---|---|---|
| Lincoln Street | North | 25 feet west of the west curb of Francis Street | 70 feet west of the west curb of Francis Street |
| Lincoln Street | North | 20 feet west of the west curb of Pleasant Street | 40 feet west of the west curb of Pleasant Street |
| Wagner Road | East | Lincoln Street | Alley # 1 |

(Code 1991, § 8-70; Ord. No. 639, § 1, 4-24-1979)

**Sec. 66-182. No parking when sweeping, cleaning or plowing streets (nonemergency).**

The street commissioner or his designee is hereby given the power to place temporary signs reading "No Parking" along any street which he intends to sweep, clear, plow, or work within the succeeding 24 hours. The street commissioner or his designee shall post on every street that he intends to work with said signs prior to 4:00 p.m. (local time) of the preceding day. All vehicles shall be removed before 8:00 a.m. of the day the street is to be worked, and shall remain removed until said signs are removed by the street commissioner.
(Code 1991, § 8-71; Ord. No. 639, § 2, 4-24-1979)

**Sec. 66-183. Storage of vehicles on streets; permit application.**

(a) Using streets for storage of vehicles or parking of vehicles for more than 72 consecutive hours is prohibited. No person shall park or cause to be parked any motor vehicle upon any street or public highway in the town, for a period longer than 72 consecutive hours except as hereinafter provided.

(b) Any person who desires to park a motor vehicle upon any street in the town, for a period of more than 72 consecutive hours shall apply to the chief of police or his designee for a permit to do so. The chief of police or his designee shall grant such permit only after determining that:

(1) The safety of the persons traveling on the street upon which it is desired to park such motor vehicle will not be endangered;

(2) The reason stated for parking a motor vehicle for more than 72 consecutive hours is such that the granting of such permit is necessary and reasonable; and

(3) A permit granted by the chief of police or his designee shall state the name of the person seeking the permit, his address, the address at which the motor vehicle shall be parked, the model, kind and registration place of the motor vehicle to be parked, and the expiration date of said permit, and the reason thereof.

(Code 1991, § 8-72; Ord. No. 639, § 3, 4-24-1979)

**Sec. 66-184. Angle parking.**

Angle parking on the streets and alleys is hereby prohibited except on the streets and alleys designated below:

| *Street* | *Side* | *From* | *To* |
|---|---|---|---|
| Lincoln | South | Porter Avenue | Wagner Road |

(Code 1991, § 8-73)

**Sec. 66-185. Towing.**

Any vehicle that is illegally parked in violation of sections 66-173, 66-181, 66-182, 66-183 or 66-184 may be removed from the street, alleys, or highways within the town under the direction of the police department and impounded in place designated by the chief of police or his designee. All charges for the removal and storage of said vehicles shall be borne by the owner of the vehicle.
(Code 1991, § 8-73; Ord. No. 639, § 5, 4-24-1979; Ord. No. 2020-07, § 2, 6-9-2020; Ord. No. 2023-04, § 2, 6-27-2023)

**Sec. 66-186. Disabled parking spaces.**

(a) The board of trustees may, by motion, designate parking spaces to be reserved for the use of physically disabled persons only, and erect like signs as required by law designating said space as "Handicapped Parking Only" or "Physically Disabled Parking Only."

(b) It shall be unlawful for any person to park a motor vehicle which does not have displayed a parking placard for persons with physical disabilities issued under IC 9-14-5-1, a valid disabled veteran's license plate under IC 9-18-18-1, or a valid license plate or decal for persons with disabilities issued under IC 9-18-22-1, in any space in the town designated as "Handicapped Parking Only" or "Physically Disabled Parking Only." Any motor vehicle displaying a valid parking placard for persons with physical disabilities, a valid disabled veteran's license plate, or a valid license plate or decal for persons with disabilities issued under the laws of another state can be used to stand or park in a space reserved for those with physical disabilities, only when the vehicle is being used to transport a physically disabled person.

(c) It is a defense that a physically disabled person was using a motor vehicle that was parked in the reserved space.

(d) The police department of the town is authorized to have towed away at the offender's expense any vehicles unlawfully parked under subsection (b) of this section in spaces designated as "Handicapped Parking Only" or "Physically Disabled Parking Only."

(e) Reserved.

(f) Before an out-of-state resident may retrieve his vehicle from impound, he will be required to deposit or post security or bond sufficient to pay the fine described in subsection (e) of this section.

(Ord. No. 92-08-816, § 1, 9-22-1992; Ord. No. 92-09-816, § 1, 9-22-1992; Ord. No. 2021-11, § 2, 6-22-2021)

**State law references—**Parking placards for persons with physical disabilities, IC 9-14-5-1 et seq.; eligible persons, IC 9-18-18-1 et seq.; eligibility for disability license plate, IC 9-18-22-1 et seq.

**Sec. 66-187. Parking of vehicles in residential districts.**

(a) No person shall park any motor home, travel trailer, camping trailer, recreational vehicle, boat, flatbed truck, utility trailer, or any commercial vehicle over three-fourths ton on any street or alley right-of-way yard of any property located in a residentially zoned district in the town. Emergency vehicles and "on call" utility service vehicles from public utilities or automobile towing companies are exempted therefrom.

(b) Off-street parking areas in any residential district shall be used solely for the parking of passenger vehicles, recreational vehicles, boats, and similar equipment, owned by occupants of the dwelling structures to which such facilities are accessory or by guests of such occupants.

(c) Off-street parking areas, or space(s) within an off-street parking area, located in a residential district may not be rented or leased except in conjunction with and ancillary to the lease of a dwelling unit (whether or not use of the parking area is separately charged), and the rental thereof shall be limited to the occupant of such leased dwelling until. Any other lease or rental of off-street parking areas, or space(s) within an off-street parking area, whether on a short-term or long-term basis, constitutes a commercial use and is prohibited in a residential district. The foregoing shall not prohibit use of off-street parking areas in a residential district pursuant to a legally recorded easement.

(d) Under no circumstances shall the parking or storage of commercial vehicles, semi-tractors and/or trailers, construction equipment, agricultural equipment or the parking of automobiles belonging to employees, owners, tenants, visitors or customers of business or industrial establishments take place in any residential zoning district, except for expeditious delivery, pickup of materials or construction use, and except as otherwise permitted in conjunction with permitted home occupations in compliance with applicable town zoning ordinances and state law.

(e) Off-street parking of passenger vehicles, recreational vehicles, boats, and similar equipment, required for uses permitted in residential districts, shall be located in the required front, side or rear yards. All vehicle parking within the required front yard shall be within the driveway only. No vehicles may block a sidewalk per section 66-177(a). All vehicle parking shall be on a hard surface comprised of concrete, asphalt or a comparable all-weather dustless material approved by the building commissioner.

(f) These regulations shall be enforced in the following manner:

(1) A warning ticket shall be issued by the town police department to the owner of any illegally parked vehicle and said owner pursuant thereto shall be given 72 hours in which to move the illegally parked vehicle.

(2) If the vehicle fails to heed the warning ticket, the owner of the vehicle shall be cited by the town police department, or code enforcement officer, for violation of this section and shall be subject to a fine in accordance with sections 1-8 and 1-18.

(Ord. No. 95-05, § 1, 8-22-1995; Ord. No. 97-08, § 1, 4-28-1998; Ord. No. 2021-11, §§ 3, 4, 6-22-2021; Ord. No. 2023-04, § 3, 6-27-2023; Ord. No. 2024-13, § 3, 10-8-2024)

**Sec. 66-188. Impoundment fee.**

A fee of $25.00 shall be assessed and collected from the owner of any motor vehicle impounded by the police department. The fee shall be collected by the police department dispatcher upon release of the motor vehicle.

(Ord. No. 94-05, § 1, 2-22-1994; Ord. No. 2024-15, § 1, 11-12-2024)

**Sec. 66-189. Additional parking regulations.**

No person shall park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within 12 inches of the curb or the edge of the roadway, except as otherwise expressly provided in the Code.

(Ord. No. 2023-04, § 4, 6-27-2023)

**Sec. 66-190. Obstruction of a mailbox prohibited.**

(a) *Purpose.* It is hereby declared that the purpose of this section is to prohibit the obstruction by a vehicle of a mailbox in such a manner so as to impede the delivery of the mail by the United States Postal Service.

(b) *Definition of mailbox.* As used in this section, mailbox means: a public container approved by the United States Postal Service for deposit of outgoing mail; or a private container approved by the United States Postal Service for incoming mail.

(c) *Obstruction of mailbox.* A person may not stop, stand, or park a vehicle in such a manner as to obstruct a mailbox or to interfere with the delivery of mail by the United States Postal Service. Vehicles following the direction of a law enforcement officer or traffic control device, emergency vehicles when responding to an emergency call, United States Postal Service vehicles, and individuals stopped for the sole purpose of placing or removing mail from a mailbox are exempted from this section.

(d) *Enforcement.* Enforcement of this section shall be by the town police department. If a vehicle is found to be in violation of this section, the owner of the vehicle shall be subject to a fine in accordance with sections 1-8 and 1-18.

(Ord. No. 2023-04, § 5, 6-27-2023)

**Secs. 66-191—66-215. Reserved.**

## DIVISION 2. BEACH PARKING

### *Subdivision I. In General*

**Sec. 66-216. Application.**

The provisions of this division shall apply to all operators of all vehicles, public and private, and they shall be enforced 24 hours a day, except as otherwise specified by this division. It shall be prohibited for any operator to violate any of the provisions of this division except as otherwise permitted.
(Ord. No. 2006-09, § 1-2, 5-9-2006)

**Sec. 66-217. 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:

*Driver* means a person who drives or is in actual physical control of a vehicle.

*Emergency vehicle* means a vehicle operated specifically by, but not limited to: the fire department, police department, sheriff department, ambulance, hazardous materials response unit, armed forces, county coroner, national lakeshore.

*Official traffic control devices* means signs, signals, markings, and devices consistent with this division, placed or erected by the town, for the purpose of regulating, warning, or guiding traffic.

*Owner* means a person, other than a lienholder, having the property right in, or title to, a vehicle. This includes a person entitled to the use and possession of a vehicle subject to the security interest in another lease not intended as security.

*Park* or *parking*, when permitted, means the temporary storing of a vehicle, whether occupied or not. The term "park" or "parking," when prohibited, means the halting of a vehicle, whether occupied or not, including momentarily for the purpose of and while engaged in loading or unloading property or passengers.

*Parking lot* means any property designated by the town for temporary or longterm storage of a motor vehicle.

*Police officer* means a natural person authorized by law to make arrests for violations of the law.

*Should* indicates that an action is advisable but not required.

*Stand* or *standing*, when prohibited, means the halting of a vehicle whether occupied or not, including momentarily, for the purpose of and while actually engaged in receiving or discharging passengers.

*Stop* or *stopping,* when prohibited, means any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic, or in compliance with the directions of a police officer, or traffic control sign or signal.

*Street* means the entire width between the boundary lines of streets maintained by the town for the purpose of vehicular travel.

*Traffic* means pedestrians, vehicles, and any other conveyances, whether singularly or together, using any street for purposes of travel.

*Vehicle* means every device in, upon, or by which any person or property is, or may be, transported or drawn upon a street.
(Ord. No. 2006-09, § 1-3, 5-9-2006)

**Sec. 66-218. Rules of evidence.**

When a vehicle is found to be in violation of this division, it shall be assumed that the vehicle was parked by:

(1) The person issued the town parking permit for said vehicle.

(2) The person, company, firm or corporation in whose name the vehicle is registered with the state bureau of motor vehicles, or the corresponding agency of another state or nation, if no parking permit has been issued for the vehicle.

(Ord. No. 2006-09, § 1-4, 5-9-2006)

**Secs. 66-219—66-244. Reserved.**

*Subdivision II. Payments and Collections*

**Sec. 66-245. Payment location; accepted methods.**

Payments can be made to the office of the clerk-treasurer, 303 Franklin Street, Porter, Indiana. Accepted methods of payment include check, money order, or cash.
(Ord. No. 2006-09, § 2-1, 5-9-2006; Ord. No. 2021-11, § 5, 6-22-2021)

**Sec. 66-246. Reserved.**

**Editor's note—**Ord. No. 2021-11, § 6, adopted June 22, 2021 repealed § 66-246 which pertained to collection methods and derived from Ord. No. 2006-09, adopted May 9, 2006.

**Secs. 66-247—66-270. Reserved.**

*Subdivision III. Parking*

**Sec. 66-271. Definitions.**

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

*No parking* means that no person shall park a vehicle, or permit it to stand, either attended or unattended, in disregard to the regulations and provisions of this division.
(Ord. No. 2006-09, § 3-1, 5-9-2006)

**Sec. 66-272. Prohibited places.**

No owner, operator, or other person shall park a vehicle, or permit a vehicle to be stopped or standing, either attended or unattended, in any of the following places:

(1) At any designated disabled parking places without an approved sticker or plate.

(2) Within the most northern intersection of Wabash Street and the beach.

(3) Blocking a driveway or entrance to parking lot.

(4) Blocking or in a fire lane.

(5) On a sidewalk.

(6) At any place where official signs have been erected prohibiting standing, stopping and/or parking.

(7) Parking in more than one provided parking space, where designated and marked by appropriate signs and/or painted lines.

(8) On any walkway, on grass or shrubbery.

(9) On any road, alley or easement north of State Park Road and Waverly.
(Ord. No. 2006-09, § 3-2, 5-9-2006; Ord. No. 2021-11, § 7, 6-22-2021)

**Secs. 66-273—66-292. Reserved.**

*Subdivision IV. Parking Permits*

**Sec. 66-293. Permit—Types.**

(a) *Beach parking lot.*

(1) Beach parking lot permits are issued for parking in the town parking lot east of the north end of Wabash Street. The permit is valid during the year issued and expires March 1 of the year immediately following the year of issuance.

(2) The permittee may not give permits away or let others use their permit or otherwise transfer the same.

(3) Parking is limited to the designated area only.

(Ord. No. 2006-09, § 4-1, 5-9-2006; Ord. No. 2025-02, § 1, 3-25-2025)

**Sec. 66-294. Same—Display.**

(a) The parking permit must be displayed on the lower left side of the rear window.

(b) An exception shall be made for motorcycles, convertible vehicles and trucks with caps on their bed, where permits shall be placed on the lower left side of the vehicle's windshield.

(Ord. No. 2006-09, § 4-2, 5-9-2006)

**Note—**Effective January 1, 2007, for new location of permit.

**Sec. 66-295. Beach area parking permits.**

(a) The town has established fees for beach area parking permits in light of the increasing popularity of Porter Beach.

(b) The clerk-treasurer of the town shall sell said annual permits in the manner prescribed by the town council at rates established by the town council. The rates shall be established at a public meeting by approval of a motion duly made and seconded. The rates so established shall be posted on the town's website at least seven days prior to the beginning of the sale.

As proof of residency, residents shall provide a valid Indiana driver's license and vehicle registration showing current legal address within the town. Providing a mailing address in the town is not sufficient. The town address must appear on both the license and registration. Town employees, town council members, and members of the Porter Volunteer Fire Department, Inc., may purchase permits before they are offered for sale to the public.

(c) The owner and/or driver of any motor vehicle that parks in the above-described area without a valid permit shall be fined as provided in section 1-8, and each day shall be considered a separate violation, plus the cost of towing and storing said vehicles.

(d) Beach permits are non-transferable. If a permit is lost or misplaced, it must be replaced with a new permit. A person may purchase a permit at the applicable rate, if permits are still available. Notwithstanding the foregoing:

(1) A person who purchases a new vehicle only after obtaining a permit may transfer the permit to the new vehicle upon payment of a $10.00 transfer fee provided that the person furnishes the clerk-treasurer's office with: a copy of the bill of sale or other proof of purchase; a copy of the valid new vehicle registration; and at least half of the current beach parking permit. The proof of purchase documentation and new vehicle registration must show that the replacement vehicle was purchased after the date that the beach parking permit was purchased. The permit shall not be considered validly transferred until the documents required by this subsection have been provided to the clerk-treasurer's office. The provisions of this paragraph are subject to the availability of a permit at the time of application for the transfer.

(2) A person whose vehicle is stolen only after obtaining a permit may obtain a replacement permit for a new or replacement vehicle, if permits are still available and upon payment of a $10.00 replacement fee, provided that the person furnishes the clerk-treasurer's office with a photocopy of the old permit or other proof of purchase, such as a receipt from the clerk-treasurer's office or canceled check. If the permit holder does not have proof of purchase, the permit holder shall present to the clerk-treasurer's office a valid driver's license showing current legal address and the clerk-treasurer's office must be able to verify the purchase of the permit according to the records of the clerk-treasurer's office. The person must also provide the clerk-treasurer's office with the following documentation: a copy of the police report documenting theft of the vehicle occurring after the date when the beach parking permit was purchased, a copy of the bill of sale or other proof of purchase of the replacement vehicle, and valid vehicle registration for the replacement vehicle. Regular fees applicable to issuance of a beach parking permit are waived for a replacement permit obtained under this paragraph, subject to payment of the replacement fee. The provisions of this paragraph are subject to the availability of a permit at the time of application for the replacement permit.

(3) A person whose beach permit is stolen only after obtaining a permit may obtain a replacement permit for the same vehicle that the permit is registered to, if permits are still available and upon payment of a $10.00 replacement fee, provided that the person furnishes the clerk-treasurer's office with a photocopy of the old permit or other proof of purchase, such as a receipt from the clerk-treasurer's office or canceled check. If the permit holder does not have proof of purchase, the permit holder shall present to the clerk -treasurer's office a valid driver's license showing current legal address and the clerk-treasurer's office must be able to verify the purchase of the permit according to the records of the clerk-treasurer's office. The person must also provide the clerk-treasurer's office with the following documentation: a copy of the police report documenting theft of the permit occurring after the date when the beach parking permit was purchased, and valid vehicle registration for the vehicle. Regular

fees applicable to issuance of a beach parking permit are waived for a replacement permit obtained under this paragraph, subject to payment of the replacement fee. The provisions of this paragraph are subject to the availability of a permit at the time of application for the replacement permit.

(4) A person whose vehicle is involved in a crash or accident resulting in a total loss of the vehicle only after obtaining a permit may obtain a replacement permit for a new or replacement vehicle, if permits are still available and upon payment of a $10.00 replacement fee, provided that the person furnishes the clerk-treasurer's office with a photocopy of the old permit or other proof of purchase, such as a receipt from the clerk-treasurer's office or canceled check. If the permit holder does not have proof of purchase, the permit holder shall present to the clerk-treasurer's office a valid driver's license showing current legal address and the clerk-treasurer's office must be able to verify the purchase of the permit according to the records of the clerk-treasurer's office. The person must also provide the clerk-treasurer's office with the following documentation: a copy of the police report documenting the occurrence of the crash or accident after the date when the beach parking permit was purchased, documentation verifying the total loss of the vehicle, such as a written statement from an insurance adjuster or agent, a copy of the bill of sale or other proof of purchase of the replacement vehicle, and valid vehicle registration for the replacement vehicle. Regular fees applicable to issuance of a beach parking permit are waived for a replacement permit obtained under this paragraph, subject to payment of the replacement fee. The provisions of this paragraph are subject to availability of a permit at the time of application for the replacement permit.

(5) A person whose beach permit is destroyed due to replacement of a broken rear window or windshield only after obtaining a permit may obtain a replacement permit for the same vehicle that the permit is registered to, if permits are available and upon payment of a $10.00 replacement fee, provided that the person furnishes the clerk-treasurer's office with a photocopy of the old permit or other proof of purchase, such as a receipt from the clerk-treasurer's office or canceled check. If the permit holder does not have proof of purchase, the permit holder shall present to the clerk-treasurer's office a valid driver's license showing current legal address and the clerk-treasurer's office must be able to verify the purchase of the permit according to the records of the clerk-treasurer's office. The person must also provide the clerk-treasurer's office with the following documentation: photo showing the beach permit placement on vehicle prior to rear window or windshield replacement, proof of window or windshield replacement after the date when the beach parking permit was purchased, and valid vehicle registration for the vehicle. Regular fees applicable to issuance of a beach parking permit are waived for a replacement permit obtained under this paragraph, subject to payment of the replacement fee. The provisions of this paragraph are subject to the availability of a permit at the time of application for the replacement permit.

(e) A person may only purchase permits for individuals who live in a maximum of two different residences at any one time.
(Code 1968, § 28-45; Code 1991, § 8-64(b), (c); Ord. No. 232, § 2; Ord. No. 652, §§ 1—3, 4-15-1980; Ord. No. 683, § 1, 4-27-1982; Ord. No. 728, § 2, 7-8-1986; ; Ord. No. 745, 4-12-1988; Code 1991, § 4-18; Ord. No. 94-6, § 1, 2-8-1994; Ord. No. 2004-04, § 1, 2-24-2004; Ord. No. 2008-07, 3-11-2008; Ord. No. 2008-18, §§ 1, 1(a), 11-25-2008; Ord. No. 2013-02, §§ 1, 2, 2-26-2013; Ord No. 2016-03, §§ 1, 2, 3-8-2016; Ord. No. 2017-01, § 1, 2-14-2017; Ord. No. 2018-01, § 1, 1-23-2018; Ord. No. 2019-02, §§ 1—3, 2-12-2019; Ord. No. 2021-03, §§ 1, 2, 2-23-2021; Ord. No. 2022-06, § 1, 7-26-2022; Ord. No. 2025-02, § 2, 3-25-2025)

**Secs. 66-296—66-323. Reserved.**

*Subdivision V. Enforcement*

**Sec. 66-324. Enforcement.**

The town police department shall have all enforcement powers to issue/file summary traffic citations pursuant to the enforcement of this division.
(Ord. No. 2006-09, § 5-1, 5-9-2006)

**Sec. 66-325. Penalties.**

(a) Any person violating the provisions of chapter 66, article VII shall be fined as set forth in sections 1-8 and 1-18 of this Code.

(b) A parking ticket shall be considered issued when a police officer or other person authorized to issue a ticket hands it to the violator or places it on a vehicle's windshield.
(Ord. No. 2006-09, § 5-2, 5-9-2006; Ord. No. 2021-11, § 8, 6-22-2021)

**Secs. 66-326—66-353. Reserved.**

## ARTICLE VIII. SPEEDING AND NO PASSING REGULATIONS*

**Sec. 66-354. No-passing zones.**

Where signs are erected and/or lane markings present giving notice thereof, no vehicle shall pass another vehicle proceeding in the same direction in any of the following areas:

| *Street* | *From* | *To* |
|---|---|---|
| Wabash | 130th | 127th |
| Beam | Wagner | U.S. Highway 20 |
| Wagner | Indiana | Lincoln |

*__State law references—__Local authorities, IC 9-13-2-94; adoption of additional regulations, IC 9-21-1-2; powers of local authorities, 9-21-1-3; traffic calming devices, IC 9-21-4-3.

| *Street* | *From* | *To* |
|---|---|---|
| Lincoln | Wagner | Waverly Road |
| Francis | Lincoln | Waverly Road |

(Code 1991, § 8-81; Ord. No. 615, § 4, 4-11-1978; Ord. No. 93-03, § I, 1-12-1993)

**Sec. 66-355. Applicability of state law.**

Except as otherwise provided in this article, the laws of the state regulating the speed of vehicles shall be applicable upon the streets of the town.

(Code 1968, § 28-34; Code 1991, § 8-82; Ord. No. 351, § 10, 9-8-1953)

**State law reference—**Alteration by local authority, IC 9-21-5-6.

**Sec. 66-356. Twenty mile-per-hour speed zones.**

Where signs are erected giving notice thereof pursuant to IC 9-21-1-3, no person shall operate a vehicle at a speed in excess of 20 miles per hour in the following areas:

| *Street* | *From* | *To* |
|---|---|---|
| Ackerman | All | All |
| Admiral Court | Cove Trail | End |
| Admiral Drive | Cove Trail | Port Cove Drive |
| Arbre Croche | | Jean Babtiste Drive |
| Arrowhead Trail | All | All |
| Balllard | All | All |
| Bailey Drive | All | All |
| Bailly Drive | Oakhill | All |
| Beam Street | I-94 | Porter Avenue |
| Berg Street | All | All |
| Brockmeier | All | All |
| Burwell Street | All | All |

| *Street* | *From* | *To* |
|---|---|---|
| Busse | Wagner | Lincoln |
| Canonie Drive | All | All |
| Cardinal Court | All | All |
| Chief Circle | All | All |
| Clark Road | All | All |
| Coleman | All | All |
| Commodore Court | Cove Trail | End |
| Commodore Lane | Cove Trail | Dixon Parkway |
| Coslet Drive | Waverly | Ackerman |
| Cove Circle | Cove Trail | End |
| Cove Trial | Essex Drive | Essex Drive |
| Dabbert Drive | All | All |
| David Boulevard | Dixon Parkway | Port Cove Drive |
| Dixon Parkway | Cove Trail | Admiral Drive |
| Dudley | All | All |
| Dunes Forest Trail | Waverly | Clark |
| Dunes View | U.S. Highway 12 | Jean Baptiste Drive |
| Duneland Drive | All | All |
| Ed McDashowicz Drive | Waverly | End |
| East Triangle Trail | All | All |
| Essex Drive | Port Cove Drive | Pearson Road |
| Eugene | 23rd | End |
| First Street | All | All |
| Flint Drive | Michigami | Riverview |
| Franklin | Porter | Waverly |
| Frontage Road | Waverly | Town limit |
| Fort Creek Trail | Waverly | End |
| Franklin | Sexton | Ackerman |
| Francis | Lincoln | Indiana |
| Fleming | All | All |
| Glacier Trail | All | All |
| Hageman | All | All |
| Hokanson | All | All |
| Highway Street | U.S. Highway 20 | Sunset |
| Howe | All | All |
| Johnson Beach Road | All | All |
| Johnson Street | All | All |
| Keel Place | Commodore Lane | End |
| Knolke | Waverly | Clark |
| Krieger Street | All | All |
| Lawson Lane | All | All |

| *Street* | *From* | *To* |
|---|---|---|
| League Lane | Woodlawn | End |
| Lincoln Street | Waverly | Sexton |
| Locust | Woodlawn | Michigami |
| Main | Hjelm | Town limit |
| Market | All | All |
| Michigami Trail | All | All |
| Moroe | All | All |
| N. Bailey | All | All |
| N. Mineral Springs | U.S. Highway 12 | Oakhill |
| N. Mineral Springs | U.S. Highway 20 | Signature Drive |
| N. Triangle | All | All |
| N. River Drive | U.S. Highway 20 | End |
| Ottawa | Michigami | Woodlawn |
| Parc Aux Vachies | Wagner Road | Jean Baptiste Drive |
| Park Avenue | 23rd West/end | End |
| Pleasant | Lincoln | Michigan |
| Pottawattamie | Locust | Ottawa |
| Port Cove Drive | Essex Drive | Pearson Road |
| Portage Avenue | 23 - West-to | End |
| Porter Avenue | Franklin | Michigan |
| Planet Court | N. Mineral Sp. | U.S. Highway 20 |
| Rankin | Porter Avenue | Wagner |
| Riverview Lane | All | All |
| Roskin Road | Waverly | End |
| Second Street | All | All |
| Sexton | Lincoln | Beam |
| Sievert | All | All |
| Six Box Lane | All | All |
| State Street | All | All |
| Stickney Road | All | All |
| Strongbow Trail | Arrowhead | Michigami |
| S. Bailey Drive | All | All |
| S. Mineral Springs | All | All |
| Stephens Court | All | All |
| Sunset | All | All |
| Third Street | All | All |
| Vine Street | All | All |
| Wabash | Johnson Beach | Roskin |
| Wagner Road | Indiana | Lincoln |
| Washington | All | All |
| Worthington Drive | All | All |

| *Street* | *From* | *To* |
|---|---|---|
| 25th Place | Eugene | Town limit |

(Code 1968, § 28-36; Code 1991, § 8-84; Ord. No. 591, § 2, 5-25-1976; Ord. No. 93-03, § III, 1-12-1993; Ord. No. 95-07, § 1, 7-11-1995; Ord. No. 96-03, § 1, 2-27-1996; Ord. No. 96-16, § 1, 12-17-1996; Ord. No. 2022-04, § 3, 5-24-2022)

**Sec. 66-357. Business areas and school areas.**

Where signs are erected giving notice thereof, no person shall operate a vehicle in excess of 20 miles per hour in the business areas or near schools within the town.
(Code 1968, § 28-38; Code 1991, § 8-85)

**Sec. 66-358. Thirty mile-per-hour speed zones.**

Where signs are erected giving notice thereof pursuant to IC 9-21-1-3, no person shall operate a vehicle at a speed in excess of 30 miles per hour in the following areas:

| *Street* | *To* | *From* |
|---|---|---|
| Babcock Street (Northbound) | Town limit | End |
| Beam Street | I-94 | U.S. Highway 20 |
| Bote | All | All |
| Carlson Corners | Pearson | Mineral Springs |
| Hjelm Road | All | All |
| Marquardt | Waverly | Town limit |
| Marquette Road | 23rd | S. Mineral Springs |
| Mineral Springs | Oakhill | U.S. Highway 20 |
| Oakhill | U.S. Highway 12 | Town limit |
| Old Porter Road | Mineral Springs | Babcock Road |
| Pearson | All | All |
| State Park Boundary | S.R. 49 | Waverly Road |
| Tremont Road | Canonie Drive | S.R. 49 |
| Tremont Road | U.S. Highway 20 North | Town limit |
| Wagner Road | U.S. Highway 12 | Indiana Street |
| Waverly | All | All |
| Wood | All | All |
| Woodlawn | All | All |

(Code 1991, § 8-86; Ord. No. 591, § 3, 5-25-1976; Ord. No. 93-03, § IV, 1-12-1993; Ord. No. 2013-03, § 1, 3-12-2013)

**Sec. 66-359. Forty mile-per-hour speed zone.**

Where signs are erected giving notice thereof pursuant to IC 9-21-1-3, no person shall operate a vehicle at a speed in excess of 40 miles per hour in the areas established by the town.
(Code 1991, § 8-87; Ord. No. 93-03, § V, 1-12-1993; Ord. No. 2013-03, § 2, 3-12-2013)

**Sec. 66-360. Forty-five mile-per-hour speed zone.**

Where signs are erected giving notice thereof pursuant to IC 9-21-1-3, no person shall operate a vehicle at a speed in excess of 45 miles per hour in the areas established by the town.
(Code 1991, § 8-88)

**Sec. 66-361. Fifty mile-per-hour speed zone.**

Where signs are erected giving notice thereof pursuant to IC 9-21-1-3, no person shall operate a vehicle at a speed in excess of 50 miles per hour in the areas established by the town.
(Code 1991, § 8-89)

**Secs. 66-362—66-380. Reserved.**

## ARTICLE IX. SIGN DESIGNATIONS

**Sec. 66-381. Manual and specifications for traffic control devices.**

(a) All traffic control for a uniform system of traffic control devices and signals shall conform to the specifications within the Indiana Manual on Uniform Traffic Control Devices for Streets and Highways, IC 9-21-4-1.

(b) All signs and signals shall conform to this manual.
(Code 1991, § 8-92)

**Sec. 66-382. Traffic lanes; crosswalks; safety zones.**

Traffic lanes, crosswalks and safety zones shall be designated and marked at such places as the town council shall from time to time direct.
(Code 1991, § 8-93)

**Sec. 66-383. "Slow-school" signs.**

"Slow school" signs shall be erected on Wagner, both north and south of Michigan, and upon such other streets approaching schools as necessity and safety shall require.
(Code 1991, § 8-94; Ord. No. 615, § 4, 4-11-1978)

**Sec. 66-384. Stop streets.**

Where signs are posted giving notice thereof pursuant to IC 9-21-5-6, vehicles shall come to a complete stop when traveling in the direction indicated upon the streets indicated, before entering or crossing the through streets indicated:

| *Stop Street* | *Through Street* | *Direction of Travel* |
|---|---|---|
| 127th | Wabash | East; west |
| 128th | Wabash | East; west |
| 129th | Wabash | East; west |
| 130th | Wabash | East; west |
| Ackerman | Waverly | West |
| Beam | Wagner | East; southeast |
| Francis | Franklin | Northwest; southeast |
| Francis | Lincoln | Southeast |
| Francis | Wagner | Northwest |
| Franklin | Francis | Northeast; southwest |
| Franklin | Wagner | East; southwest |
| Franklin | Waverly | Northeast; southwest |
| Lincoln | Francis | Northeast; southwest |
| Lincoln | Wagner | Northeast; southwest |
| Lincoln | Waverly | Northeast |
| Michigami Trail | Woodlawn | South |
| Michigan | Francis | Northeast; southwest |
| Michigan | Wagner | Southwest |
| Mineral Springs | Beam | North; south |
| Oak Hill | Wagner | East; west |
| Oak Hill | Waverly | East; west |
| Pleasant | Franklin | Northwest; southwest |
| Pleasant | Lincoln | Southeast |
| Porter | Franklin | Northwest; southeast |
| Porter | Rankin | Northwest; southeast |

| *Stop Street* | *Through Street* | *Direction of Travel* |
|---|---|---|
| Rankin | Francis | Northeast; southwest |
| Rankin | Pleasant | Northeast; southwest |
| Rankin | Porter | Northeast; southwest |
| Rankin | Wagner | East; southwest |
| Rankin | Waverly | Northeast |
| Sexton | Beam | North |
| Wagner | Lincoln | Southeast |
| Wood | Broadway | Southwest |
| Wood | Waverly | Southwest |
| Woodlawn | Waverly | East; west |
| Mineral Springs | East Oak Hill | South |
| Arrowhead | Michigami | North |
| Hageman | Franklin | Northwest; southeast |
| Hageman | Lincoln | Southeast |
| Ottawa | Woodlawn | South |
| Locust | Michigan | North |
| Unnamed drive exiting Kids Cove Park | Essex Drive | Northeast |
| Cove Trail | Essex Drive | South |
| Admiral Court | Cove Trail | East |
| Admiral Court | Cove Trail | West |
| Parc Aux Vachies | Jean Baptiste Drive | East and west |
| Arbre Croche Court | Jean Baptiste Drive | West |
| Dunes View | U.S. Highway 12 | North |
| Admiral Court | Cove Trail | North - south |
| Cove Trail | Essex Dr. | East - west |
| Dixon Parkway | Admiral Drive | East - west |
| Cove Circle | Cove Trail | East - west |
| David Boulevard | Commodore Lane | East - west |
| David Boulevard | Commodore Lane | East - west |
| David Boulevard | Dixon Parkway | East - west |
| Keel Place | Commodore Lane | East - west |
| David Boulevard | Port Cove Drive | East - west |
| Admiral Drive | Port Cove Drive | East - west |

| *Stop Street* | *Through Street* | *Direction of Travel* |
|---|---|---|
| Commodore Court | Cove Trail | East - west |
| Commodore Court | Cove Trail | East - west |

(Code 1968, § 28-83; Code 1991, § 8-95; Ord. No. 591, § 5, 5-25-1976; Ord. No. 615, § 4, 4-11-1978; Ord. No. 95-08, § 1, 7-11-1995; Ord. No. 96-02, § 1, 2-27-1996; Ord. No. 96-15, § 1, 12-17-1996; Ord. No. 2003-04, § 1, 6-10-2003; Ord. No. 2003-05, § 1, 6-10-2003)

**State law reference—**Right-of-way at intersections, IC 9-21-4-17.

**Sec. 66-385. Four-way stop intersections.**

Where signals are posted giving notice thereof pursuant to IC 9-21-5-6, vehicles approaching the intersections named below shall come to a complete stop regardless of their direction of travel at the intersections indicated, before entering and crossing said intersections:

(1) Oak Hill Road and Mineral Springs Road.

(2) Wabash and 128th Street.

(3) Beam Street and Mineral Springs Road.

(4) 23rd Street and Porter Avenue.

(5) Francis Street and Beam Street.

(Code 1968, § 28-84; Code 1991, § 8-96; Ord. No. 559, § 2, 5-28-1974; Ord. No. 93-15, § 1, 7-13-1993; Ord. No. 93-17, § 1, 9-14-1993; Ord. No. 2003-05, § 2, 6-10-2003)

**Sec. 66-386. No right turn on red at certain intersections.**

After the posting of appropriate signage, the operator of a motor vehicle shall be prohibited from making a right-hand turn when the traffic control signal at the following intersections shall be showing a steady red indication: southbound traffic at the intersection of Worthington Drive and U.S. Highway 20.

(Ord. No. 94-15, § 1, 6-14-1994)

**Sec. 66-387. No left turn.**

After the posting of appropriate signage, the operator of a motor vehicle shall be prohibited from making a left-hand turn northbound onto U.S. Highway 49 at the intersection of State Park Road and U.S. Highway 49 from 9:00 a.m. to 3:00 p.m.

(Ord. No. 2018-14, § 1, 10-9-2018)

**Secs. 66-388—66-417. Reserved.**

## ARTICLE X. TOWN INVENTORY OF ROADS AND STREETS

### Sec. 66-418. Incorporation by reference.

The town inventory of roads and streets, as reflected in the state certified road inventory, which is on file in the office of public works, is incorporated herein by reference.

Chapters 67—69

**RESERVED**

Chapter 70

# UTILITIES*

## Article I. In General

Sec. 70-1. Authority to establish water and sewage utilities.
Secs. 70-2—70-18. Reserved.

## Article II. Sewage Works

### Division 1. Generally

Sec. 70-19. Definitions.
Sec. 70-20. Classes of users.
Sec. 70-21. Penalties.
Secs. 70-22—70-34. Reserved.

### Division 2. Usage Rates and Charges

Sec. 70-35. Determination of rates and charges.
Sec. 70-36. Determination factors used by the town.
Sec. 70-37. Users not receiving water.
Sec. 70-38. Users receiving water from several sources.
Sec. 70-39. Multiple users with a single meter.
Sec. 70-40. Charge based on volume, strength and character.
Sec. 70-41. Discharges in excess of 10,000 gallons.
Sec. 70-42. Sprinkling rates.
Sec. 70-43. Billing procedures.
Sec. 70-44. Discontinuance of water service.
Sec. 70-45. Disputed bills.
Sec. 70-46. Rates and charges based on study.
Sec. 70-47. Bylaws, regulations, and pretreatment procedures.
Sec. 70-48. Special rate contracts.
Sec. 70-49. Effective date.
Sec. 70-50. Refunds.
Sec. 70-51. Sewer adjustment on swimming pool fill.
Secs. 70-52—70-64. Reserved.

### Division 3. Commercial and Industrial Installations

Sec. 70-65. BOD requirements.
Sec. 70-66. Rate surcharge based upon suspended solids.
Sec. 70-67. Rate surcharge based upon BOD.
Secs. 70-68—70-84. Reserved.

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***State law references—**Waterworks, IC 36-9-2-14; utility service to public, IC 36-9-2-15; sanitary sewer services and charges, IC 36-9-2-16; sewage systems, IC 36-9-2-17.

Division 4. Reserved

Secs. 70-85—70-104. Reserved.

## Article III. Connection Charges to Sewage Works Within the Town

Sec. 70-105. Local and lateral sewers.
Sec. 70-106. Connection charges established.
Sec. 70-107. Penalties
Secs. 70-108—70-129. Reserved.

## Article IV. Septic System Repair or Modification

Sec. 70-130. Drawing required.
Sec. 70-131. Permit required.
Sec. 70-132. Penalties.
Secs. 70-133—70-162. Reserved.

## Article V. Sewage and Sewer Use Regulations

Sec. 70-163. Town of Chesterton sanitary sewer use ordinance adopted by reference.
Secs. 70-164—70-194. Reserved.

## Article VI. Sewer Connection and Repair Standards

Sec. 70-195. Applicability.
Sec. 70-196. Permit for new connection or repair.
Sec. 70-197. Fees.
Sec. 70-198. Who may make connection; bonds and insurance.
Sec. 70-199. Materials.
Sec. 70-200. Construction.
Sec. 70-201. Separate stormwater and sanitary sewers required.
Sec. 70-202. Miscellaneous regulations.
Sec. 70-203. Miscellaneous standards, diagrams/drawings.

## ARTICLE I. IN GENERAL

### Sec. 70-1. Authority to establish water and sewage utilities.

(a) The town may regulate the furnishing of water to the public. It may also establish, maintain, and operate waterworks.

(b) The town may regulate the furnishing of the service of collecting, processing, and disposing of waste substances and domestic or sanitary sewage.
(Code 1991, § 9-1)

### Secs. 70-2—70-18. Reserved.

## ARTICLE II. SEWAGE WORKS

### DIVISION 1. GENERALLY

### Sec. 70-19. 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. Any term not defined herein, but defined in the sewer use ordinance, shall have the same meaning herein.

*Debt service costs* means the average annual principal and interest payments on all outstanding revenue bonds or other longterm capital debt.

*Excessive strength surcharge* means an additional charge which is billed to users for treating sewage wastes with an average strength in excess of normal domestic sewage.

*Industrial wastes* means the liquid waste or liquidborne waste resulting from any commercial, manufacturing or industrial operation or process.

*Normal domestic sewage*, for the purpose of determining surcharges, means wastewater or sewage having an average daily concentration as follows:

(1) Ammonia not more than 30 mg/l.

(2) Biochemical oxygen demand (BOD) not more than 200 mg/l.

(3) Phosphorus not more than ten mg/l.

(4) Suspended solids (SS) not more than 200 mg/l.

As defined by origin, wastewaters from segregated domestic and/or sanitary conveniences are distinct from wastes from industrial processes.

*Operation and maintenance costs* include all costs direct and indirect, necessary to provide adequate wastewater collection, transport and treatment on a continuing basis and produce discharges to receiving waters that conform with all related federal, state and local requirements. (These costs include replacement.)

*Other service charges* means tap charges, connection charges, area charges and other identifiable charges other than user charges, debt service charges and excessive strength surcharges.

*Replacement costs* means the expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the sewage works equipment to maintain the capacity and performance for which such works were designed and constructed.

*Sanitary sewage* means the waste from water closets, urinals, lavatories, sinks, bathtubs, showers, household laundries, basement drains, garage floor drains, bars, soda fountains, cuspidors, refrigerator drips, drinking fountains, stable floor drains and all other water-carried wastes except industrial wastes.

*Sewer use ordinance* means a separate and companion enactment to this article which regulates the connection to and use of public and private sewers.

*Town* shall mean the Town of Porter, Indiana, acting by and through the Town Council of Porter, Indiana, or any duly authorized officials or boards acting in its behalf.

*User charge* means a charge levied on users of the wastewater treatment works for the cost of operation and maintenance of such works pursuant to section 204(b) of Public Law 92-500.

*User class* means the division of wastewater treatment customers by source, function, waste characteristics, and process or discharge similarities (i.e., residential, commercial, industrial, institutional and governmental).

*Commercial user* means any establishment involved in a commercial enterprise, business or service which, based on a determination by the town, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

*Governmental user* means any federal, state, or local governmental user of the wastewater treatment works.

*Industrial user* means any manufacturing or processing facility that discharges industrial waste to a publicly owned treatment works.

*Institutional user* means any establishment involved in a social, charitable, religious and/or educational function which, based on a determination by the town discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

*Residential user* means a user of the treatment works whose premises or building is used primarily as a residence for one or more persons, including all dwelling units, etc.

(Code 1991, § 9-5; Ord. No. 610, § 4, 3-21-1978; Ord. No. 750, § 1(a)—(k), 6-14-1988)

**Sec. 70-20. Classes of users.**

Every person whose premises are served by said sewage works shall be charged for the service provided. These charges are established for each user class, as defined, in order that the sewage works shall recover, from each user and user class, revenue which is proportional to its use of the treatment works in terms of volume and load. User charges are levied to defray the cost of operation and maintenance (including replacement) of the treatment works. User charges shall be uniform in magnitude with a user class.

(1) User charges are subject to the rules and regulations adopted by the U.S. Environmental Protection Agency published in the Federal Register February 17, 1984 (40 CFR 35.2140). Replacement costs, which are recovered through the system of user charges, shall be based upon the expected useful life of the sewage works equipment.

(2) The various classes of users of the treatment works for the purpose of this article, shall be as follows:

a. Class I—Residential.

b. Commercial.

c. Governmental.

d. Institutional.

e. Industrial.

(Code 1991, § 9-6; Ord. No. 750, § 2, 6-14-1988)

**Sec. 70-21. Penalties.**

Any person violating or failing to comply with any of the terms or provisions of this article shall be deemed guilty of an ordinance violation and upon conviction be liable to a penalty as prescribed in section 1-8.

In addition, upon notice to the user, the user shall be billed a fee of $75.00 once the shut off order has been submitted to the water company. The appeal process provided in section 70-47 shall apply to the extent that any user contests the $75.00 fee.

(Code 1991, § 9-40; Ord. No. 637, § 2, 4-10-1979; Ord. No. 2009-23, 12-8-2009)

**Secs. 70-22—70-34. Reserved.**

## DIVISION 2. USAGE RATES AND CHARGES*

### Sec. 70-35. Determination of rates and charges.

For the use of and the service rendered by the sewage works, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with the town's sanitary sewer system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly, into the sanitary sewer system of the town. Such rates and charges include user charges, debt service costs, excessive strength surcharges and other service charges, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows:

(1) The sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to such rates and charges as the same is measured by the water meter there in use, plus a base charge based on the size of water meter installed except as herein otherwise provided. For the purpose of billing and collecting the charges for sewage service, the water meters shall be read monthly and the users shall be billed each month (or period equaling a month). The water usage schedule on which the amount of said rates and charges shall be determined is as follows:

All Class I-residential, commercial, governmental, institutional and industrial users.

a. Treatment rate per 1,000 gallons of usage per month:

| | |
|---|---|
| User charge | $11.19 |

plus

b. Base rate per month:

| | *User charge (in dollars)* |
|---|---|
| 5/8"—1" water meter (residential) | $21.68 |
| 5/8"—1" water meter (commercial) | 48.01 |
| 1¼"—1½" water meter | 106.22 |
| 2" water meter | 180.46 |

*__Editor's note—__Ord. No. 2024-17, § 1, adopted January 14, 2025, repealed the former division 2, §§ 70-35—70-50, and enacted a new division 2 as set out herein. The former division 2 pertained to similar subject matter and derived from Code 1991, §§ 9-8—9-23; Ord. No. 694, § 1, 3-29-1983; Ord. No. 750, §§ 3—12, 6-14-1988; Ord. No. 96-14, § 1, 12-17-1996; Ord. No. 96-10, § 1, 8-13-1996; Ord. No. 2004-20, § 1, 1-11-2005; Ord. No. 2005-06, § 1, 7-26-2005; Ord. No. 2006-17, §§ 1—3, 10-24-2006; Ord. No. 2008-11, § 2, 7-22-2008; Ord. No. 2008-15, § 1, 8-26-2008; Ord. No. 2010-08, § 1, 8-24-2010; Ord. No. 2012-07, § 1, 7-10-2012; Ord. No. 2013-05, §§ 1, 2, 5-14-2013; Ord. No. 2013-16, § 1, 11-12-2013; Ord. No. 2014-01, §§ 1, 2, 4-8-2014; Ord. No. 2016-05, § 1, 4-12-2016; Ord. No. 2022-02, §§ 1, 2, 2-22-2022.

| | *User charge (in dollars)* |
|---|---|
| 3" water meter | 409.48 |
| 4" water meter | 726.97 |
| 6" water meter | 1,626.37 |
| 8" water meter | 2,896.01 |

(2) For users of the sewage works that are unmetered water users or if accurate meter readings are not available, the monthly charge shall be determined by equivalent single family dwelling units, except herein provided. Sewage service bills shall be rendered once each month, or for a period equaling a month. The schedule on which the rates and charges shall be determined is as follows:

| *User Classification* | *Monthly Rate User Charge (in dollars)* |
|---|---|
| *Residential:* | |
| Single-family residence/unit | $77.63 |
| Apartments, condominiums, and townhouses/unit | 58.22 |
| Mobile home court/space available for rent | 58.22 |
| Duplexes/building | 135.85 |
| *Commercial:* | |
| Retail establishments: | |
| First four employees | $77.63 |
| Each additional employee over four | 19.41 |
| Gasoline service stations: | |
| First four employees | 77.63 |
| Each additional employee over four | 19.41 |
| Each car wash bay | 155.26 |
| Laundromats and washeterias/washer | 77.63 |
| Motels, rooming houses, and similar establishments: | |
| Per room available | 38.82 |
| Restaurants, drive-ins, bars, and organizations with eating and/or drinking facilities: | |

| *User Classification* | *Monthly Rate User Charge (in dollars)* |
|---|---|
| Per seat available, or | 7.76 |
| Per employee | 58.22 |
| (Billings to be computed using both methods and the user shall be billed the higher amount) | |
| *Institutions:* | |
| Schools per pupil enrolled (five-day school week) | $7.76 |
| Churches and other religious organizations without eating and/or drinking facilities: | |
| For each 200 members, or fraction thereof | 77.63 |
| *Governmental:* | |
| Offices: | |
| First four employees | $77.63 |
| Each additional employee over four | 19.41 |
| *Industrial:* | |
| Manufacturing - unmetered: | |
| First four employees | $77.63 |
| Each additional employee over four | 11.64 |

Any industry with industrial process effluent discharge into the sanitary sewage system shall install, operate and maintain, at the user's expense, a measuring device satisfactory to the town for the measurement of the volume of flow discharged for sanitary sewer and shall be charged for the quantity of flow at rates for discharge equivalent to the rates specified under subsection (1)a. above for water usage.

(3) For the service rendered to the town, said town shall be subject to the same rates and charges established in harmony therewith.

(4) In order to recover the cost of monitoring industrial wastes, the town shall charge the user a flat fee per sampling event, plus the actual cost for collecting and analyzing the sample, as determined by the town or by an independent laboratory. This charge will be reviewed on the same basis as all other rates and charges in this article.

(5) A system development charge will be collected from all new customers of the sewage system in addition to existing rates and charges in accordance with the following schedule:

*SUMMARY OF SYSTEM DEVELOPMENT CHARGE BY METER SIZE*

*Meter Size and Equivalent Unit Factor*

| 5/8" | 3/4" | 1" | 1¼" | 1½" | 2" | 3" | 4" | 6" | 8" |
|---|---|---|---|---|---|---|---|---|---|
| 1.0 | 1.4 | 2.5 | 4.0 | 5.8 | 10.0 | 23.0 | 40.0 | 91.0 | 162.1 |
| *System Development Charge (In Dollars)* | | | | | | | | | |
| 1,500 | 2,100 | 3,750 | 6,000 | 8,700 | 15,000 | 34,500 | 60,000 | 136,500 | 243,150 |

(6) If a new sewage service customer will not have water service provided by Indiana-American Water Company, the town's engineer shall reasonably estimate the monthly wastewater usage and establish and equivalent residential unit factor based on the average residential monthly usage and multiply that times the $1,500.00 base charge to calculate the system development fees for unmetered customers. If a new sewage service customer disputes the equivalent number of units (developed by the town's engineer), they may at their cost install a water meter on the well to determine the monthly water usage and calculate the fee based on a three-month actual average usage.

(7) The system development charge in subsection (5) of this section may be modified by the town council when investments in sewer infrastructure made by developers or private property owners result in significant enhancement of the capabilities of the Town to serve existing or future customers.

(Ord. No. 2024-17, § 1, 1-14-2025)

**Sec. 70-36. Determination factors used by the town.**

The quantity of water discharged into the sanitary sewage system and obtained from sources other than the utility that serves the town shall be determined by the town in such manner as the town shall reasonably elect, and the sewage service shall be billed at the above appropriate rates; except as hereinafter provided in this division, the town may make proper allowances in determining the sewage bill for quantities of water shown on the records to be consumed, but which are also shown to the satisfaction of the town that such quantities do not enter the sanitary sewage system.

(Ord. No. 2024-17, § 1, 1-14-2025)

**Sec. 70-37. Users not receiving water.**

In the event a lot, parcel of real estate or building discharging sanitary sewage, industrial wastes, water or other liquids into the town's sanitary sewage system, either directly or indirectly, is not a user of water supplied by the water utility serving the town, and the water used thereon or therein is not measured by a water meter, or is measured by a water meter not acceptable to the town, then the amount of water used shall be otherwise measured or determined by the town. In order to ascertain the rate or charge provided in this division, the

owner or other interested party shall, at their expense, install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the town, for the determination of sewage discharge.
(Ord. No. 2024-17, § 1, 1-14-2025)

**Sec. 70-38. Users receiving water from several sources.**

In the event a lot, parcel of real estate or building discharging sanitary sewage, industrial wastes, water or other liquids into the town's sanitary sewage system, either directly or indirectly, is a user of water supplied by the water utility serving the town, and in addition, is a user of water from another source which is not measured by a water meter or is measured by a meter not acceptable to the town, then the amount of water used shall be otherwise measured or determined by the town. In order to ascertain the rates or charges, the owner or other interested parties shall, at their expense, install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the town, for the determination of sewage discharge.
(Ord. No. 2024-17, § 1, 1-14-2025)

**Sec. 70-39. Multiple users with a single meter.**

In the event two or more residential lots, parcels of real estate, or buildings discharging sanitary sewage, water or other liquids into the town's sanitary sewage system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in each such case, for billing purposes, the quantity of water used shall be averaged for each user and the base charge and the flow rates and charges shall apply to each of the number of residential lots, parcels of real estate or buildings served through the single water meter.
(Ord. No. 2024-17, § 1, 1-14-2025)

**Sec. 70-40. Charge based on volume, strength and character.**

In order that the rates and charges may be justly and equitably adjusted to the service rendered to users, the town shall base its charges not only on the volume, but also on strength and character of the stronger-than-normal domestic sewage and wastes which it is required to treat and dispose of. The town shall require the user to determine the strength and content of all sewage and wastes discharged, either directly or indirectly into the sanitary sewage system, in such manner, by such method, and at such times as the town may deem practicable in light of the conditions and attending circumstances of the case, in order to determine the proper charge. The user shall furnish a central sampling point available to the town at all times.

(1) Additional charges for treating stronger-than-normal domestic waste shall be made on the following basis:

a. *Rate surcharge based upon suspended solids.* There shall be an additional charge of $0.16 per pound of suspended solids for suspended solids received in excess of 200 milligrams per liter of fluid.

b. *Rate surcharge based upon BOD.* There shall be an additional charge of $0.16 per pound of biochemical oxygen demand for BOD received in excess of 200 milligrams per liter of fluid.

c. *Rate surcharge based upon ammonia.* There shall be an additional charge of $0.65 per pound of ammonia for ammonia received in excess of 30 milligrams per liter of fluid.

d. *Rate surcharge based upon phosphorus.* There shall be an additional charge of 65 per pound of phosphorus for phosphorus received in excess of ten milligrams per liter of fluid.

(2) The determination of suspended solids, five-day biochemical oxygen demand and ammonia contained in the waste shall be in accordance with the latest copy of "Standard Methods for the Elimination of Water, Sewage and Industrial Wastes," as written by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation, and in conformance with "Guidelines Establishing Test Procedures for Analysis of Pollutants," 40 CFR 136.

(Ord. No. 2024-17, § 1, 1-14-2025)

**Sec. 70-41. Discharges in excess of 10,000 gallons.**

In the event a lot, parcel of real estate or building discharges sanitary sewage, industrial waste, water or other liquids into the town's sanitary sewage system, either directly or indirectly, and uses water in excess of 10,000 gallons per month, and it can be shown to the satisfaction of the town that a portion of water as measured by the water meter or meters does not and cannot enter the sanitary sewage system, then the owner or other interested party shall, at their expense, install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the town for the determination of sewage discharge.

(Ord. No. 2024-17, § 1, 1-14-2025)

**Sec. 70-42. Sprinkling rates.**

(a) In order that single-family domestic and residential users of sewage services shall not be penalized for sprinkling lawns or other outside use of water for the billing periods of June 16 through October 15, the charge for sewage services for said user for the September and November billings shall be based upon the average monthly usage of that customer for the immediately preceding billing months of mid-December through mid-April.

(b) In the event that the customer has no billing history for the preceding months of mid-December through mid-April, then and in that event, the customer is not eligible for a summer sprinkling credit until the following year.

(c) In the event the average water usage for said previous period shall be less than the water usage for the summer months, then the billing shall be based upon the calculated average. In the event the average water usage for the preceding mid-December through

mid-April is greater than the water usage for said summer period, then the billing for sewage services shall be computed on the actual water used in the period for which the sewage service is being rendered.

(d) Domestic and/or residential sewage services as applicable to the sprinkling rate shall apply to each lot, parcel of real estate or building which is occupied and used as a residence. Said sprinkling rate shall not apply to any premises which are partially or wholly used for commercial or industrial purposes. In the event a portion of such premises shall be used for commercial or industrial purposes, the owner shall have the privilege of separating the water service so that the residential portion of the premises is served through a separate water meter, and in such case the water usage as registered by the water meter serving such portion of the premises used for residential purposes would qualify under the sprinkling rate.

(Ord. No. 2024-17, § 1, 1-14-2025)

**Sec. 70-43. Billing procedures.**

Such rates and charges shall be prepared, billed and collected by the town in the manner provided by law and ordinance.

(1) The rates and charges for all users shall be prepared and billed bimonthly in January, March, May, July, September and November. The bimonthly billings shall cover the periods listed below:

| | |
|---|---|
| January | October 16th—December 15th |
| March | December 16th—February 15th |
| May | February 16th—April 15th |
| July | April 16th—June 15th |
| September | June 16th—August 15th |
| November | August 16th—October 15th |

(2) The rates and charges may be billed to the tenant or tenants occupying the properties served, unless otherwise requested in writing by the owner, but such billing shall in no way relieve the owner from the liability in the event payment is not made as herein required. The owners of properties served, which are occupied by a tenant or tenants, shall have the right to examine the collection records of the town for the purpose of determining whether bills have been paid by such tenant or tenants; provided that such examination shall be made at the office at which such records are kept and during the hours that such office is open for business.

(3) As is provided by statute, all rates and charges not paid by the 15th day of the month following issuance of the bill are declared to be delinquent and a penalty of ten percent of the amount of the rates or charges shall thereupon attach thereto. Additionally, payments and/or penalties that have been due and unpaid for at least 90 days may be filed as a lien against the real property in accordance with IC 36-9-23-33.

(Ord. No. 2024-17, § 1, 1-14-2025)

**Sec. 70-44. Discontinuance of water service.**

(a) If a fee established under section 70-35 is not paid by the 15th day of the month in which it is due, the town clerk-treasurer or utility clerk shall send notice to the delinquent user stating:

(1) The delinquent amount due, together with any penalty;

(2) That water service may be disconnected on or after a specified date if the user continues not to pay the delinquency and any penalty; and

(3) The procedure for resolving disputed bills.

The notice shall be mailed not less than ten days prior to the specified date for water disconnection.

(b) Payments made after the 25th day of the month in which bills are due must be made in the form of cash, money order, or cashier's check.

(c) If the user fails to pay the delinquent amount or otherwise resolve the charges, the town clerk-treasurer or utility clerk shall give written notice to the water utility serving the user to discontinue water service on the premises designated in the notice until notified otherwise. The notice must identify the delinquent sewer user in enough detail to enable the water utility to identify the water service connection that is to be terminated.

(d) Once written notice is provided to the water utility to discontinue water service to the user, the user will be required to pay the past due amount and a reconnection fee of $75.00 before service will be restored.

(e) Water service may not be shut off under this section if a local board of health has found and certified to the town that the termination of water service will endanger the health of the user and others in the municipality.
(Ord. No. 2024-17, § 1, 1-14-2025)

**Sec. 70-45. Disputed bills.**

(a) If a user disputes a delinquent bill they may meet informally with the clerk-treasurer or the clerk-treasurer's designee who is empowered to correct incorrect charges. If the dispute is not resolved in this fashion, the user may request a hearing prior to the discontinuance of water service by following the procedure outlined below.

(b) The user must request a hearing in writing, by directing the request to the town address listed on the delinquency notice. The request must be received by the town no later than 4:00 pm on the 25th of the month in which the disconnect notice is sent. If the user fails to timely request a hearing, the user will be deemed to have irrevocably waived the right to a hearing and the user's right to a hearing is forever waived.

(c) If a hearing is timely requested, the town council shall conduct the hearing. The hearing shall be held at the next regularly scheduled town council meeting after the user's timely filed request. The town shall notify the user of the date and time for the hearing

either personally, by telephone at the number provided on request for hearing form or by United States mail at the account address. At such hearing, the user and the town shall have the right to present such evidence or witnesses as is pertinent to the issue, may be represented by counsel and may examine or cross examine witnesses. Formal rules of evidence shall not apply. The town council shall promptly make its decision. The user shall be informed of the town council's findings by telephone at the number provided on request for hearing form.

(d) Unless otherwise ordered by the town council, water service shall be discontinued the day after the date that the decision is communicated by the town council to the customer. The user will be required to pay the past due amount and a reconnection fee of $75.00 before service will be restored.
(Ord. No. 2024-17, § 1, 1-14-2025)

**Sec. 70-46. Rates and charges based on study.**

(a) In order that the rates and charges for sewage services may remain fair and equitable and be in proportion to the cost of providing services to the various users or user classes, the town shall cause a study to be made within a reasonable period of time following the first two years of operation, following the date on which the ordinance from which this division is derived goes into effect. Such study shall include, but not be limited to, an analysis of the cost associated with the treatment of excessive strength effluents from industrial users, volume and delivery flow rate characteristics attributed to the various users or user classes, the financial position of the sewage works and the adequacy of its revenue to provide reasonable funds for the operation and maintenance, replacements, debt service requirements and capital improvements to the wastewater treatment systems.

(b) Thereafter, on a biennial basis, within a reasonable period of time following the normal accounting period, the town shall cause a similar study to be made for the purpose of reviewing the fairness, equity and proportionality of the rates and charges for sewage services on a continuing basis. Said studies shall be conducted by officers or employees of the town or by a firm of certified public accountants, or a firm of consulting engineers, which firms shall have experience in such studies, or by such combination of officers, employees, certified public accountants or engineers as the town shall determine to be best under the circumstances. The town shall, upon completion of said study, revise and adjust the rates and charges, as necessary, in accordance therewith, in order to maintain the proportionality and sufficiency of the rates.
(Ord. No. 2024-17, § 1, 1-14-2025)

**Sec. 70-47. Bylaws, regulations, and pretreatment procedures.**

(a) The town shall make and enforce such bylaws and regulations as may be deemed necessary for the safe, economical and efficient management of the town's sewage system, pumping stations and sewage treatment works, for the construction and use of house sewers and connections to the sewage treatment works, the sewage collection system and for the regulation, collection, rebating and refunding of such rates and charges.

(b) The town is authorized to prohibit dumping of wastes into the town's sewage system which, in its discretion, are deemed harmful to the operation of the sewage treatment works of the town, or to require methods affecting pretreatment of said wastes to comply with the pretreatment standards included in the National Pollutant Discharge Elimination System (NPDES) permit issued to the sewage works or as may be contained in the EPA General Pretreatment Regulations, 40 CFR 403 and any amendments thereto or the town's pretreatment program plan.
(Ord. No. 2024-17, § 1, 1-14-2025)

**Sec. 70-48. Special rate contracts.**

The town council is hereby further authorized to enter into special rate contracts with customers of the sewage works where clearly definable reduction in cost to the sewage works can be determined, and such reduction shall be limited to such reduced costs.
(Ord. No. 2024-17, § 1, 1-14-2025)

**Sec. 70-49. Effective date.**

The rates and charges as herein set forth shall became effective on the first full billing period occurring after the adoption of the ordinance from which this division is derived.
(Ord. No. 2024-17, § 1, 1-14-2025)

**Sec. 70-50. Refunds.**

The town will correct billing errors made during the previous 12-month period by issuing a credit to the user's account for the amount of such error(s). In no event will a credit be given for a period of longer than 12 months.
(Ord. No. 2024-17, § 1, 1-14-2025)

**Sec. 70-51. Sewer adjustment on swimming pool fill.**

(a) Residential swimming pools meeting the following requirements shall be eligible for a manual sewer adjustment once per year:

(1) The pool is at least 24 inches deep;

(2) The pool has a surface area of at least 100 square feet; and

(3) The pool has a permanently equipped recirculating system.

(b) One adjustment for one bill per calendar year (January 1 through December 31) will be allowed. In order to qualify for this adjustment, the customer must complete a swimming pool adjustment form as approved by the town council. The completed form must be returned to the town within seven days of a pool fill.

(c) The manual sewer adjustment shall be applied as a credit to the next sewer bill issued. The credit shall be in an amount equal to the user charge that would apply under section 70-35(a) based on the number of gallons of water used to fill the swimming pool, as reflected

in the meter readings before and after the pool fill and reported by the customer on the swimming pool adjustment form. [For example, if the 5,000 gallons of water were used to fill the pool, the amount of the credit would be $55.95.]

(d) For purposes of this section 70-51, a "residential swimming pool" means a single family private swimming pool. Private swimming pools owned or operated by homeowners associations, condominium owners associations, or apartment complexes shall not be eligible for the adjustment.

(e) Manual swimming pool fill adjustments shall not apply to users of the sewage works that are unmetered water users or if accurate meter readings are not available.
(Ord. No. 2024-17, § 1, 1-14-2025)

**Secs. 70-52—70-64. Reserved.**

## DIVISION 3. COMMERCIAL AND INDUSTRIAL INSTALLATIONS

### Sec. 70-65. BOD requirements.

(a) Any and all commercial and industrial installations shall be so controlled and/or treated that their effluent discharge to the town's sewers shall have a BOD (biochemical oxygen demand) not to exceed 300 parts per million and suspended solids not to exceed 350 parts per million at any time.

(b) However, sewage of additional strength may be permitted by the town, and if permitted, the rates and conditions in sections 70-66 and 70-67 shall apply as set forth in this division.
(Code 1991, § 9-30; Ord. No. 610, § 3, 3-21-1978)

### Sec. 70-66. Rate surcharge based upon suspended solids.

There shall be an additional charge of $0.03 per 100 cubic feet of flow for each 100 parts per million or fraction thereof, of suspended solids in excess of 350 parts per million of fluid.
(Code 1991, § 9-31; Ord. No. 610, § 3, 3-21-1978)

### Sec. 70-67. Rate surcharge based upon BOD.

(a) There shall be an additional charge of $0.04 per 100 cubic feet of flow for each 100 parts per million or fraction thereof, of biochemical oxygen demand in excess of 300 parts per million of fluid.

(b) To determine the strength of the sewage and wastes, samplings and analysis shall be made from time to time, whenever it is deemed desirable by the town. After charges have been established based upon the strength of sewage and wastes, the owner may request reconsideration of these charges by the town by submitting analysis of composite samples of the sewage and wastes subject to such charges, certified by a registered engineer or qualified graduate chemist. The town may then adjust the charges to the division rates required by

such analysis or may recheck the findings by additional samplings and analysis. Requests for rate adjustments by the owner may be submitted no more often than once every 12 months.

(c) The determination of suspended solids and five-day biochemical oxygen demand contained in the waste shall be in accordance with the latest copy of "Standard Methods for the Examination of Water, Sewage and Industrial Waste," as written by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

(d) The town council is authorized to prohibit the dumping of wastes into the town's sewer system which, in its discretion, are deemed harmful.

(e) Industrial wastes which are objectionable, dangerous and inhibitive to bacterial growth and which cannot be readily treated in the sewage treatment plant of the Town of Chesterton and which may be injurious to said sewage treatment plant or require the installation of equipment not now in said sewage treatment plant or require treatment other than that which is now rendered in said sewage treatment plant shall be deposited in the town's sewer system, in order to meet the requirements of applicable state bodies and the provisions of the agreement with the Town of Chesterton for sewage treatment service, hereto before executed on January 22, 1968, a copy of which is available for public inspection in the clerk-treasurer's office.
(Code 1991, § 9-32; Ord. No. 610, § 3, 3-21-1978)

**Secs. 70-68—70-84. Reserved.**

DIVISION 4. RESERVED*

**Secs. 70-85—70-104. Reserved.**

## ARTICLE III. CONNECTION CHARGES TO SEWAGE WORKS WITHIN THE TOWN†

### Sec. 70-105. Local and lateral sewers.

In that local and lateral sewers under applicable laws are the financial responsibility of the property owner(s) to be served thereby; and, by virtue thereof, no such local and lateral

*__Editor's note—__Ord. No. 2024-17, § 2, adopted January 14, 2025, repealed division 4, §§ 70-85—70-88, which pertained to billing, rates, and regulations and derived from Code 1991, §§ 9-36—9-39; Ord. No. 610, §§ 6—8, 3-21-1978.

†__Editor's note—__Ord. No. 2024-17, § 3, adopted January 14, 2025, repealed the former Art. III., §§ 70-105—70-108, and enacted a new Art. III as set out herein. The former Art. III pertained to connection charges to sewage works within certain areas of the town and derived from Code 1991, § 9-45—9-48; Ord. No. 611, §§ 1—3, 1978; Ord. No. 638, §§ 1, 2, 4-10-1979.

sewers have been built by sewage works funds of the town; it is necessary to establish connection charges to be paid by owners of property in the town upon connection by such owners to the town sewage works.
(Ord. No. 2024-17, § 3, 1-14-2025)

**Sec. 70-106. Connection charges established.**

(a) The owner of any lot, parcel of real estate, building, dwelling unit or other structure connecting to the sewage works shall, prior to connecting to the town sewage works, comply with all applicable federal, state, county and town laws, rules and regulations, and shall pay to the town the sum of the following:

(1) A sewer connection permit application fee per section 70-197(a); plus

(2) A system development charge per section 70-35(5) and (6); plus

(3) A sewer connection charge in the amount of:

a. One thousand five hundred dollars for each equivalent single-family residential dwelling unit, metered or unmetered; or

b. Two thousand five hundred dollars for each equivalent non-residential connection; or

c. Seven hundred fifty dollars for each dwelling unit in a multifamily development, including, but not limited to, apartment buildings.

(b) Any such owner connecting to the town's sewage system shall bear the hard and soft costs of connecting to the sewer, including the costs of installing and connecting the components. Those costs may include, but are not limited to, excavation, backfilling, pavement replacement, electrical, easements, legal and engineering fees.
(Ord. No. 2024-17, § 3, 1-14-2025)

**Sec. 70-107. Penalties**

Any person violating or failing to comply with any of the terms or provisions of this article shall be deemed guilty of a code violation and, upon conviction, shall be liable to a penalty as prescribed in section 1-18.
(Ord. No. 2024-17, § 3, 1-14-2025)

**Secs. 70-108—70-129. Reserved.**

## ARTICLE IV. SEPTIC SYSTEM REPAIR OR MODIFICATION

**Sec. 70-130. Drawing required.**

Before any septic system within the town shall be modified and/or repaired, a rough drawing and/or specification concerning said modifications and/or repairs shall be submitted to the town public works director for approval.
(Code 1991, § 9-55; Ord. No. 668, § 1, 3-24-1981)

**Sec. 70-131. Permit required.**

Upon approving said rough drawings and/or specifications, the town public works director shall issue a permit for said modifications and/or repairs of septic systems.
(Code 1991, § 9-56; Ord. No. 668, § 2, 3-24-1981)

**Sec. 70-132. Penalties.**

(a) Any person which shall violate any provision of this article shall, upon conviction thereof, be subject to a fine as prescribed in section 1-8.

(b) Each day that a violation continues, after due notice has been served by the public works director, shall be deemed a separate offense.
(Code 1991, § 9-58; Ord. No. 668, § 3, 3-24-1981)

**Secs. 70-133—70-162. Reserved.**

## ARTICLE V. SEWAGE AND SEWER USE REGULATIONS

**Sec. 70-163. Town of Chesterton sanitary sewer use ordinance adopted by reference.**

(a) The Chesterton Sanitary Sewer Use Ordinance (Chesterton Ordinance No. 2006-1), copies of which are available at the clerk-treasurer's office for public inspection, is incorporated by reference herein and made a part hereof of Porter Town Ordinance 800.

(b) Porter Town Ordinance 800, which is also incorporated by reference, with copies being available at the clerk-treasurer's office for public inspection, shall be deemed to have been amended and modified so as to be in full compliance and compatibility with the Chesterton Town Ordinance referenced in subsection (a) of this section.
(Ord. No. 2006-16, §§ 1—3, 9-26-2006)

**Secs. 70-164—70-194. Reserved.**

## ARTICLE VI. SEWER CONNECTION AND REPAIR STANDARDS

**Sec. 70-195. Applicability.**

All individuals and corporations, whether for a residence, business establishment, industrial facility or other usage, must have a permit issued by the town prior to making any new connection or repairing an existing connection to the public sewer collection system maintained and operated by the town.
(Code 1991, § 9-90; Ord. No. 710, § 1, 3-26-1985)

**Sec. 70-196. Permit for new connection or repair.**

(a) The permit for making a new connection to the town sewer system shall be issued by the clerk-treasurer of the town, or said person's designated representative, at the office of the clerk-treasurer.

(b) The form of the permit shall be as established by the clerk-treasurer in consultation with the town council acting through the president of the council.

(c) Said permit shall be issued in four copies. The original copy shall be given to the applicant. One copy shall be retained by the clerk-treasurer and two copies forwarded to the plumbing and building inspector, who will forward one copy to the sewer department when he has approved the tap construction.

(d) When applying for a permit, the applicant shall present a drawing showing the outline of the property with dimensions, the location of the buildings on the property and the location of the proposed connection and private sewer line. This drawing will be acceptable if neatly and legibly prepared on 8½-inch × 11-inch white, unruled paper by the property owner. The clerk-treasurer shall reproduce the plan and attach one print to each copy of the permit.

(e) If the proposed connection will carry other than domestic sewage, the applicant shall so notify the clerk-treasurer in writing stating the composition of the effluent. When effluent other than domestic sewage is to be introduced into the system, the applicant must certify that the effluent to be discharged into the system complies with the sewer use regulations. If the applicant is unable to so certify, then the permit application data shall be submitted to the town engineer for review and recommendation.

(f) If the effluent consists of other than domestic sewage, the town engineer must approve the type of pipe material to be used for the private sewer pipe.

(g) The permit shall state the name of the individual or company making the connection.
(Code 1991, § 9-91; Ord. No. 710, § 2, ¶¶ 1—7, 3-26-1985)

**Sec. 70-197. Fees.**

(a) The fee for a sewer connection permit application shall be $35.00.

(b) All tap fees assessed against the property shall be paid prior to the issuance of a sewer connection permit.

(c) All capital improvement costs and sewer availability charges assessed against the property shall be paid prior to issuance of a sewer connection permit.
(Code 1991, § 9-92; Ord. No. 710, § 3, ¶¶ 1—3, 3-26-1985; Ord. No. 711, § 1, - -1985)

**Sec. 70-198. Who may make connection; bonds and insurance.**

(a) Work may be done by the property owner. If the owner elects to do his own work, he must provide a bond and/or insurance as specified for a contractor's license for the same class of work.

(b) If anyone other than the property owner is to make the connection, he must have a valid license.
(Code 1991, § 9-93; Ord. No. 710, § 4, ¶¶ 1, 2, 3-26-1985)

**Sec. 70-199. Materials.**

The materials to be used for sewer connections and repair shall adhere to the standards adopted by the town in the "Standards for the Design and Construction of Public Work Projects," as amended, copies of which are available for public viewing in the public works department, and which is incorporated herein by reference.
(Code 1991, § 9-94; Ord. No. 710, § 5, ¶¶ 1—3, 3-26-1985)

**Sec. 70-200. Construction.**

(a) The town public works director or his designee shall be notified at least 24 hours in advance of all construction to install a private sewer connection. No backfill shall be placed above the center of the pipe (one-half-inch diameter) until the installation has been inspected and approved by the public works director or his designee.

(b) All four-inch and six-inch lines over 100 to 150 feet maximum must have an intermediate cleanout point. For lines eight inches and over, this distance must be no longer than 400 feet. This cleanout point shall be either a manhole or a cleanout-to-grade. Use of a cleanout-to-grade must be approved by the public works director or his designee.

(c) Private sewer connections shall not be connected to septic tanks unless such usage has been reviewed and approved by the county health officer.

(d) Trench compaction in the public right-of-way shall be:

(1) Under an area to be patched or paved and under a shoulder area shall be 100 degrees Standard Method of Test for Moisture-Density Relations ASTM (American Society of Testing and Materials) D-698.

(2) All other areas within the public right-of-way shall be compacted to 90 percent using Standard Method of Test for Moisture Density Relations ASTM (American Society of Testing and Materials) D-698.

(e) All connections into existing sewer lines shall be made by installing a pipe saddle, tee, or way into the existing sewer. In no case will the connection be made by breaking into the existing sewer and inserting a pipe.
(Code 1991, § 9-95; Ord. No. 710, § 6, ¶¶ 1—5, 3-26-1985)

**Sec. 70-201. Separate stormwater and sanitary sewers required.**

The stormwater runoff, footing drains, roof drains, downspouts, cooling water, etc., shall not be discharged to a wastewater treatment system. Separate stormwater drains and sanitary sewers shall be provided. A complete interior and exterior inspection of buildings receiving service will be conducted prior to connection to the sanitary sewer to verify compliance to this section. No connection may be made prior to passing this inspection.
(Code 1991, § 9-96; Ord. No. 710, § 7, 3-26-1985)

**Sec. 70-202. Miscellaneous regulations.**

(a) *General manhole notes:*

(1) All concrete to be class "A," except as noted.

(2) All grout shall be nonshrinking.

(3) Manhole steps shall be installed in the vertical wall. Top step shall be a maximum distance of one foot six inches below grade.

(4) Sewer pipe may be laid through manhole and invert shaping, roughed in during construction to approximately two inches below finished elevation. Complete manhole by breaking out top half of pipe and steel, troweling rich grout to finish shelf contours.

(5) All openings in precast manholes shall be formed.

(b) *General notes:*

(1) The contractor shall restore all site conditions on public rights-of-way back to their original condition or better after completion of work. Lawns and grass requiring replacement in the public right-of-way shall be replaced with sod.

(2) The locations of house services shown in the drawings are approximate and are for information purposes only. Exact locations of existing house services in the work area shall be determined by the contractor. The contractor shall also assume full responsibility for any and all damages which might be occasioned by his failure to exactly locate and preserve any and all underground utilities.

(3) Locations of water mains and underground utilities are approximate only. The contractor shall notify utility companies at least 24 hours in advance of excavating near their respective utilities.

(4) The work shall be so arranged as to cause as little disturbance to the normal traffic as possible. The contractor shall notify all residences, business firms, etc., on the day prior to closing the vehicular entrances to such homes, business firms, etc., and shall maintain access for local traffic. The contractor shall cooperate with local law enforcement agencies concerning detours, signs and other protective devices.

(5) Water removed by dewatering equipment, if required, shall not be disposed of into existing combined or sanitary sewers.

(6) Where manholes are located outside of paved areas, the contractor shall grade around each casting so that surface water shall not drain into the structure.

(c) *Existing septic tanks.* Existing septic tanks and drywells shall be pumped empty and then backfilled with sand.

(d) *Concrete.*

(1) The following classes of concrete are included in these specifications and shall be used where specified:

| | *Class of Concrete* | | |
|---|---|---|---|
| | *A* | *B* | *C* |
| Sacks (94 pounds) of cement per cubic yard of concrete | 6 | 5 | 6.5 |
| Maximum water (gallons per sack) | 6 | 7 | 5.5 |

(2) Where no class of concrete is specified, class "B" may be used.

(e) *Inspections.*

(1) The holder of a sewer connection permit is entitled to four occasions of inspections by the plumbing and building inspector or his designee. They shall include, in the following order:

a. Preconstruction.

b. Separation of stormwater and other extraneous water.

c. Trench and connection inspection with pipe in place.

d. Final inspection (trenches and existing septic tanks and drywells backfilled, compaction and restoration of public right-of-way). Work may not proceed from one phase of construction to the next without passing the inspection for the previous phase.

(2) If more than four inspections are required, an additional fee of $30.00 per inspection shall be paid prior to the inspection.

(f) *Completion of work by town.* If the work in any phase is not complete to the satisfaction of the town acting through its plumbing and building inspector, the town will cause the work to be correctly completed in accordance with these specifications and all costs resulting therefrom shall be a charge against the project bond (owner's bond).
(Code 1991, § 9-97; Ord. No. 710, § 8, ¶¶ A—F, 3-26-1985)

**Sec. 70-203. Miscellaneous standards, diagrams/drawings.**

Twenty-three diagrams set forth the standards required by this article and are located at the end of this chapter.
(Code 1991, § 9-98; Ord. No. 710, § 8, ¶ G, 3-26-1985)

**Editor's note—**The diagrams referenced in this section are not set out herein but are on file in the office of the town clerk-treasurer.

Chapters 71—73

**RESERVED**

Chapter 74

# VEGETATION

## Article I. In General

Secs. 74-1—74-18. Reserved.

## Article II. Weeds and Rank Vegetation


Sec. 74-19. Noxious vegetation prohibited.
Sec. 74-20. Responsibility to enforce.
Sec. 74-21. Definitions.
Sec. 74-22. Notice procedures.
Sec. 74-23. Procedure without appeal.
Sec. 74-24. Violation.
Sec. 74-25. Penalties.
Sec. 74-26. Abatement.
Sec. 74-27. Invoicing of costs; appeals; unpaid invoices.
Sec. 74-28. Right of entry.
Sec. 74-29. Exemptions.

## ARTICLE I. IN GENERAL

**Secs. 74-1—74-18. Reserved.**

## ARTICLE II. WEEDS AND RANK VEGETATION*

### Sec. 74-19. Noxious vegetation prohibited.

It shall be unlawful for the owner or occupant of any lot or parcel of land within the town, including the lawn between the sidewalk and street adjacent to their property, to allow any grass, noxious weeds, or rank vegetation of any kind to grow to a height greater than six inches between May 1 and November 1 of any year.

### Sec. 74-20. Responsibility to enforce.

The building commissioner or his/her designee shall be responsible for the administration and enforcement of this article.
(Ord. No. 2021-12, § 1, 6-22-2021)

### Sec. 74-21. 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:

*Noxious weeds and rank vegetation* means:

(1) Canada thistle (Cirsium arvense);

(2) Johnson grass and Sorghum alumun (sorghum halrphense);

(3) Bur cucumber (sicyos angulatus);

(4) Shattercane (sorghum bicolor (L.) Moench spp. Drummondii (Steud.) (deWet);

(5) Perennial weeds which not only reproduce by seed but also spread by underground roots, stems and other reproductive parts; and which, when well established, are highly destructive and difficult to control by ordinary good cultural practice; and

(6) Weeds as are very objectionable in fields, lawns, and gardens of the state, but can be controlled by good cultural practices.

### Sec. 74-22. Notice procedures.

The building commissioner or his designee shall provide actual notice to the property owner/occupant of the alleged violation of this article, and the possible penalties. The property owner/occupant shall have ten calendar days to respond to the notice of violation

*__State law references—__Real property, action to bring compliance, IC 36-1-6-2; removal of weeds and rank vegetation, IC 36-7-10.1-1 et seq.; nuisance actions, IC 32-30-6-1 et seq.; requirements for classification as wildlife habitat or riparian land, IC 6-1.1-6.5-2.

either by mowing the property, or by notifying the town council, in writing, of a denial of violation. Upon receipt of a denial, the town council shall schedule the property owner/occupant for the agenda of the next town council meeting for a final determination on the violation.

**Sec. 74-23. Procedure without appeal.**

If the property owner/occupant does not choose to appeal a notice of violation, then the property owner/occupant shall have ten calendar days to take any and all necessary action to bring the real property into compliance with this article.

**Sec. 74-24. Violation.**

If the property owner/occupant fails to respond to the notice of violation either by taking the necessary remedial action, or filing an appeal with the town council, or does not adhere to the final determination of an appeal hearing as made by the town council, within ten calendar days, then the property owner/occupant shall be determined as in violation of this article.

**Sec. 74-25. Penalties.**

Property owners/occupants who are determined to be in violation of this article shall be subject to a fine as prescribed by and in accordance with section 1-8 or 1-18.

**Sec. 74-26. Abatement.**

At any time after a determination of a violation of this article, the building commissioner or his/her designee may initiate an action to abate the violation. All administrative and removal costs incurred by the town for any action taken to abate the violation shall be assessed to the property owner/occupant.
(Ord. No. 2021-12, § 2, 6-22-2021)

**Sec. 74-27. Invoicing of costs; appeals; unpaid invoices.**

The town shall issue a separate invoice to the property owner/occupant for all costs incurred by the town in abating the violation of this article, including administrative and removal costs. All appeals to said costs must be made in writing to the town council within 30 days of the posted invoicing date. Any unpaid invoices shall be charged to the tax roll of the owner's property.

**Sec. 74-28. Right of entry.**

The building commissioner or her/her designee shall be granted a right of entry for inspection of non-visible portions of real property only in response to a citizen complaint.
(Ord. No. 2021-12, § 3, 6-22-2021)

**Sec. 74-29. Exemptions.**

The following areas are hereby exempted from the provision of this article:

(1) All property owned by the United States of America;

(2) All property owned by the state;

(3) All property owned by the town;

(4) All property that has been declared a classified wildlife habitat area pursuant to state law.

Chapters 75—77

**RESERVED**

Chapter 78

# WATERWAYS

## Article I. In General

Secs. 78-1—78-18. Reserved.

## Article II. Beach Regulations

Sec. 78-19. Motorboats and jet skis prohibited.
Sec. 78-20. Use, consumption or possession of alcoholic beverage on town lakefront beach.
Sec. 78-21. Domesticated animals and pets prohibited on town lakefront beach.
Sec. 78-22. Horses prohibited on town beaches; penalty.

## ARTICLE I. IN GENERAL

**Secs. 78-1—78-18. Reserved.**

## ARTICLE II. BEACH REGULATIONS*

### Sec. 78-19. Motorboats and jet skis prohibited.

No person shall use, operate or possess any motorboat/jet skis upon the lakefront beach property owned by the town. The term "motorboat" shall be defined pursuant to IC 14-8-2-169.
(Ord. No. 93-08, § 1, 5-11-1993; Ord. No. 93-11, § 1, 5-25-1993)

### Sec. 78-20. Use, consumption or possession of alcoholic beverage on town lakefront beach.

No person shall use, consume or possess any alcoholic beverage on the lakefront beach property owned by the town. The term "alcoholic beverage" shall be defined pursuant to IC 7.1-1-3-5.
(Ord. No. 93-09, § 1, 5-11-1993)

### Sec. 78-21. Domesticated animals and pets prohibited on town lakefront beach.

No person shall bring upon or cause to be brought upon or possess upon the lakefront beach property owned by the town east of State Street any domesticated animal or pet.
(Ord. No. 93-14, § 1, 5-25-1993; Ord. No. 2015-05, 8-11-2015)

### Sec. 78-22. Horses prohibited on town beaches; penalty.

(a) No person owning any horse shall permit such horse to be on the beaches of the town. The beaches of the town are hereby defined as the sandy and grassy areas immediately adjacent to and contiguous with Lake Michigan that are owned by the town.

(b) Any person who violates any provision of this section shall be fined in the sum of $100.00 for each violation, provided that in lieu of such person being charged with a violation hereof in court, such person may pay the sum of $25.00 within five days of said violation to the town clerk-treasurer.
(Ord. No. 92-06-813, §§ 1, 2, 8-25-1992)

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***State law references—**Motorboats, IC 14-8-2-169; alcoholic beverages, IC 7.1-1-3-5.

Appendix A

# ZONING*

TABLE OF CONTENTS


| | Page |
|---|---|
| Article I. In General | CDA:9 |
| Secs. 1, 2. Reserved. | CDA:9 |
| Sec. 3. Purpose and intent. | CDA:9 |
| Sec. 4. Zoning districts, establishment and application. | CDA:10 |
| Sec. 5. Rules of interpretation of district boundaries. | CDA:10 |
| Sec. 6. General provisions and supplementary district regulations. | CDA:11 |
| Sec. 7. Definitions. | CDA:15 |
| Article II. OS Open Space Districts | CDA:37 |
| Sec. 8. Use and bulk regulations in OS Open Space districts. | CDA:37 |
| Sec. 9. Purpose. | CDA:38 |
| Sec. 10. Permitted uses. | CDA:38 |
| Sec. 11. Reserved. | CDA:39 |
| Sec. 12. Minimum lot size. | CDA:39 |
| Sec. 13. Maximum floor area ratio. | CDA:39 |
| Sec. 14. Maximum coverage. | CDA:39 |
| Sec. 15. Minimum front yard. | CDA:39 |
| Sec. 16. Minimum side yard. | CDA:39 |
| Sec. 17. Minimum rear yard. | CDA:40 |
| Sec. 18. Building Height. | CDA:40 |
| Secs. 19, 20. Reserved. | CDA:40 |
| Article III. R-1 and R-2 Single-Family Residential Districts. | CDA:40 |
| Sec. 21. Use and bulk regulations in all residential districts. | CDA:40 |
| Sec. 22. Purpose. | CDA:40 |
| Sec. 23. Permitted uses in R-1 and R-2 residential districts. | CDA:40 |
| Sec. 24. Transitional uses in R-1 and R-2 residential districts. | CDA:41 |
| Sec. 25. Reserved. | CDA:42 |
| Sec. 26. Minimum lot size in R-1 residential districts. | CDA:42 |
| Sec. 27. Minimum floor area in R-1 residential districts. | CDA:43 |


*__Editor's note—__Printed herein is the zoning ordinance of the Town of Porter, Indiana, as passed by Ordinance No. 2003-02, adopted on April 8, 2003. Amendments to the zoning ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original act. Any provisions regarding the title, enactment date, severability, repealer, transitional language, ratification date, publication date or effective date of the ordinance have been omitted. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Where a section has been amended or repealed by a later provision, only the current language has been printed. Additions made for clarity are indicated by brackets.

Page

Sec. 28. Minimum lot size in R-2 residential districts. . . CDA:43
Sec. 29. Minimum floor area in R-2 residential districts. CDA:43
Sec. 30. Maximum floor area ratio in R-1 and R-2 residential districts. . . . . CDA:44
Sec. 31. Maximum coverage in R-1 and R-2 residential districts. . . . . CDA:44
Sec. 32. Minimum front yards in R-1 and R-2 residential districts. . . . . CDA:44
Sec. 33. Minimum side yards in R-1 and R-2 residential districts. . . . . CDA:44
Sec. 34. Minimum rear yards in R-1 and R-2 residential districts. . . . . CDA:45
Sec. 35. Maximum Building Height in R-1 and R-2 residential districts. . . . . CDA:45
Article IV. R-3 Single- to Four-Family Residential Districts . . . . . CDA:45
Sec. 36. Purpose. . . . . CDA:45
Sec. 37. Permitted uses. . . . . CDA:45
Sec. 38. Transitional uses. . . . . CDA:46
Sec. 39. Reserved. . . . . CDA:46
Sec. 40. Minimum lot size. . . . . CDA:46
Sec. 41. Minimum Floor Area In R-3 residential districts. CDA:46
Sec. 42. Maximum floor area ratio. . . . . CDA:46
Sec. 43. Maximum coverage. . . . . CDA:47
Sec. 44. Minimum front yards. . . . . CDA:47
Sec. 45. Minimum side yards. . . . . CDA:47
Sec. 46. Minimum rear yards. . . . . CDA:47
Sec. 47. Maximum height requirement. . . . . CDA:47
Article V. R-4 Multiple-Family Residential and PUD Districts . . . . . CDA:47
Sec. 48. Purpose. . . . . CDA:47
Sec. 49. Permitted uses. . . . . CDA:48
Sec. 50. Reserved. . . . . CDA:48
Sec. 51. Minimum lot size. . . . . CDA:48
Sec. 52. Minimum floor area in R-4 residential districts. CDA:48
Sec. 53. Maximum floor area ratio. . . . . CDA:49
Sec. 54. Maximum coverage. . . . . CDA:49
Sec. 55. Minimum front yards. . . . . CDA:49
Sec. 56. Minimum side yards. . . . . CDA:49
Sec. 57. Minimum rear yards. . . . . CDA:49
Sec. 58. Maximum building height. . . . . CDA:49
Article VI. PB Professional Business District . . . . . CDA:49
Sec. 59. Use and bulk regulations in PB Professional Business districts. . . . . CDA:49
Sec. 60. Purpose. . . . . CDA:50
Sec. 61. Permitted uses. . . . . CDA:50
Sec. 62. Reserved. . . . . CDA:51
Sec. 63. Prohibited uses. . . . . CDA:51
Sec. 64. Maximum floor area ratio. . . . . CDA:51
Sec. 65. Maximum coverage. . . . . CDA:51
Sec. 66. Minimum front yards. . . . . CDA:51

Sec. 67. Minimum side yards. ..... CDA:52
Sec. 68. Minimum rear yards. ..... CDA:52
Sec. 69. Maximum height. ..... CDA:52
Secs. 70, 71. Reserved. ..... CDA:52
Article VII. B-1 Neighborhood Business District ..... CDA:52
Sec. 72. Use and bulk regulations in all business districts. CDA:52
Sec. 73. Purpose. ..... CDA:52
Sec. 74. Limitations of use. ..... CDA:53
Sec. 75. Permitted uses. ..... CDA:53
Sec. 76. Reserved. ..... CDA:55
Sec. 77. Maximum floor area ratio. ..... CDA:55
Sec. 78. Maximum lot coverage. ..... CDA:55
Sec. 79. Maximum building height. ..... CDA:55
Sec. 80. Minimum yards. ..... CDA:55
Sec. 81. Residential rear yards. ..... CDA:55
Sec. 82. Residential minimum lot size. ..... CDA:56
Article VIII. B-2 Central Business District ..... CDA:56
Sec. 83. Purpose. ..... CDA:56
Sec. 84. Limitations of use. ..... CDA:56
Sec. 85. Permitted uses. ..... CDA:57
Sec. 86. Maximum building height. ..... CDA:58
Sec. 87. Maximum floor area ratio. ..... CDA:58
Sec. 88. Required yards. ..... CDA:58
Sec. 89. Residential rear yards. ..... CDA:58
Sec. 90. Residential minimum lot size. ..... CDA:59
Article IX. B-3 General Business Districts ..... CDA:59
Sec. 91. Purpose. ..... CDA:59
Sec. 92. Limitations of use. ..... CDA:59
Sec. 93. Permitted uses. ..... CDA:59
Sec. 94. Maximum building height. ..... CDA:61
Sec. 95. Maximum floor area ratio. ..... CDA:61
Sec. 96. Required yards. ..... CDA:61
Secs. 97—101. Reserved. ..... CDA:61
Article X. I-1 Light Industrial Districts ..... CDA:62
Sec. 102. Use and bulk regulations in all industrial districts. ..... CDA:62
Sec. 103. Purpose. ..... CDA:62
Sec. 104. Limitations of use. ..... CDA:62
Sec. 105. Permitted uses. ..... CDA:63
Sec. 106. Reserved. ..... CDA:66
Sec. 107. Performance standards—Noise. ..... CDA:67
Sec. 108. Performance standards—Odorous matter. ..... CDA:67
Sec. 109. Same—Vibration. ..... CDA:67
Sec. 110. Same—Toxic or noxious matter. ..... CDA:68
Sec. 111. Same—Glare or heat. ..... CDA:68
Sec. 112. Same—Fire and explosive hazards. ..... CDA:68
Sec. 113. Same—Air pollution. ..... CDA:69
Sec. 114. Same—Water pollution. ..... CDA:69
Sec. 115. Maximum floor area ratio. ..... CDA:69
Sec. 116. Minimum front yard. ..... CDA:69

Page

Sec. 117. Minimum side yard. . . . . CDA:69
Sec. 118. Minimum rear yard. . . . . CDA:69
Sec. 119. Regulations along residential district boundaries. . . . . CDA:69
Article XI. I-2 Heavy Industrial Districts . . . . . CDA:70
Sec. 120. Purpose. . . . . CDA:70
Sec. 121. Limitations of use. . . . . CDA:70
Sec. 122. Permitted uses. . . . . CDA:70
Sec. 123. Reserved. . . . . CDA:72
Sec. 124. Performance standards—Noise. . . . . CDA:72
Sec. 125. Same—Odorous matter. . . . . CDA:72
Sec. 126. Same—Vibrations. . . . . CDA:72
Sec. 127. Same—Toxic or noxious matter. . . . . CDA:72
Sec. 128. Same—Glare or heat. . . . . CDA:73
Sec. 129. Same—Fire and explosive hazards. . . . . CDA:73
Sec. 130. Same—Air pollution. . . . . CDA:74
Sec. 131. Same—Water pollution. . . . . CDA:74
Sec. 132. Maximum floor area ratio. . . . . CDA:74
Sec. 133. Minimum front, side, and rear yards. . . . . CDA:75
Sec. 134. Regulations along residential district boundaries. . . . . CDA:75
Secs. 135—138. Reserved. . . . . CDA:75
Article XII. F-1 Flood Plain Districts . . . . . CDA:75
Sec. 139. Purpose. . . . . CDA:75
Sec. 140. Limitations of use. . . . . CDA:75
Sec. 141. Permitted uses. . . . . CDA:76
Sec. 142. Reserved. . . . . CDA:76
Sec. 143. Flood plain fringe areas. . . . . CDA:76
Sec. 144. Designation and duties of the administrator. . . CDA:76.1
Sec. 145. Development prohibition. . . . . CDA:76.1
Sec. 146. Non-conforming uses. . . . . CDA:76.1
Sec. 147. Variance. . . . . CDA:76.1
Sec. 148. [Conflicting provisions.] . . . . . CDA:76.1
Secs. 149—151. Reserved. . . . . CDA:76.1
Article XIII. Planned Unit Developments Districts . . . . . CDA:77
Sec. 152. Purpose. . . . . CDA:77
Sec. 153. Planned unit developments, classification. . . . . CDA:77
Sec. 154. Organization of proposals. . . . . CDA:78
Sec. 155. Filing procedure. . . . . CDA:78
Sec. 156. Preliminary plan hearing. . . . . CDA:80
Sec. 157. Approval of the final detailed plan. . . . . CDA:80
Sec. 158. Covenants and maintenance. . . . . CDA:81
Sec. 159. Recording. . . . . CDA:83
Sec. 160. Permit. . . . . CDA:83
Sec. 161. Construction. . . . . CDA:83
Sec. 162. Extensions, abandonment, and expiration. . . . . CDA:83
Sec. 163. Limitation of rezoning. . . . . CDA:84
Secs. 164—167. Reserved. . . . . CDA:84

Page

Article XIV. Mobile Homes and Mobile Home Parks ..... CDA:84
Sec. 168. Purpose. ..... CDA:84
Sec. 169. General requirements. ..... CDA:84
Sec. 170. Compliance required. ..... CDA:86
Sec. 171. Improvement standards. ..... CDA:87
Secs. 172—175. Reserved. ..... CDA:88
Article XV. Off-Street Parking, Loading and Landscaping. ..... CDA:88
Sec. 176. Purpose. ..... CDA:88
Sec. 177. General provisions. ..... CDA:89
Sec. 178. Location of accessory off-street parking facilities. ..... CDA:90
Sec. 179. Additional parking regulations. ..... CDA:90
Sec. 180. Schedule of parking requirements. ..... CDA:92
Sec. 181. Additional loading regulations. ..... CDA:96
Sec. 182. Schedule of loading requirements. ..... CDA:97
Sec. 183. Additional landscaping provisions. ..... CDA:98
Article XVI. Signs ..... CDA:100
Sec. 184. Purpose and general provisions. ..... CDA:100
Sec. 185. Permitted signs—Open Space districts. ..... CDA:100
Sec. 186. Same—Residential districts. ..... CDA:101
Sec. 187. Same—Professional Business districts. ..... CDA:101
Sec. 188. Same—Business districts. ..... CDA:102
Sec. 189. Same—Industrial districts. ..... CDA:103
Sec. 190. Temporary signs. ..... CDA:104
Sec. 191. Landscaping ..... CDA:106
Secs. 192—198. Reserved. ..... CDA:106.1
Article XVII. Nonconforming Uses and Nonconforming Buildings .... CDA:106.1
Sec. 199. Purpose. ..... CDA:106.1
Sec. 200. Incompatibility of nonconforming uses. ..... CDA:106.1
Sec. 201. Avoidance of undue hardship. ..... CDA:106.1
Sec. 202. Single nonconforming lots of record. ..... CDA:107
Sec. 203. Nonconforming lots of record in combination. . CDA:107
Sec. 204. Nonconforming uses of land. ..... CDA:107
Sec. 205. Nonconforming structures. ..... CDA:108
Sec. 206. Nonconforming uses of structures or of structures and land in combination. ..... CDA:108
Sec. 207. Repairs and maintenance. ..... CDA:109
Sec. 208. Changing the use of a nonconforming use. .... CDA:109
Article XVIII. Site Plan Review ..... CDA:109
Sec. 209. Purpose. ..... CDA:109
Sec. 210. Rules for review. ..... CDA:110
Sec. 211. Applicability of review. ..... CDA:110
Sec. 212. Components of review. ..... CDA:110
Sec. 213. Review factors. ..... CDA:110.1
Article XIX. Regulations for Cellular Antenna Towers and Cellular Telecommunication Services ..... CDA:113
Sec. 214. Purpose. ..... CDA:113
Sec. 215. Pre-application conference. ..... CDA:113
Sec. 216. Definitions. ..... CDA:114

Page

Sec. 217. General. . . . CDA:114
Sec. 218. Applicability. . . . CDA:114
Sec. 219. Application requirements. . . . CDA:114
Sec. 220. Processing of Application. . . . CDA:118
Sec. 221. Design standards. . . . CDA:118
Sec. 222. Fees. . . . CDA:120
Sec. 223. Amendments. . . . CDA:120
Article XX. Administration and Enforcement . . . CDA:121
Sec. 224. Purpose. . . . CDA:121
Sec. 225. Administrative official. . . . CDA:121
Sec. 226. Applicability. . . . CDA:121
Sec. 227. Certificate of occupancy. . . . CDA:121
Sec. 228. Site plan and construction drawings. . . . CDA:122
Sec. 229. Industrial uses; certificate of compliance. . . . CDA:122
Sec. 230. Records. . . . CDA:122
Sec. 231. Issuance or denial. . . . CDA:122
Sec. 232. Appeals. . . . CDA:122
Sec. 233. Expiration. . . . CDA:123
Article XXI. Board of Zoning Appeals . . . CDA:123
Sec. 234. Purpose. . . . CDA:123
Sec. 235. Created. . . . CDA:123
Sec. 236. Membership. . . . CDA:123
Sec. 237. Terms of office. . . . CDA:123
Sec. 238. Quorum. . . . CDA:124
Sec. 239. Territorial jurisdiction. . . . CDA:124
Sec. 240. Subject matter jurisdiction. . . . CDA:124
Sec. 241. Staff. . . . CDA:124
Sec. 242. Rules and bylaws. . . . CDA:124
Sec. 243. Facilities and funding. . . . CDA:124
Sec. 244. Filing. . . . CDA:124
Sec. 245. Hearings. . . . CDA:125
Sec. 246. Use variances. . . . CDA:125
Sec. 247. Variances. . . . CDA:126
Sec. 248. Appeals. . . . CDA:127
Article XXII. Schedule of Fees . . . CDA:127
Sec. 249. Purpose. . . . CDA:127
Sec. 250. Establishment. . . . CDA:127
Sec. 251. Payment prerequisite to action on application or appeal. . . . CDA:127
Article XXIII. Amendments . . . CDA:128
Sec. 252. Purpose. . . . CDA:128
Sec. 253. Who may initiate. . . . CDA:128
Sec. 254. Referral to the plan commission. . . . CDA:128
Sec. 255. Public hearing. . . . CDA:128
Sec. 256. Minimum size of parcel. . . . CDA:128
Article XXIV. Porter Beach Overlay . . . CDA:129
Sec. 257. Background. . . . CDA:129
Sec. 258. Planning history. . . . CDA:130
Sec. 259. Lakeshore preservation district policies. . . . CDA:131

Page

Sec. 260. Applicability statement. . . . . CDA:132
Sec. 261. Developmental standards. . . . . CDA:132
Sec. 262. Performance standards. . . . . CDA:133
Article XXV. Invasive Species Control . . . . . CDA:137
Article XXVI. Enforcement, Violation and Penalties . . . . . CDA:140
Sec. 263. Purpose. . . . . CDA:140
Sec. 264. Enforcement, violation and penalties. . . . . CDA:140
Article XXVII. Fence and Wall Restrictions . . . . . CDA:141
Sec. 265. All districts. . . . . CDA:141
Sec. 266. Residential districts. . . . . CDA:142
Sec. 267. Nonresidential districts. . . . . CDA:142

## ARTICLE I. IN GENERAL

**Secs. 1, 2. Reserved.**

**Sec. 3. Purpose and intent.**

This chapter is adopted for the following purposes:

(1) To promote the public health, safety, comfort, morals, convenience and general public welfare.

(2) To protect the character and the stability of the residential; business and Industrial areas within the Town and to promote the orderly and beneficial development of such areas.

(3) To provide adequate light, air, privacy and convenience of access to property.

(4) To regulate the intensity of use of land and lot areas and to determine the area of open spaces surrounding buildings necessary to provide adequate light and air and to promote the public health.

(5) To lessen or avoid congestion in the public streets.

(6) To provide for the needs of industry, business and residential in future growth.

(7) To promote healthful surroundings for family life in residential areas.

(8) To fix reasonable standards to which buildings or structures shall conform therein.

(9) To prohibit uses, buildings or structures which are incompatible with the character of development or the uses allowed within specified zoning districts.

(10) To prevent additions to or alterations or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations imposed hereunder.

(11) To protect against fire, explosion, noxious fumes and other hazards in the interest of the public health, safety, comfort and general welfare.

(12) To prevent the overcrowding of land and undue concentration of structures so far as is possible and appropriate in each district by regulating the use and bulk of buildings in relation to the land surrounding them.

(13) To conserve the taxable value of land and buildings throughout the Town.

(14) To provide for the gradual elimination of nonconforming uses of land, buildings and structures, which are adversely affecting the character and value of desirable development in each district.

(15) To define and limit the powers and duties of the administrative officers and bodies as provided.

**Sec. 4. Zoning districts, establishment and application.**

(a) *Zoning districts.* In order to carry out the purposes and provisions of this chapter, the Town is hereby divided into zoning districts, as shown on the official zoning map which, together with all explanatory matters thereon, is hereby adopted by reference and made a part of this chapter:

| | |
|---|---|
| OS | Open Space District. |
| R-1 | Single-Family (Large Lot) Residential District. |
| R-2 | Single-Family (Small Lot) Residential District. |
| R-3 | Single- through Four-Family Residential District. |
| R-4 | Multiple-Family Residential District. |
| PB | Professional Business District. |
| B-1 | Neighborhood Business District. |
| B-2 | Central Business District. |
| B-3 | General Business District. |
| I-1 | Light Industrial District. |
| I-2 | Heavy Industrial District. |
| F-1 | Flood Plain District. |
| PUD | Planned Unit Development District |

The official zoning map shall be identified by the signature of the town council president attested by the Town clerk, and bearing the seal of the Town under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 1 of Ordinance # 2003-02 of the Town of Porter, State of Indiana.", together with the date of the adoption of this chapter.

If, in accordance with the provisions of this chapter and chapter 174 of the Acts of 1947 as amended, changes are made in district boundaries or other matters portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the common council of the Town.

(b) *Replacement of official zoning map.* In the event that the official zoning map becomes damaged destroyed, lost or difficult to interpret because of the nature and number of changes and additions, the common council may, by resolution, adopt a new official zoning map, which shall supercede the prior official zoning map. The new official zoning map shall be identified by the signature of the town council president attested by the Town clerk, and bearing the seal of the Town under the following words: "This is to certify that this Official Zoning Map supercedes and replaces the Official Zoning Map adopted November 19, 1962 as part of Ordinance No. 466, and as was readopted on August 7, 1967, as part of Ordinance No. 544 of the Town of Porter, Indiana".

**Sec. 5. Rules of interpretation of district boundaries.**

Whenever uncertainty exists with respect to the boundaries of the various districts as shown on the official zoning map, the following rules shall apply:

(a) Boundaries indicated as following centerlines of streets, highways, alleys, platted lot lines or Town limit lines, shall be construed to follow such lines.

(b) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

(c) Boundaries indicated, as approximately following the centerlines of streams or rivers shall be construed to follow such centerlines.

(d) Where a zoning district boundary line divides a platted lot of record which was in single ownership at the time of enactment of this chapter, the board of zoning appeals may, upon petition, extend such zoning district boundary line to include the entire lot of record in one or the other of the zoning districts.

(e) In all other cases of interpretation of district boundaries not covered by the above regulations, final interpretation shall be made by the board of zoning appeals.

**Sec. 6. General provisions and supplementary district regulations.**

(a) *Interpretation and application.*

(1) In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for promotion of the public health, safety, morals and welfare.

(2) Where the conditions imposed by any provisions of this chapter upon the use of land or buildings or upon the bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this chapter or of any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive (or which impose higher standards or requirements) shall govern.

(3) This chapter is not intended to abrogate any easement, covenant or any other private agreement; provided, that where the regulations of this chapter are more restrictive (or impose higher standards or requirements) than such easements, covenants or other private agreements, the requirements of this chapter shall govern.

(b) *Scope of regulations.* Except as may otherwise be provided in Article XVIII [XVII], entitled "Nonconforming Uses and Nonconforming Buildings," all buildings erected hereafter, all uses of land or buildings established hereafter, all structural alteration or relocation of existing buildings occurring hereafter and all enlargements of or additions to existing uses occurring hereafter shall be subject to all regulations of this chapter which are applicable to the zoning districts in which such buildings, uses or land shall be located.

However, where a building permit for a building or structure has been issued in accordance with law prior to the effective date of this chapter; and provided, that construction is begun within one year of such effective date and diligently prosecuted to completion, such building or structure may be completed in accordance with the approved plans on the basis of which the building permit has been issued, and further, may upon completion be occupied under a certificate of occupancy by the use for which originally designated subject thereafter to the provisions of Article XVIII [XVII] entitled "Nonconforming Uses and Nonconforming Buildings."

No building or structure shall hereafter be erected or altered:

(1) To exceed the height or bulk of applicable district regulations.

(2) To accommodate or house a greater number of families.

(3) To occupy a greater percentage of lot area.

(4) To have narrower or smaller yards - either front, rear or side.

(5) To, in any other way, diminish yard requirements.

(6) To diminish, in any other way, the provisions of this chapter.

(c) *Zoning of annexed land.* All territory, which may hereafter be annexed to the Town, shall be considered to be annexed as it is so zoned at the time of the annexation. All existing special or Use Variance permits existing for any property to be annexed to the Town shall be continued as Use Variances after annexation. Upon the annexation of any territory to the Town, a plan for zoning the area annexed shall be forwarded to the common council by the plan commission.

(d) *Access to public street.* Every principal building hereafter erected shall be on a zoning lot or parcel of land which adjoins a public street or a permanent easement of access to a public street, such easement to be at least twenty feet wide unless a lesser width was duly established and recorded prior to the effective date of this chapter.

(e) *Number of buildings on a zoning lot.* Except in the case of planned developments, not more than one principle detached residential building shall be located on a zoning lot, nor shall a principal detached residential building be located on the same zoning lot with any other principal building.

(f) *Accessory buildings.*

(1) *Time of construction.* No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory.

(2) *Percentage of rear yard occupied.* No accessory building or buildings shall occupy more than forty (40%) percent of the area of a rear yard.

(3) *Height of accessory buildings in required rear or side yards.* No accessory building or portion thereof located in a required rear yard shall exceed eighteen (18) feet in height. The maximum height of an accessory building may be increased by one (1) foot for every ten (10) feet of additional setback beyond the required rear or side yard, to a maximum of twenty (24) [sic] feet.

(4) *On reversed corner lots.* On a reversed corner lot in a residential district, no accessory building or portion thereof located in a required rear yard shall be closer to the side lot line abutting the street than the established building line. Further, in the above instance, no such accessory building shall be located within five (5) feet of any part of a rear lot line which coincides with a side lot line or a portion thereof of property in an R-1, R-2, R-3 or R-4 district.

(5) *Limitation of size.* In zoning districts R-1, R-2, R-3, or R-4, the summation of the gross floor area of all accessory structures shall not exceed:

a. the gross floor area of the principle structure if the lot is less than one (1) acre,

b. 1.5 times the gross floor area of the principle structure if the lot is one (1) to three (3) acres,

c. 2 times the gross floor area of the principle structure if the lot is larger than three (3) acres.

(6) *Location of accessory buildings.* No accessory building may be built or located on a recorded easement, or in the front yard, or in the required side yard, and must be a minimum of five (5) feet from a rear lot line.

(7) *Number of accessory structures.* In zoning districts R-1, R-2, R-3 or R-4, accessory structures shall number no more than two (2), including attached garages.

(8) *Separation from principal structure.* No accessory structure shall be closer than ten (10) feet from the principle structure.

(9) *[Sheds, playhouses, etc.]* One shed, playhouse, dog house, etc., measuring less than One Hundred (100) square feet shall not be counted as an accessory structure. Subsequent structures of any size shall be considered accessory.

(g) *Bulk regulations.*

(1) *Continued conformity with bulk regulations.* The maintenance of yards, courts and other open space and minimum lot area legally required for a building shall be a continuing obligation of the owner of such building or of the property on which it is located as long as the building is in existence. Furthermore, no legally required yards, courts, other open space or minimum lot area allocated to the building shall, by virtue of change of ownership or for any other reason, be used to satisfy yard, court, other open space or minimum lot area requirements for any other building.

(2) *Division of zoning lots.* No zoning lot improved with a building or buildings shall hereafter be divided into two (2) or more zoning lots; and no portion of any zoning lot which is improved with a building or buildings shall be sold, unless all zoning lots resulting from each sale and improved with a building or buildings shall conform with all bulk regulations of the zoning district in which the property is located. However, with respect to the resubdivision of improved lots in multiple-family residential districts, side yard requirements shall not apply between detached buildings.

(3) *Location of required open space.* All yards, courts and other open spaces allocated to a building or dwelling group shall be located on the same zoning lot as such building or dwelling group.

(4) *Required yards for existing buildings.* No yards now or hereafter provided for a building existing on the effective date of this chapter shall subsequently be reduced below or further reduced below if already less than the minimum yard requirements of this chapter for equivalent new construction.

(5) *Permitted obstruction in required yards.* The following shall not be considered to be obstructions when located in the required yards specified:

a. In all yards. Ordinary projections of skylights, sills, belt courses, cornices and ornamental features projecting not to exceed twelve (12) inches; open terraces or decks not over four (4) feet above the average level of the adjoining ground but not including a permanent roofed-over terrace or porch and not including terraces or decks which project into the required front yard by more than six (6) feet from the front of the principal structure; awnings and canopies; steps which are necessary for access to a permitted building or for access to a zoning lot from a street or alley; chimneys projecting eighteen (18) inches or less into the yard; arbors, trellises and flagpoles; fences, screens, hedges and walls provided, that in residential districts no fence or wall shall be located in the required front yard and no landscaped screen or hedge shall exceed three feet six inches (3'-6") in height if located in the front yard, and no fence, landscaped screen, hedge or wall shall exceed six (6) feet in height if located in a side or rear yard. No fence, screen, hedge or wall shall interfere with line of sight requirements for local streets or intersections. No fence, screen, hedge or wall shall be constructed of material that may be described as rubble, cardboard, chicken wire, trees and brush, corrugated tin, utility poles, railroad ties, barbed wire, broken glass or electrified material. The design, location and construction of a fence, screen, hedge or wall shall be approved by the Building Commissioner prior to the issuance of a building permit.

b. In front yards. One story bay windows projecting three (3) feet or less into the yard; and, overhanging eaves and gutters projecting three (3) feet or less into the yard.

c. In rear yards. Enclosed attached or detached off-street parking spaces; open off-street parking spaces; accessory sheds, tool rooms and similar buildings or structures for domestic or Open Space storage; balconies, breezeways and open porches; one story bay windows and, overhanging eaves and gutters projecting three (3) feet or less into the yard. No accessory building shall be closer than five (5) feet to the side lot line. No accessory building or use shall be closer than five (5) feet to the rear lot line.

d. In side yards. Overhanging eaves and gutters projecting into the yard for a distance not exceeding forty percent (40%) of the required yard width, but in no case exceeding three (3) feet.

(h) *Performance standards.* The performance standards set forth in this chapter in the Industrial districts as regards noise, odorous matter, vibrations, toxic or noxious matter, glare or heat, and fire and explosive hazards, shall also apply to residential and business districts.

(i) *Existing use variances.* Where a use is classified as a Use Variance under this chapter and exists as a conditional or permitted use at the date of adoption of this chapter, it shall be without further action of the Town council, the zoning administrator or the board of zoning appeals, a legal use.

**Sec. 7. Definitions.**

7.01. *Accessory building or use.*

(a) An "accessory building or use" is one which:

(1) Is subordinate to and serves the principal building or principal use.

(2) Is limited in area, extent or purpose to the principal building or principal use served.

(3) Contributes to the comfort, convenience or necessity of occupants of the principal building or principal use served.

(4) Is located on the same zoning lot as the principal building or principal use served, with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same zoning lot with the building or use served.

(b) An "accessory building or use" includes but is not limited to the following:

(1) A children's playhouse, garden house or private greenhouse.

(2) A garage, shed or building for domestic storage.

(3) Storage of goods used in or produced by Industrial activities unless such storage is excluded by district regulations.

(4) The production, processing, cleaning, servicing, altering, testing, repair or storage of merchandise normally incidental to a retail service or business use conducted by the same ownership as the principal use. In a business district, all such activities shall conform with the performance standards for the I-1 industrial districts in article VIII [articles X and XI], applied at the boundaries of the lot on which the use is located.

(5) Off-street motor vehicle parking spaces or areas and loading facilities.

(6) Signs as permitted and as regulated in each district incorporated in this chapter.

(7) Carports.

7.02. *Actual construction.* "Actual construction" is hereby defined as work done, which is beyond the preparation stage and into that stage where changes or additions are made permanent.

7.03. *Administrator.* The "administrator" is the officer appointed by and/or delegated the responsibility for the administration of these regulations by the planning commission.

7.04. *Advertising Structure.* Any notice or advertisement, pictorial, or otherwise, and any such structure used as an outdoor display, regardless of size and shape, that contains a message unrelated to any business or activity or service actually carried on upon the premises.

7.05. *Agricultural building.* A structure utilized for the conduct of farming operations, but not including a dwelling.

7.06. *Aircraft.* Any contrivance now known or hereinafter invented, for use designed for navigation of or flight in the air or outer space, including missiles.

7.07. *Airport.* Any area, which is used or intended to be used for the taking off and landing of aircraft, including helicopters, and any appurtenant areas, which are used or intended to be used for airport buildings or facilities, including open space, taxiways, and tie-down areas.

7.08. *Alley.* An "alley" is a public right-of-way not more than thirty (30) feet wide which affords only a secondary means of access to abutting property.

7.09. *Amusement device.* A Machine or device, generally coin-operated, which operates or may be operated for use as a game, contest, or amusement of any description, and sometimes incorporating either electro-mechanical devices or electronic video display operations; provided however, that coin-operated musical devices, rides, pinball machines, and other vending machines are excluded from this definition.

7.10. *Apartment.* An "apartment" is a room or suite of rooms in a multiple family structure, which is arranged, designed, used or intended to be used as a single housekeeping unit. Complete kitchen facilities, permanently installed, must always be included for each apartment.

7.11. *Applicant.* The "applicant" is a fee simple owner of land, or the authorized agent thereof, who makes application to the Porter Plan Commission for action by said commission thereby affecting the land.

7.12. *Arterial street.* An "arterial street" is either a primary arterial or secondary arterial as defined in this section.

7.13. *Automobile laundry/car wash.* An "automobile laundry/car wash" is a building or portion thereof where the principal activity is the washing of automobiles, including the use of chain conveyors, blowers and steam cleaning devises.

7.14. *Automobile repair, major.* A "major automobile repair" is an activity described as engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; and overall painting of vehicles.

7.15. *Automobile repair, minor.* A "minor automobile repair" is an activity described as the incidental replacement of parts and motor service to automobiles; but not including any operation specified under "automobile repair, major."

7.16. *Automobile service station or filing station.* An "automobile service station or filling station" is a place where gasoline and diesel fuel, stored only in underground tanks, and kerosene, lubricating oil or grease for operation of light trucks and automobiles, is offered for sale directly to the public on the premises. It may include the sale and provision of minor accessories and services for said vehicles, including washing of vehicles where no chain conveyor, blower or steam cleaning devise is employed. Uses permissible at an automobile service station or filling station shall not include major automobile repair, welding unless incidental to minor repairs - i.e.: exhaust, storage of automobiles not in working condition, the

sale of automobiles or trucks, or other work involving noise, glare, smoke, fumes or other characteristics to an extent greater than would normally be found in service stations. An automobile service station or filling station is not a repair shop nor a body shop.

7.17. *Automobile wrecking yard.* An "automobile wrecking yard" is any land, building or structure used for the open storage, keeping or abandonment of any worn out, cast off, inoperative, discarded or abandoned vehicle, automobile or parts thereof, which is not being restored to operation, including vehicles or automobiles without a valid current state registration and license plate issued to such vehicle or automobile, or to the occupant, owner, purchaser, lessor, lessee or tenant of such place; and including the wrecking of such motor vehicles or the parts thereof and any other goods or articles of salvage for the purpose of commercial sale.

7.18. *Awning.* An "awning" is a roof-like cover, temporary in nature, which projects from the wall of a building and overhangs a public way or a required yard.

7.19. *Basement.* A "basement" is a story partly underground, but having less than one half (½) its clear floor to ceiling height below finished grade. A basement should be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five (5) feet and the area is used for business or dwelling purposes.

7.20. *Bed and breakfast Inns.* "Bed and breakfast inns" are establishments ranging from four (4) to twenty (20) guest rooms and may include restaurants that cater to the general public as well as to overnight guest. These are treated as commercial establishments.

7.21. *Block.* A "block" is a tract of land bounded by streets or by a combination of streets and public parks, cemeteries, railroad right-of-way, bulkhead lines, shore lines, waterways or corporate boundary lines of a Town.

7.22. *Boarding house.* A building, not available to transients, in which meals are regularly provided for compensation for at least three (3), but not more than thirty (30) persons.

7.23. *Buffer Landscaping.* "Buffer landscaping" is any trees, shrubs, walls, fences, berms, or related landscaping features required under this ordinance or the Subdivision Regulations to be placed on private property and privately maintained or in public rights-of-way for the purpose of buffering lots from adjacent property, for esthetic purposes, and/or for creating sound barriers and/or visual privacy.

7.24. *Building.* A "building" is any structure designed, built or intended for the shelter, enclosure or protection of persons, animals, chattels or moveable property of any kind, and which is permanently affixed to the land.

7.25. *Buildable area.* The "buildable area" is the portion of the lot remaining after required yards have been provided.

7.26. *Building, completely enclosed.* A "completely enclosed building" is a building separated on all sides from the adjacent open space or from other buildings or other structures by a permanent and by exterior walls or party walls, pierced only by windows and normal entrance or exit doors.

7.27. *Building coverage.* The "building coverage" on a zoning lot is the proportion of the total area of such zoning lot occupied by the ground area of all buildings located thereon. Porches, breezeways, pool houses, gazebos, and other roofed structures shall be included in the determination of building coverage. Playground equipment, tree houses, playhouses for children shall not be included.

7.28. *Building, detached.* A "detached building" is a building, which does not connect to another building and is surrounded by open space on the same lot.

7.29. *Building height.* "Building height" is the vertical distance from the curb level, or its equivalent, opposite the center of the front of the building to the highest point of the exterior of the building. Appurtenances, (chimneys, vent stacks, antennas, etc.), shall not be included when determining height.

7.30. *Building line.* A "building line" is the line that establishes the minimum permitted distance of a lot between the front line of a building and the street right-of-way line.

7.31. *Building permit.* A "building permit" is a document issued to a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure within its jurisdiction, or cause the same to be done or to change the use or condition of the land.

7.32. *Building, principal.* A "principal building" is a building in which the principal use of a lot on which it is located is conducted.

7.33. *Building, residential.* A "residential building" is a building which is arranged, designed or used for residential occupancy by one or more families or lodgers and which includes, but is not limited to the following:

(a) One-family detached dwellings.

(b) Two-family dwellings.

(c) Multiple-family dwellings.

(d) A row of one- or two-family attached dwellings developed initially under single ownership or control.

7.34. *Bulk.* "Bulk" is the term used to indicate the size and setbacks of buildings or structures and the location of same with respect to one another, and includes the following:

(a) Size and height of buildings.

(b) Location of exterior walls at all levels in relation to lot lines, streets or to other buildings.

(c) Gross floor area of buildings in relation to lot area (floor area ratio).

(d) Amount of lot area per dwelling unit.

7.35. *Business.* A "business" involves the purchase, sale, or exchange of goods or services, or the maintenance for profit of offices or recreational or amusement enterprises.

7.36. *Bus terminal; bus depot; bus station:* A "bus terminal," a "bus depot" or a "bus station" is any place, building or portion thereof where intra-Town buses make their major or only stop, whether such stop is off-street or on the public way adjacent thereto, for the purpose of loading or unloading passengers, baggage or freight, and also where minor repairs to such buses may be provided. Such "bus terminal," "bus depot" or "bus station" may serve as a stop for inter-Town buses for the purpose of loading or unloading passengers and baggage but shall not be deemed to include the corner-to-corner pick-up and discharge service normally provided by inter-Town buses.

7.37. *Campground.* A "campground" is any site, lot, field, or tract of land under single ownership, or ownership of two (2) or more people, designed with facilities for short term occupancy by recreational vehicles and other camping equipment, but not including mobile homes.

7.38. *Cellar.* A "cellar" is a story partly or wholly underground and having more than one-half (½) of its clear height below the average level of the adjoining ground. A "cellar" should not be considered in determining the permissible number of stories, nor shall it be considered as space to be used for living quarters.

7.39. *Cemetery.* A "cemetery" is any tract of land used for burying the dead such as a graveyard and includes any columbarium, crematory, mausoleum or mortuary operated in conjunction with and on the same tract as the cemetery.

7.40. *Clinic.* A "clinic" is an establishment in which patients are admitted for medical or dental study or treatment and in which the services of at least two (2) physicians and/or dentists are provided.

7.41. *Club or lodge, private.* A "private club or lodge" is a nonprofit association of persons who are bona fide members, electing a board of directors and paying annual dues, which owns, hires or leases a building or portion thereof, the use of such premises being restricted to members and their guests. It shall be permissible to serve food and beverages on such premises; provided, that adequate dining room service and kitchen facilities are available. The sale of alcoholic beverages to members and their guests shall be allowed in conjunction with the operation of a dining room established for the purpose of serving food and beverages though such beverages may be served in a separate room or rooms. Provided further that such sale of alcoholic beverages be in compliance with the applicable state, federal and municipal laws.

7.42. *Cluster housing.* "Cluster housing" are developments in which the dwelling units are clustered close to their access streets or drives in order to permit aggregation of yard space into larger common recreational spaces.

7.43. *Coin-operated amusement center.* An establishment engaged in providing amusement or entertainment through or by the use of amusement devices, and containing five (5) or more such amusement devices.

7.44. *Collector street.* A "collector street" is a street intended to move traffic from local streets to secondary arterials.

7.44(a). *Commercial Vehicle.* A "commercial vehicle" means any motor vehicle with more than two axles, or any motor vehicle with a declared gross vehicle weight of more than 10,000 lbs, or any vehicle which is not an automobile, pick-up truck, sport utility vehicle, motorcycle, or van, or any trailer, any portion of which is designed for commercial, professional, or business purposes.

7.45. *Compounding.* The process of mixing chemical components to produce a "compound".

7.46. *Condominium.* A "condominium" is real estate lawfully subjected to the Horizontal Property Law by the recordation of condominium instruments, in which undivided interests in the common areas and facilities are vested in the condominium unit owners.

7.46(a). *Construction Equipment.* "Construction equipment" means any motorized or non-motorized equipment, which is, used off-premises for the purpose of construction related tasks, including, but not limited to excavation, compaction, paving, spreading, hauling, loading, leveling, or cutting.

7.47. *Convalescent Home.* (See Rest home).

7.48. *Curb level.* The "curb level" for any building is the level of the established curb in front of such building measured at the center of such building. Where no curb exists and no curb elevation has been established, the Town engineer shall establish curb level.

7.49. *Day care center.* A "day care center" is any place operated by a person, society, agency, corporation or institution, or any other group, which receive for pay three (3), or more children under eighteen (18) years of age for group care, without transfer or custody, for less than twenty-four (24) hours per day.

7.50. *Detached building.* A building that has no structural connection with another building.

7.51. *Drive-In.* A "drive-in" is an establishment selling foods, frozen desserts, or beverages to customers, and the establishment being designed, intended or used for the consumption of such items on the premises inside of the outside of the building in which they were prepared.

7.52. *Drive-In Theater.* An establishment offered for the viewing of motion pictures while remaining in a parked vehicle.

7.53. *Dump.* A "dump" consists of a lot or parcel of land used primarily for the disposal by abandonment, dumping, burial, burning or by any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, discarded vehicles or parts thereof or waste material of any kind.

7.54. *Dwelling.* A "dwelling" is a building or a portion thereof, (but not a motor home or camper), designed or used exclusively for residential occupancy, or permitted home occupations, including one-family dwellings, two-family dwellings, and multiple-family dwellings, but not including hotels, motels and lodging rooms.

7.55. *Dwelling, attached.* An "attached dwelling" is one, which is joined to another building at one or more sides by a common wall or walls.

7.56. *Dwelling, detached.* A "detached dwelling" is one, which is entirely surrounded by open space on the same lot.

7.57. *Dwelling, farm.* One family dwellings located upon farms and occupied or used by the owner, farm tenant, or other persons employed thereon.

7.58. *Dwelling, multiple family.* A "multiple family dwelling" is a residential building with dwelling units designed for and occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

7.59. *Dwelling, row house.* A "row house dwelling" is any one of three (3) or more one-family attached dwelling units in a continuous row or rows.

7.60. *Dwelling, single-family.* A "single-family dwelling" is a detached residential dwelling unit designed for and occupied by one (1) family only.

7.61. *Dwelling, two-family.* A "two-family dwelling" is a detached residential building with two dwelling units, designed for and occupied by not more than two (2) families.

7.62. *Dwelling unit.* A "dwelling unit" is one (1) room, or rooms connected together, constituting a separate independent housekeeping unit established for owner occupancy or for rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure. A dwelling unit contains independent cooking, sleeping and toilet facilities.

7.63. *Dwelling unit, efficiency.* An "efficiency dwelling unit" is a dwelling unit consisting of one room exclusive of the bathroom, kitchen, hallway, closets or dining alcove directly off the principal room; provided, that such dining alcove does not exceed one hundred (100) square feet in area.

7.64. *Dwelling unit, mobile home.* A "mobile home dwelling unit" is a detached residential dwelling designed for transportation after fabrication on streets or highways on its own wheels or on a flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling unit, complete and ready for occupancy except for minor and incidental unpacking and assembly operations. It shall be located in accordance with the provisions of Article XIV Mobile Homes and Mobile Home Parks. A travel trailer is not a mobile home.

7.65. *Easement.* An "easement" is an authorized grant made by a property owner for use by another of any designated part of his property for a clearly specified purpose and officially recorded.

7.66. *Establishment, business.* A "business establishment" is a separate place of business having the following three characteristics:

(a) The ownership and management of all operations conducted with-in such establishment is separate and distinct from the ownership and management of operations conducted within other establishments on the same or adjacent zoning lots.

(b) Direct public access to such "business establishment" is separate and distinct from direct access to any other such establishment.

(c) There is no direct public access from within such establishment of any other such establishment.

7.67. *Family.* A "family" consists of one (1) or more persons related by blood, marriage or adoption, or a group of not more than three (3) persons who need not be related by blood, marriage or adoption (excluding servants), who are living together in a single dwelling unit and maintaining a common household conforming to all Town and state health and housing codes.

7.68. *Farm, confinement feeding.* Any operation involving the production of livestock or fowl or related operations, indoors or outdoors, wherein more than twenty-five (25) head of livestock or three hundred (300) fowl are kept within buildings or structures or in paved or unpaved feed lots, wherein five (5) square feet or less feed lot area is provided per laying hen, or eight (8) or less square feet per hog weighing two hundred twenty-five (225) pounds or less, or fifteen (15) square feet or less per lamb or ewe, or fifty (50) square feet or less per sow, or fifty (50) square feet or less per feeder steer, or one hundred (100) square feet or less per dairy cow, provided that this definition shall not apply to operations involved with the processing of products of confinement feeding operations.

7.69. *Farm, general.* An area used for agricultural operations, including truck gardening, forestry, the operation of a tree or plant nursery; or the processing of farm products produced on the farm by the resident owner or tenant, but it does not include commercial or custom slaughtering.

7.70. *Flood hazard areas.* A "flood hazard areas" consist of flood plains which have not been adequately protected from flooding caused by the regulatory flood, and are shown on the zoning map and/or the Flood Hazard or Floodway-Flood Boundary Maps of the Federal Insurance Administration or maps provided to the plan commission from the Indiana Natural Resources Commission.

7.71. *Flood plain.* A "flood plain" consists of the area adjoining the river or stream, which has been or may hereafter be covered by floodwater from the Regulatory Flood.

7.72. *Flood-proofed building.* A commercial or industrial building designed to exclude floodwaters from the interior of that building. All such flood proofing shall be adequate to withstand the flood depth, pressures, velocities, impact and uplift forces and other factors associated with the regulatory flood.

7.73. *Flood protection grade.* The "flood protection grade" is the elevation of the lowest floor of a building, including the basement, which shall be two (2) feet above the elevation of the regulatory flood.

7.74. *Floodway fringe.* The "floodway fringe" is that portion of the flood plain lying outside the floodway, which is inundated by the regulatory flood.

7.75. *Floor area (for determining floor area ratio).* For the purpose of determining the floor area ratio, the "floor area" of a building is the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the centerline of party walls separating two buildings. The "floor area" of a building shall include basement floor when more than one-half (½) of the basement height is above the established curb level, elevator shafts and stairwells at each floor, floor space used for mechanical equipment (open or enclosed), located on the roof, penthouses, attic space having headroom of seven (7) feet, ten (10) inches or more, interior balconies, mezzanines and enclosed porches and floor area devoted to accessory use. However, any space devoted to off-street parking or loading shall not be included in "floor area."

7.76. *Floor area (for determining off-street parking and loading requirements).* For the purpose of determining off-street parking and loading requirements for any use, the "floor area" shall be calculated as the sum of the gross horizontal areas of the several floors of the building or the portion thereof devoted to such use, including accessory storage areas located within selling or working space such as counters, racks or closets and any basement floor area devoted to retailing activities, to the production, preparation or processing of foods or to business or professional offices. However, "floor area" for the purpose of measurement of off-street parking spaces shall not include: floor area devoted primarily to storage purposes (except as otherwise noted herein); floor area devoted to off-street parking or loading facilities, including aisles, ramps and maneuvering space; or basement floor area (except as otherwise noted herein).

7.77. *Floor area ratio.* The "floor area ratio" of the building or buildings on any zoning lot is the floor area of the building or buildings on that zoning lot divided by the total area of such zoning lot, or in the case of planned unit developments, by the total net site area.

7.78. *Garage or yard sale.* A "garage or yard sale" is defined as a public or private sale conducted by the owner or occupier of a premises, and conducted within a residence, garage or other accessory buildings or outside thereof, which sale is of six (6) or more items of personal property owned or is in the possession of the owner or occupier of the premises, which personal property was not acquired by the owner or occupier for the purpose of resale.

7.79. *Grade.* The average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five (5) feet of a sidewalk, the ground level shall be measured at the sidewalk.

7.80. *Greenbelt.* A "greenbelt" is an area of undeveloped land, covered only by grass, shrubbery, trees and other similar natural vegetation, maintained in a sightly condition, and which may be in its natural state or graded and landscaped.

7.81. *Greek Fire.* A gelatinous, incendiary mixture used in warfare.

7.82. *Ground floor area.* The square foot area of a residential building within its largest outside dimensions computed on one horizontal plane above the ground level, exclusive of open porches, breezeways, terraces, garages, exterior stairways, furnace and laundry areas.

7.83. *Group home.* A "group home" is a single self-contained home established and operated by the county department of welfare; licensed private child placement agency or licensed incorporated group established for the purpose of receiving and caring for up to eight (8) children or mentally impaired and developmentally disabled who are attended by house "parents."

7.84. *Hardship.* A "hardship" is a perceived difficulty with regard to one's ability to improve the land stemming from the application of the development standards of this Ordinance, which may or may not be subject to relief by means of variance. In and of themselves, self-imposed situations and claims based on a perceived reduction of or restriction on economic gain shall not be considered hardships. Self-imposed situations include: the purchase of land with actual or constructive knowledge that, for reasons other than physical characteristics of the property, the development standards herein will inhibit the desired improvement; any improvement initiated in violation of the standards of this Ordinance; any result of land division requiring variance from the development standards of this Ordinance in order to render the site buildable.

7.85. *Home occupations.* A "home occupation" is a gainful occupation or profession customarily carried on by an occupant of a dwelling unit as a use, which is clearly incidental to the use of the dwelling unit for residential purposes. It does not include uses typically identified as a retail business, industrial business or a repair shop.

There shall be no exterior sign or display, except as allowed in the sign regulations for the district in which such home occupations may be located: there shall be no exterior manifestations of such home occupations which would adversely affect the neighborhood; and, there shall be no storage of equipment or materials used in connection with such home occupation. There shall be no employment other than members of the resident family. There shall be no sales of products or services not produced on the premises. The use shall not generate pedestrian or vehicular traffic beyond that normal to the district in which it is located.

It shall not involve the use of commercial vehicles for delivery of materials to or from the premises, other than a vehicle not to exceed one ton, owned by the operator of such home occupation, which shall be stored in an entirely enclosed garage. No more than one room in the dwelling shall be employed for the home occupation. No building or space outside of the main building shall be used for home occupational purposes except for agricultural uses. There shall be no use of utilities or community facilities beyond that normal to the use of the property for residential or agricultural purposes as defined in the district.

A "home occupation" includes but is not limited to such uses as the following: art studio, custom dressmaking and sewing, professional office of a clergyman, lawyer, physician,

dentist, architect or engineer, realtor, accountant or teacher of music, beauty shop limited to one customer at a time, dance and other instruction when limited to one pupil at a time and when located in a dwelling occupied by the same. "Home occupations" however, shall not be construed to include such uses as the following: medical clinic or hospital, barber, tea room or restaurant, gift shop or millinery shop, machine shop or automobile repair shop, tourist home, commercial stable or kennel.

7.86. *Hospice.* A medically supported group residence for the terminally ill.

7.87. *Hospital.* A "hospital" is an institution where physicians and other medical professionals provide health services primarily for in-patient nursing and medical or surgical care and treatment for persons suffering from injuries or from physical or mental ailments. Additional facilities and services, including but not limited to laboratories, diagnostic testing, analytical and clinical research, out-patient department, training facilities and administrative and staff offices and living quarters, related directly to the health services provided may be located and operated as an integral part of such hospital.

For the purposes of this chapter, the term "hospital" shall include the terms "sanitarium" and "institution for the care of the insane or feeble-minded" except in determining the applicable off-street parking and loading requirements specified in this chapter.

7.88. *Hotel, apartment.* An "apartment hotel" is a hotel which contains dwelling units or dwelling units and lodging rooms, and in which at least fifty (50) percent of the gross floor area devoted to residential use shall be allocated to such dwelling units.

7.89. *Hotel, transient.* A "transient hotel" is any hotel, which is not an apartment hotel.

7.90. *Improvement location permit.* An "improvement location permit is a document permitting a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure within its jurisdiction, or cause the same to be done, or to change the use or condition of the land.

7.91. *Industrial use, general.* Manufacturing, processing, extraction, heavy repair, dismantling, storage, or disposal of equipment, raw materials, manufactured products or wastes, in which operations, other than transportation.

7.92. *Junk yard.* A "junk yard" is an open area where waste or scrap metals are kept, discarded, abandoned, bought, sold, exchanged, sorted, baled, parked, disassembled or handled, including but not limited to scrap iron and other metal, paper, rags, rubber tires and bottles. A "junk yard" includes an automobile wrecking yard but does not include uses established entirely within enclosed buildings.

7.93. *Kennel.* A "kennel" is any lot or premises or portion thereof on which more than three (3) dogs, cats or other domestic animals are boarded for compensation or kept for sale.

7.94. *Loading space, off-street.* An "off-street loading space" is a space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in the computation of required off-street parking space.

7.95. *Lodging house or boarding house.* A "lodging house or boarding house" is a dwelling containing one (1) or more lodging rooms in which lodging or meals are provided for compensation on a weekly or monthly basis to one (1) or more persons who are not of the keeper's family and are not transients.

7.96. *Lodging room.* A "lodging room" is a room rented as a sleeping and living quarters without cooking facilities and with or without an individual bathroom. In a suite of rooms without cooking facilities, each room which provides sleeping accommodations shall be counted as one "lodging room" for the purposes of this chapter.

7.97. *Lot.* A "lot" is a zoning lot or a lot of record, which is a tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or of building development.

7.98. *Lot, area.* The "lot area" is the area of a horizontal plane bounded by the front, side and rear lot lines, less any portion of the lot which is below the established water line of any lake or stream or body of water.

7.99. *Lot, corner.* A "corner lot" is a lot, which is situated at the intersection of two streets; the interior angle of such intersection not exceeding one hundred thirty-five (135) degrees. A lot with streets abutting more than two (2) sides shall also be a "corner lot."

7.100. *Lot, coverage.* "Lot coverage" is that percentage of the lot area that is represented by the impervious surface, including all structures, driveways, patios, and sidewalks. Swimming pools, and wooden decks are not included if earth or stone, or some other pervious surface is below the deck.

7.101. *Lot, depth.* The "lot depth" is the mean horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.

7.102. *Lot, interior.* A lot other than a corner or through lot.

7.103. *Lot, reverse corner.* A "reverse corner lot" is a corner lot of which the side lot line adjoining the intersecting street is substantially a continuation of the front lot line of the first lot to its rear.

7.104. *Lot, through.* A "through lot" is a lot other than a corner lot having a pair of opposite lot lines along two (2) more or less parallel public streets. On a "through lot" both street lines shall be considered as front lot lines.

7.105. *Lot, width.* The "lot width" is the mean horizontal distance between the side lot lines of a lot measured within the lot boundaries.

7.106. *Lot line, front.* The "front lot line" shall be that lot line of a lot, which is parallel to a dedicated street, public way, or a lake or watercourse. The owner of a corner lot may elect either street lot line as the "front lot line."

7.107. *Lot line, rear.* The "rear lot line" shall be that lot line of a lot which is opposite from, or is most nearly parallel to the front lot line, except that for a triangular or other irregular shaped lot it means the line at least ten (10) feet long, parallel to the front lot line, and wholly within the lot, that is farthest from the front lot line.

7.108. *Lot line, side.* The "side lot line" shall be any lot line of a lot separating two (2) lots other than a front lot line or a rear lot line.

7.109. *Lot of record.* A "lot of record" is a lot, which is part of a subdivision recorded in the office of the county recorder.

7.110. *Lot, zoning.* A "zoning lot" is a single tract of land located within a single block, which (at the time of filing for a building permit) is designated by its owner or developer as a tract to be used, developed or built upon as a unit under single ownership or control. Therefore a "zoning lot" may or may not coincide with a lot of record.

7.111. *Manufactured home.* A "manufactured home" is a single family dwelling unit designed and built in a factory, installed as a permanent residence, which bears a seal certifying that it is built in compliance with federal Manufactured Housing Construction and Safety Standards Law, and which complies with the following specifications:

(1) Shall have been constructed after January 1, 1981 and must exceed nine hundred fifty (950) square feet of occupied space.

(2) Is attached to permanent foundation of concrete or masonry construction and has a permanent perimeter enclosure constructed in accordance with the One (1) and Two (2) Family Dwelling Code.

(3) Has axles, wheels and towing chassis removed.

(4) Has a pitched roof with a minimum rise of $^{2}/_{12}$.

(5) Consists of two (2) or more sections which, when joined, have a minimum dimension of twenty (20) feet by forty-seven point five (47.5) feet in length or width enclosing occupied space.

7.112. *Marquee or canopy.* A "marquee or canopy" is a roof-like structure of a permanent nature which projects from the wall of a building and overhangs the public way and is designed and intended to protect pedestrians from adverse weather conditions.

7.113. *Medical or dental clinic.* A "medical or dental clinic" is a facility operated by two (2) or more physicians and/or dentists and other employees, and providing health services for the outpatient treatment of persons suffering from injuries or from physical or mental ailments. For the purposes of this chapter the term "medical or dental clinic" shall include the term "group medical center."

7.114. *Medical or dental office.* A "medical or dental office" is a facility operated by one (1) physician or dentist and by not more than two (2) other employees, and providing health services for the outpatient treatment of persons suffering from injuries or from physical or mental ailments.

7.115. *Mineral extraction.* The Mining or quarrying, and removal of earth products.

7.116. *Mini-warehouse.* A non-occupied building or assembly of buildings, which are strictly intended to provide temporary storage of residential household items, furniture, and similar items. Such building(s) shall be masonry, be completely surrounded with fencing and/or landscaping, shall not permit negative impacts of light, dust, noise, etc., and shall be subject to site plan review, regardless of the size.

7.117. *Mobile home.* A "mobile home" is any vehicle without motive power designed by the manufacturer or maker with hitch and undercarriage to permit attachment of axles and wheels, and so designed to permit its being used as a conveyance upon public streets or highways and so designed, constructed or reconstructed, or added to by means of an enclosed addition or room in such a manner as will permit the occupancy thereof as a single family dwelling for one (1) or more persons, and not qualifying under the definition of a manufactured home. A house trailer shall be considered a "mobile home." An unoccupied, non-habited travel trailer or camper is not to be considered a "mobile home."

7.118. *Mobile home park.* A "mobile home park" is any area of land upon which two (2) or more mobile homes are harbored for the purpose of being occupied either free of charge or for revenue purposes, and shall include any building, structure, vehicle or enclosure used or intended for use as a part of the equipment of such "mobile home park."

7.119. *Mobile home site.* A "mobile home site" is the area of land within a mobile home park which accommodates or is intended to accommodate one mobile home, exclusive of streets, sidewalks, alleys, parking areas, buildings and structures other than the mobile home accommodated or intended to be accommodated and its yard and assigned portion of any greenbelt or recreational area.

7.120. *Motel or tourist court.* A "motel or tourist court" is a building or a group of buildings located on a single zoning lot, designed and intended to provide individual sleeping or living units for rent to guests, primarily arriving by automobile or public carrier. Ancillary to the principle function of providing rooms to guests may be a variety of other uses such as swimming pools, bars and restaurants, meeting and convention facilities, theaters and showrooms, and other such uses.

7.121. *Motor freight terminal.* A "motor freight terminal" is a building in which freight brought by truck is assembled or reassembled and sorted for routing in intrastate or interstate shipment. Minor repairs, servicing and refueling may be conducted in such "motor freight terminals."

7.122. *Motor vehicle repair, major.* A "major motor vehicle repair" includes engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers, collision service, including body, frame or fender repair or straightening and overall painting of vehicles.

7.123. *Motor vehicle repair, minor.* A "minor motor vehicle repair" includes incidental repairs and replacement of parts, motor service, and oil and lubrication to motor vehicles, but does not include any operation specified under "major motor vehicle repairs."

7.124. *Nameplate.* A "nameplate" is a sign indicating the name or address of a building or the name of an occupant thereof or the name of the practice of a permitted occupation therein.

7.125. *Net site area.* The "net site area" is the entire land area within the boundaries of a site, less one-half (½) the area of any dedicated streets or alleys located along the boundaries of the site.

7.126. *Nonconforming building or structure.* A "nonconforming building or structure" is any building or structure which does not comply with all the regulations of this chapter or of any amendment hereto governing bulk for the zoning district in which such building or structure is located, or any building or structure which is designed or intended for a nonconforming use.

7.127. *Nonconforming use.* A "nonconforming use" is any use of land, buildings or structures which does not comply with all of the regulations of this chapter or of any amendment hereto governing use for the zoning district in which such use is located.

7.128. *Noxious matter.* "Noxious matter" is any material, which is capable of causing injury to living organisms by chemical reaction, or is capable of causing detrimental effects upon the physical or economic well being of individuals.

7.129. *Nursing home.* (See Rest home).

7.130. *Open Space.* An area intended to provide light, and air, and is designed for either environmental, scenic, or recreational purposes. Open space may include, but is not limited to lawns, decorative plantings, walkways, active or passive recreational areas, playgrounds, fountains, swimming pools, wooded areas, and water courses. Open spaces shall not include driveways or parking lots.

7.131. *Outdoor advertising business.* An "outdoor advertising business" provides outdoor displays or display space on a lease or rental basis only.

7.132. *Outdoor advertising.* A sign, which directs attention to a business, commodity, service, entertainment, or idea, conducted, sold, or offered elsewhere than upon the premises upon which the sign is located.

7.133. *Outdoor sales.* The sale of retail or wholesale merchandise of any kind, not wholly within a permanent, fully enclosed structure.

7.134. *Parking area.* A "parking area" is a group of parking spaces, which are exclusive of any part of a street or alley, designed or used for the temporary parking of motor vehicles.

7.135. *Parking garage.* A "parking garage" is a structure where parking but not repairs are made available to the public.

7.136. *Parking space.* A "parking space" is an open space exclusive of the maneuvering aisle and driveway for the parking of a motor vehicle.

7.136(a). *Passenger Vehicle.* A "passenger vehicle" means any automobile, pick-up truck, sport utility vehicle, motorcycle, or van, with a maximum of two axles, and with a declared gross vehicle weight of no more than 10,000 lbs.

7.137. *Performance standard.* A "performance standard" is a criterion established to control noise, odor, toxic or noxious matter, vibration, fire and explosive hazards, and glare or heat generated by or inherent in the use of land or buildings.

7.138. *Planned unit development.* A "planned unit development" is a tract of land which is developed as a unit under single ownership or control, which includes two (2) or more principal buildings and which is at least three (3) acres in area for residential planned developments, at least five (5) acres in area for business planned developments and at least ten (10) acres in area for industrial planned developments.

7.139. *Plat.* A "plat" is a map indicating the subdivision or resubdivision of land filed or intended to be filed for record with the County Recorder.

7.140. *Primary arterial.* A "primary arterial" is a street intended to move through-traffic to and from such major attractions as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas, and similar traffic generators within the Town, and/or as a route between communities.

7.141. *Principal building.* A "principal building" is a building in which the principal use of the lot or parcel on which it is located is conducted. Standards recognized by the Indiana Department of Fire Prevention and Building Safety shall be used to determine whether a given structure constitutes one or more buildings in cases where ambiguities exist.

7.142. *Principal Use.* The "principal use" of a building or property is that use, which occupies the majority of floor area or square footage of, said building or lot respectively.

7.143. *Private camp.* A "private camp" is an area of land used or designed to be used to accommodate groups or organized camping parties, including cabins, tents, food service and recreational services.

7.144. *Private garage.* A "private garage" is a garage whose principal use is to house motor vehicles for the accommodation of related dwelling units or related business establishments.

7.145. *Private school.* A "private school" is any school, which is not a public school.

7.146. *Professional office.* A "professional office" is an office used by members of a recognized profession including but not limited to architects, artists, dentists, engineers, insurance agents and brokers, lawyers, musicians, pharmacists, physicians, realtors and surgeons.

7.147. *Public improvement.* A "public improvement" is any drainage ditch, street, highway, parkway, sidewalk, pedestrian-way, tree, lawn, off-street parking area, underground utilities, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

7.148. *Public school.* An institution conducting regular academic instruction at kindergarten, elementary, and secondary level, primarily supported by public funding.

7.149. *Public street.* A street under public ownership and responsibility, established for or dedicated to the public use.

7.150. *Railroad right-of-way.* A "railroad right-of-way" is a strip of land with tracks and auxiliary facilities for track operations, but not including depots, loading platforms, stations, train sheds, warehouses, car shops, car yards, locomotive shops or water towers.

7.151. *Recreational vehicle.* A "recreational vehicle" is a portable vehicular structure designed as a temporary dwelling for travel and vacation uses which is identified on the unit by the manufacturer as a travel trailer or a motor home, and is of a size that is street legal; and is a structure mounted on an automobile or truck, and is designed to be used for sleeping and human habitation.

7.152. *Recreational vehicle park.* An area of land on which two (2) or more recreational vehicles are regularly accommodated with or without charge, including any building, structure, fixture, or equipment that is used or intended to be used in connection with providing such accommodation.

7.153. *Recycling drop-off center.* A "recycling drop-off center" is a place where pre-sorted recyclable materials may be dropped off in "drop boxes." Such materials typically include paper, cardboard, paperboard, glass, plastic and metal. Other recyclable pre-sorted materials may be included by specific reference in the "Use Variance" Ordinance adopted for the intended site.

"Drop boxes" shall be painted weather resistant and maintained in good repair, and equipped with a tight fitting lid. All recyclable material shall be maintained completely within the drop box. All signs shall conform to the sign provisions of the district. The BZA may place additional conditions or restrictions of the use as are appropriate to the zoning district in which they are located.

"Recycling drop-off centers" shall accept only paper, paperboard, glass, plastic containers, metal and reusable materials as allowed by the specific "Use Variance". Such centers shall use no power driven processing equipment. They shall use attractive containers of waterproof and rustproof materials, which are clearly marked to identify, the type of material, which may be deposited; painted and maintained in good repair, and covered and secured from unauthorized entry or removal of material when the site is not attended. Such centers shall store all recyclable material in the containers and not left outside the containers when the attendant is not present. They shall be maintained free of fluids, odors, litter, rubbish, garbage and any other non-recyclable material, and shall be swept and

cleaned at the end of each collection day. Recycling drop-off centers shall be located only on paved surfaces in conjunction with public or private institutional parking lots not within two hundred (200) feet from any residence; or, in conjunction with a 501(c) (3) non-for-profit operation, which, in accordance with the Town plan, is delegated to provide such service. Center operations shall not interfere with pedestrian or vehicular movement.

Identification signs shall not exceed sixteen (16) square feet, be non-illuminated and shall identify the name and telephone number of the facility operator and the hours of operation. Hours of operation shall not exceed 9:00 a.m. to 5:00 p.m. Monday through Saturday and there shall be no Sunday operations.

7.154. *Recycling plant.* A "recycling plant" is a facility, which is designed and intended to receive, and process recyclable material into products, which may be reconstructed, and/or recast into reusable end products for the market place or for further processing.

A "Recycling plant" shall receive, separate, store, process, convert and/or bale recyclable materials such as paper, iron, metal, glass, plastic containers and other non-biodegradable recyclable material deemed appropriate by the Plan Commission and the Town Council, and as listed in the specifications and limitations of the "Use Variance." Hazardous and biodegradable materials including, but limited to food, beverage, drugs, cosmetics, hazardous chemicals, poisons, medical wastes, syringes, needles, pesticides, and other similar materials shall not be brought into or handled by a "recycling plant."

Outdoor storage of recyclable materials shall be contained within bins or on pallets or located on a paved area and, such outdoor storage area shall be enclosed by view obstructing walls, fences or buildings. No storage shall be visible from a public right-of-way or from any residential land use. All separation, sorting, processing, baling or other activity shall occur entirely within an enclosed building. The ambient noise level shall not be increased as measured at any property line. The owner/operator of the recycling plant shall prevent or immediately eliminate any nuisance created by dust, odors, blowing material, litter, ponding water, noise or other nuisance. Rodents, vermin, flies and other insects shall be immediately controlled.

The "recycling plant" shall be located on a lot having a minimum size of eighty thousand (80,000) square feet and such buildings shall be at least one thousand (1,000) feet from any school, church, public building, or retail and office commercial structure located on adjoining lots, or from a boundary of a residential zoning district. The site shall have access on an arterial street. Space shall be provided for a minimum of six (6) vehicles or the anticipated peak hourly customer load, whichever is higher. In addition, parking shall be provided for each employee and for each commercial vehicle of the recycling station.

Identification signs shall not exceed sixteen (16) square feet and shall identify the name and telephone number of the facility operator and the hours of operation. Hours of operation shall not exceed 7:00 a.m. to 7:00 p.m. Monday through Saturday and there shall be no Sunday operations.

7.155. *Recycling station.* A "recycling station" is a facility, which is designed and intended to receive pre-sorted recyclable material from "recycling drop-off centers" or directly from residents or from municipal sources. Such recycling stations aggregate pre-sorted material within completely enclosed buildings for eventual transfer to "recycling plants" or industrial facilities.

"Recycling stations" shall accept only pre-sorted recyclable material from "recycling drop-off centers", or directly from residents or municipal sources. Such material shall be stored in bins, barrels or semi-tractor trailers. Such storage places shall be equipped with lids, covers or doors to prevent access by rodents and vermin. No material shall be stored or deposited on the premises in such manner that they may be transferred off the premises by natural causes or forces. The site shall be kept free of fluids, odors, litter, rubbish, garbage and other non-recyclable material, and it shall be cleaned on a daily basis. Recyclable material shall include absolutely no hazardous or biodegradable wastes. No burning, melting or other reclamation shall be permitted. Recycling stations shall be located on a lot with a minimum size of twenty thousand (20,000) square feet.

The aggregation of pre-sorted material shall take place within completely enclosed buildings and such building shall be at least four hundred (400) feet from school, church, public building, or retail and office commercial structure located on adjoining lots, or from the boundary of a residential zoning district. The site shall have access on an arterial street. Space shall be provided for a minimum of six (6) vehicles or the anticipated peak hourly customer load, whichever is higher. In addition, parking shall be provided for each employee and for each commercial vehicle of the recycling station.

Identification signs shall not exceed sixteen (16) square feet and shall identify the name and telephone number of the facility operator and the hours of operation. Hours of operation shall not exceed 7:00 a.m. to 7:00 p.m. Monday through Saturday and there shall be no Sunday operations.

A detailed site and operations plan, including access, parking, signs, fencing and landscaping; and including provisions for supervision, hours of operation and security shall be subject to the approval of the Plan Commission and Town council. Said plan shall have a clear description of the recyclable materials that are to be accepted.

7.156. *Regulatory flood.* A "regulatory flood" is that flood having a peak discharge which can be equaled or exceeded on the average of once in a one hundred (100) year period, as calculated by a method and procedure which is acceptable to and approved by the Federal Emergency Management Administration. This flood is equivalent to a flood having a probability of occurrence of one percent (1%) in any given year.

7.157. *Regulatory floodway.* A "regulatory floodway" is the channel of a river and those portions of the flood plains adjoining the channel, which are reasonably required to efficiently carry, and discharge peak flow of the regulatory flood of any river or stream and, is that area covered by floodwaters in significant downstream motion.

7.158. *Regulatory Floodway Fringe.* A "regulatory floodway fringe" is the area adjacent to the floodway, which is significantly covered by volumes of stored water during the occurrence of the regulatory flood.

7.159. *Restaurant.* A "restaurant" is any land, building or part thereof other than a boarding house, where meals are prepared and sold to the public for consumption on the premises, or sold as a carryout including a cafe, cafeteria, coffee shop, lunchroom, drive-in stand, tearoom and dining room.

7.160. *Rest home; nursing home; convalescent home, institution for the aged or for children.* A "rest home," a "nursing home," a "convalescent home" or an "institution for the aged or for children," is an institution where infirm persons or the aged or children reside, where in-patient physician and nursing care may be provided to persons suffering from physical or mental ailments, where daily out-patient physician and nursing care may be provided, and where administrative and staff offices and living quarters operating as an integral part of such institution may be provided. For the purpose of this chapter, the term "rest home" shall include the term "day care center," an institution where daily outpatient nursing care is provided.

7.161. *Secondary arterial.* A "secondary arterial" is a street intended to collect and distribute traffic in a manner similar to primary arterials, except that these streets service minor traffic generating areas such as local commercial areas, primary and secondary schools, hospitals, community recreational areas, churches and offices, and/or designed to carry traffic from collector streets to the system of primary arterials.

7.162. *Sign.* A "sign" includes any surface, substrate, fabric, or device bearing any lettering, pictorial representation, logo, illustration, emblem, symbol, design, sculpted matter, or other figure of similar character designed to convey information visually for purposes of advertisement, announcement, declaration, demonstration, identification or expression and exposed to public view. Each display surface of a sign shall be considered to be a "sign"; however, a double-faced sign shall be measured by the largest silhouette said sign may produce. A "sign" shall not include a sign located completely within an enclosed building. A "sign" shall include a "banner" as defined in Section 184 of this Zoning Ordinance but a "sign" shall not include a "flag" as defined in Section 184.

7.163. *Sign, advertising.* An "advertising sign" is a sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where such a sign is located or to which it is affixed.

7.164. *Sign, surface area.* The surface area of a sign is the area of the smallest circle, square, rectangle, oval or triangle, or combination thereof, which fully encloses the sign message or display, the background of the message or display, and contiguous trims or frames. Only one side of the sign shall be included in calculating the sign area, even if the sign is double-sided.

7.165. *Sign, business.* A "business sign" is an accessory sign which directs attention to a business or profession conducted or to a commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is affixed.

7.166. *Sign, flashing.* A "flashing sign" is any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this chapter, any revolving, illuminated sign shall be considered a "flashing sign."

7.167. *Sign, illuminated.* An "illuminated sign" is a sign, which is illuminated by an internal or external source.

7.168. *Sign, outdoor advertising.* An "outdoor advertising sign" is a structural poster panel or painted sign, either free-standing or attached to a building, for the purpose of conveying information, knowledge, or ideas to the public about a subject unrelated to the activities on the premises on which it is located.

7.169. *Sign, portable.* A "portable sign" is a freestanding sign that is not permanently affixed to a building, structure or the ground and is designed to be moved from place to place, including trailer signs.

7.170. *Sign, rotating beacon.* A "rotating beacon sign" is a light of any color or design which is so intended to rotate or turn in such a way as to call attention to a particular product, sign, place of business or activity. Such "rotating beacon sign" shall not be construed to include rotating lights on emergency vehicles authorized to have such lights.

7.171. *Sign, temporary.* A sign that is not permanently attached to a building or to the ground, either directly or indirectly, as by permanently affixing to a building or other structure permanently attached to the ground.

7.172. *Street.* A "street" is a public or private right-of-way, which affords a primary means of access to abutting property.

7.173. *Street, collector.* A street, which primarily collects traffic from local streets and transfers, it to the arterial street network.

7.174. *Street, local.* A street primarily used to provide direct access to abutting properties, usually residential.

7.175. *Street, minor arterial.* A street, which carries moderately high volumes of through traffic movements from collectors to principal arterials, with, limited or controlled access.

7.176. *Street, principal arterial.* A street, which serves high traffic volume corridors, and connects major population centers and traffic generators, with limited or controlled access.

7.177. *Street line.* A "street line" is the line separating a zoning lot or parcel from the street.

7.178. *Structural change or alteration.* A "structural change or alteration" is the substantial change of a supporting member of a building which would add to or prolong the life of the structure, such as a bearing wall or partitions, column, beam, or girder, or in an exterior wall or the roof. This does not include normal upkeep and repair.

7.179. *Structure.* A "structure" is anything constructed or erected which requires location on the ground or which is attached to something having a location on the ground. For the purpose of this chapter, a "structure" shall include signs of all kinds.

7.180. *Subdivision.* A "subdivision" is the division of a parcel of land into two (2) or more lots, parcels, sites, units, plats, or interests for the purpose of offer, sale, lease, or development, either on the installment plan or upon any and all other plans, terms, and conditions, including resubdivision.

7.181. *Substantial modification.* Any alteration, repair, enlargement, or extension of an existing building. Such modification is considered to occur when the first alteration of any wall, ceiling, floor or other structural element of the building commences. This term does not include any project designed to bring an existing building into compliance with existing health, sanitary, or safety codes, nor does it include any alteration of a structure as a result of its listing as a historic place, or architecturally, culturally, or archaeologically significant.

7.182. *Tavern or bar.* A "tavern" or a "bar" is a building wherein intoxicating liquors are sold to be consumed on the premises, not including restaurants where the principal business is serving food.

7.183. *Tourist home or bed and breakfast home.* A "tourist home" or a "bed and breakfast home" is a dwelling having one to three bedrooms for rent to transients as an activity which is subordinate and incidental to the main residential use of the building, in which meals or lodging are provided or offered to transient guests for compensation.

7.184. *Town home.* A low density multifamily residential land use characterized by occupant ownership. Town homes are distinguished from condominiums by including a small portion of land in the ownership of the unit's occupant, with the remaining property held in common.

7.185. *Toxic or radioactive materials.* "Toxic materials" and/or "radioactive materials" are those materials, which are capable of causing injury to living organisms by chemical means and/or radioactive emissions when present in relatively small amounts.

7.186. *Trade or business school.* A secretarial or business school or college when not publicly owned or not owned or conducted by or under the sponsorship of a religious, charitable or nonprofit organization; or a school conducted as a commercial enterprise for teaching instrumental music, dancing, barbering, hair dressing, or drafting, or for teaching industrial or technical arts.

7.187. *Use.* The "use" of property is the purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained, and shall include any manner or performance of such activity with respect to the performance standards of this chapter.

7.188. *Use, principal.* A "principal use" is the main use of land or buildings as distinguished from a subordinate or accessory use.

7.189. *Use variance.* A "use variance" is the approval of a use other than that prescribed by this zoning ordinance. See Article XX [XXI, section 246].

7.189(a). *Utility Service Vehicle.* "Utility vehicle" means a truck owned by an electric, gas, telephone, pipeline, or other similar utility, or a tow truck, or similar vehicle driven to the residence of an employee for the purpose of responding directly in case of emergency.

7.190. *Variance.* A "variance" is the specific approval granted by the Board of Zoning Appeals in the manner prescribed by this Ordinance, to deviate from the development standards (such as height, bulk, or area) that the Ordinance otherwise prescribes.

7.191. *Visibility at intersections.* A triangular area at each intersection corner of corner lots shall be kept free of any visual impediment between the height of two (2) and twelve (12) feet measured from the curb gutter or edge of pavement elevation. This triangle shall be determined by measuring fifteen (15) along each intersecting right-of-way line and connecting at a 45 degree angle the two measured points.

7.192. *Yard.* A "yard" is an open space on a zoning lot which is unoccupied and unobstructed from the ground level or lowest level otherwise specified, to the sky, except as otherwise allowed in section 6(g)(5), "PERMITTED OBSTRUCTIONS IN REQUIRED YARDS." A "yard" extends along a lot line at right angles to such lot line to a depth or width specified in the yard regulations for the zoning district in which such zoning lot is located.

a. *Yard, front.* A yard extending along the full length of the front lot line between the side lot lines.

b. *Yard, rear.* A yard extending along the full length of the rear lot line between the side lot lines.

c. *Yard, side.* A yard extending along a side lot line from the front yard (or front lot line when there is no front yard) to the rear yard (or rear lot line when there is no rear yard.)

(Ord. No. 2004-21, 11-11-2004; Ord. No. 2007-07, 6-26-2007; Ord. No. 2021-02, §§ 1—3, 5-25-2021)

## ARTICLE II. OS OPEN SPACE DISTRICTS

### Sec. 8. Use and bulk regulations in OS Open Space districts.

Use and bulk regulations applying specifically to open space uses are set forth in this article. Also applying to Open Space districts are additional regulations set forth in other articles and sections of this chapter as follows:

| | |
|---|---|
| Section 4. | Zoning districts, establishment and application. |
| Section 5. | Rules and interpretation of district boundaries. |
| Section 6. | General provisions and supplementary district regulations. |
| Section 7. | Definitions. |
| Article XIII. | Planned Unit Development Districts. |
| Article XIV. | Mobile Homes and Mobile Home Parks. |
| Article XV. | Off-Street Parking and Loading. |
| Article XVI. | Signs. |
| Article XVII. | Nonconforming Uses and Nonconforming Buildings. |
| Article XVIII. | Site Plan Review. |
| Article XIX [XX]. | Administration and Enforcement. |
| Article XX [XXI, section 246]. | Use Variances. |

**Sec. 9. Purpose.**

The purpose of this article is to establish a district in which Open Space uses may take place, and to identify other compatible allowable uses, as well as Use Variances, which may be allowed under certain circumstances and with limitations as, identified hereinafter.

**Sec. 10. Permitted uses.**

The following listed uses and no others are permitted uses in Open Space districts:

(a) All uses commonly referred to as agriculture, horticulture, crop and tree farming, truck farming, orchards, gardening, nursery operations, dairy farming, stock raising, domestic animal and poultry breeding and raising (but not including dog kennels or animal hospitals) and forestry operations including sawmills; together with the operation of any farm machinery or vehicles incidental to the above uses.

(b) Churches, rectories, parish houses, seminaries, convents, monasteries and similar religious institutions, and other accessory uses required for their operation.

(c) Golf courses and golf clubs, both private and public, but not including miniature golf courses and driving ranges which are commercially operated.

(d) Home occupations.

(e) Horse boarding stables, riding academies and sales incidental and accessory thereto.

(f) One-family detached dwellings.

(g) Parks, forest preserves, and recreational areas, when publicly owned and operated.

(h) Planned unit developments, residential as set forth in Article XIII.

(i) Schools and other accessory uses required for their operation.

(j) Signs, as permitted in Article XVI.

(k) Temporary buildings for construction purposes for a period of time not to exceed such construction.

(l) Temporary roadside stands for the sale of Open Space products grown on the premises.

(m) Accessory buildings and uses customarily incidental to any of the above uses.

(n) Sale of personal property owned by the occupant of a residence located on the same property.

(o) Cemeteries.

(p) Parks, playgrounds and community centers, privately owned and operated, and other recreational uses.

(q) Publicly owned buildings, telephone exchanges and public utility offices, but not including storage yards, transformer stations, substations or gas regulator stations.

(r) Artificial lakes of three acres or more.

(s) Campgrounds, provided that plans have first been approved by the Indiana State Board of Health and the Indiana Department of Natural Resources if and as required by applicable law.

(t) Outdoor commercial recreational enterprise (e.g., miniature golf, go carts, paint ball, laser tag, and similar uses), outdoor amusement establishments, fairgrounds, picnic groves, kiddie parks and other similar amusement centers, including stadiums and arenas.

(u) Private camp.

(v) Riding stable and/or riding trails.

(Ord. No. 2020-03, § 1, 2-11-2020)

**Sec. 11. Reserved.**

**Editor's note—**Ord. No. 2020-03, § 2, adopted February 11, 2020, repealed § 11 which pertained to use variances.

**Sec. 12. Minimum lot size.**

Minimum lot size requirements for OS districts are as follows: No Requirement.

**Sec. 13. Maximum floor area ratio.**

In OS districts, the floor area ratio of all buildings and structures on a zoning lot shall not exceed 0.2.

**Sec. 14. Maximum coverage.**

In OS districts, the maximum building and lot coverages shall not exceed ten (10) and fifteen (15) percent, respectively.

**Sec. 15. Minimum front yard.**

In OS districts, no portion of any building hereafter erected or enlarged shall be located closer then twenty-five (25) feet to the front property line.

**Sec. 16. Minimum side yard.**

In OS districts, no portion of any building hereafter erected or enlarged shall be located closer than ten (10) feet on either side of the building to the side property line.

**Sec. 17. Minimum rear yard.**

In OS districts, no portion of any building hereafter erected or enlarged shall be located closer to the rear property line than twenty-five (25) percent of the lot depth.

**Sec. 18. Building Height.**

No building or structure may be changed or erected in this district so as to have a height greater than thirty-five (35) feet.

**Secs. 19, 20. Reserved.**

## ARTICLE III. R-1 AND R-2 SINGLE-FAMILY RESIDENTIAL DISTRICTS

**Sec. 21. Use and bulk regulations in all residential districts.**

Use and bulk regulations applying specifically to residence are set forth in this article. Also applying to residential districts are additional regulations set forth in other articles and sections of this chapter as follows:

| | |
|---|---|
| Section 4. | Zoning districts, establishment and application. |
| Section 5. | Rules and interpretation of district boundaries. |
| Section 6. | General provisions and supplementary district regulations. |
| Section 7. | Definitions. |
| Article XIII. | Planned Unit Development Districts. |
| Article XIV. | Mobile Homes and Mobile Home Parks. |
| Article XV. | Off-Street Parking and Loading. |
| Article XVI. | Signs. |
| Article XVII. | Nonconforming Uses and Nonconforming Buildings. |
| Article XVIII. | Site Plan Review. |
| Article XIX [XX]. | Administration and Enforcement. |
| Article XX [XXI, section 246]. | Use Variances. |

**Sec. 22. Purpose.**

The purpose of this article is to establish two (2) districts in which single-family residential use may take place, and to identify other compatible allowable uses, as well as transitional uses and Use Variances, which may be allowed under certain circumstances and with limitations as, identified hereinafter.

**Sec. 23. Permitted uses in R-1 and R-2 residential districts.**

The following listed uses and no others are permitted uses in R-1 and R-2 districts:

(a) Residential uses as follows:

(1) One-family detached dwellings, including models.

(2) Planned unit developments, residential as set forth in Article XIII, including models.

(b) Community service uses as follows:

(1) Churches, rectories and parish houses.

(2) Parks, playgrounds and community centers and other recreational uses publicly owned and operated.

(3) Public and parochial schools and ancillary buildings.

(4) Public electric, gas, water and telephone facilities.

(5) Public libraries.

(c) Miscellaneous uses as follows:

(1) Open Space uses, including nurseries and truck gardens, provided that no offensive odor or dust is created and there is no sale of products produced on the premises. No stand or building for retailing of products shall be permitted.

(2) Temporary real estate offices in conjunction with a new housing or subdivision development, limited to the selling or renting of new units in such developments and in no case to be operated for more than one year following the completion of construction of such housing development. The Building Commissioner shall have the authority to grant reasonable extensions to this time limit.

(d) Uses incidental to principle permitted uses as follows:

(1) Accessory uses, (See Section 6.f.5. [6(f)(6)]).

(2) Home occupations, as defined in subsection 7.42 [7.85].

(3) Signs as permitted in Article XVI.

(4) Temporary buildings for construction purposes, for a period of time not to exceed the duration of such construction.

(5) Sale of personal property owned by the occupant of a residence located on the same property.

(e) Publicly owned buildings, telephone exchanges and public utility offices, but not including storage yards, transformer stations, substations or gas regulator stations.

(Ord. No. 2020-03, § 3, 2-11-2020; Ord. No. 2022-08, § 1, 9-27-2022)

**Sec. 24. Transitional uses in R-1 and R-2 residential districts.**

In R-1 and R-2 districts, the following uses are permitted when located on a lot not over three hundred (300) feet in width measured along said lots frontage, which adjoins at a side or rear lot line or is separated only by an alley or public easement at a side lot line from property in a business or industrial district, a railroad right-of-way, or utility station, tower, or detention or retention pond, or drainage ditch.

(a) Two-family detached dwellings and row houses.

(b) Principal offices of professional persons for the practice of medicine, law, dentistry, architecture, engineering and similar professions; provided, that each such office is situated in the same dwelling unit as the home of the occupant, with not more than two (2) persons other than members of the occupants' immediate family being employed. The residential character of the exterior of the building shall be entirely maintained except for permitted accessory signs as provided for in Article XIV [XVI].

(c) Residential mini-warehouses, provided that all storage is enclosed in a building, the transition property line is screened with a six (6) foot decorative fence and landscaping approved by the Plan Commission.

(d) Commercial greenhouses for passive wholesale use; provided said use shall include no outdoor storage nor retail sales.

**Sec. 25. Reserved.**

**Editor's note—**Ord. No. 2020-03, § 4, adopted February 11, 2020, repealed § 25 which pertained to use variances in the R-1 and R-2 residential districts.

**Sec. 26. Minimum lot size in R-1 residential districts.**

Minimum lot size requirements for R-1 districts are as follows:

(a) Every one-family detached dwelling hereafter erected and every transitional use permitted in this zoning district hereafter established shall be on a zoning lot having a minimum area of twelve thousand (12,000) square feet and a minimum width of ninety (90) feet at the building line, and a lot depth of one hundred twenty (120) feet. A lot of record existing on the effective date of this chapter, which is less than twelve thousand (12,000) square feet in area or less than ninety (90) feet in width may be improved with a one-family, detached dwelling.

However when such lot of record is less than fifty (50) feet in width at the building line, and is in the same ownership on or after the effective date of this chapter as an adjoining unimproved lot on the same street, it shall not be improved with a residential use unless both lots are combined as a single zoning lot for this purpose or unless further resubdivision produces the requisite ninety (90) foot minimum lot width.

(b) Other, nonresidential permitted uses listed in this district hereafter established shall be on a zoning lot having a minimum area of twelve thousand (12,000) square feet and a minimum lot width of ninety (90) feet at the building line.

(c) Minimum lot size of Use Variances listed as permitted in this district shall be prescribed by the common council upon the advice of the BZA at the time the Use

Variance ordinance is adopted, according to the provisions of Article XVII [XXI, section 246], entitled "Use Variances," but in no case shall any such lot size be less than eighteen thousand (18,000) square feet in area nor less than one-hundred fifty (150) feet wide.

**Sec. 27. Minimum floor area in R-1 residential districts.**

No dwelling may be established, erected or changed so that its floor area exclusive of basements, terraces, enclosed porches and garages in square feet, is less than prescribed below:

| | |
|---|---|
| One Story | 1,200 square feet (first floor minimum—1,200 square feet) |
| Two Story | 1,600 square feet (first floor minimum—800 square feet) |
| Tri-/Bi-level | 1,400 square feet (first floor minimum—800 square feet) |

(Ord. No. 2004-21, § 1, 11-11-2004; Ord. No. 2019-09, § 1, 8-13-2019)

**Sec. 28. Minimum lot size in R-2 residential districts.**

Minimum lot size requirements for R-2 districts are as follows:

(a) Every one-family detached dwelling hereafter erected and every transitional use permitted in this zoning district hereafter established shall be on a zoning lot having a minimum area of nine thousand (9,000) square feet and a minimum width of seventy-five (75) feet at the building line, and a minimum lot depth of one hundred twenty (120) feet. A lot of record existing on the effective date of this chapter, which is less than nine thousand (9,000) square feet in area or less than seventy-five (75) feet in width may be improved with a one-family, detached dwelling. However when such lot of record is less than fifty (50) feet in width at the building line, and is in the same ownership on or after the effective date of this chapter as an adjoining unimproved lot on the same street, it shall not be improved with a residential use unless both lots are combined as a single zoning lot for this purpose or unless further resubdivision produces the requisite seventy-five (75) foot minimum lot width.

(b) The regulations governing nonresidential permitted uses minimum lot size as set forth in section 26(b) shall apply.

(c) The regulations governing Use Variances minimum lot size as set forth in section 26(c) shall apply.

**Sec. 29. Minimum floor area in R-2 residential districts.**

No dwelling may be established, erected or changed so that its floor area exclusive of basements, terraces, unenclosed porches and garages in square feet, is less than prescribed below:

| | |
|---|---|
| One Story | 1,000 square feet (first floor minimum—1,000 square feet) |
| Two Story | 1,400 square feet (first floor minimum—700 square feet) |

Tri-/Bi-level 1,200 square feet (first floor minimum—600 square feet)
(Ord. No. 2019-09, § 2, 8-13-2019)

**Sec. 30. Maximum floor area ratio in R-1 and R-2 residential districts.**

In R-1 and R-2 districts, the floor area ratio of all buildings and structures on a zoning lot shall not exceed 0.5.

**Sec. 31. Maximum coverage in R-1 and R-2 residential districts.**

In R-1 and R-2 districts, the maximum building and lot coverage on a zoning lot shall not exceed thirty-five (35) and fifty (50) percent, respectively.

**Sec. 32. Minimum front yards in R-1 and R-2 residential districts.**

Minimum front yard requirements for R-1 and R-2 districts are as follows:

(a) On every zoning lot a front yard shall be provided. Such front yard is determined by the front of the residence, and cannot be altered once determined. In no case shall such front yard be less in depth than thirty (30) feet. The required minimum front yard shall be extended, but not more than fifty (50) feet where lots comprising fifty (50) percent of the frontage on the same street and within the same block are developed with buildings having front yards greater than the setback requirement, and with a variation of not more than ten (10) feet deep. The average of such front yards shall establish the minimum front yard depth for the entire frontage of such street within the same block.

(b) Required front yards shall be unobstructed from ground level to sky except as otherwise provided in section 6(g)(5), "Permitted obstructions in required yards."

**Sec. 33. Minimum side yards in R-1 and R-2 residential districts.**

Minimum side yard requirements for R-1 and R-2 districts are as follows:

(a) *For one-family detached dwellings.* On a lot improved with a one-family detached dwelling, a side yard shall be provided along each side lot line. The combined width of both side yards shall be at least twenty (20) percent of the lot width; provided, that neither side yard shall be less than seven and one half (7.5) feet in width.

(b) *Reversed corner lots.* On a reverse corner lot the side yard adjacent to the street shall be considered as a front yard and have a yard equal to the required front yard.

(c) *Required side yards.* Required side yards shall be unobstructed from ground level to sky, except as otherwise provided in section 6(g)(5), "Permitted obstructions in required yards," and except for privacy screens not over six (6) feet above the average level of the adjoining ground. Such privacy shall begin not nearer than five (5) feet from the front of the house and may extend not more than five (5) feet beyond the rear of the house.

**Sec. 34. Minimum rear yards in R-1 and R-2 residential districts.**

Minimum rear yard requirements in R-1 and R-2 districts are as follows:

(a) On every zoning lot a rear yard shall be provided. Such rear yard shall be not less in depth than the building height, but in no case less than thirty-five (35) feet.

(b) Required rear yards shall be unobstructed from ground level to sky, except as otherwise provided in section 6(g)(5), "Permitted obstructions in required yards."

(c) Required rear yards on reversed corner lots: When the residence faces the long lot dimension, and the required rear yard abuts the neighboring side yard, the required rear yard shall be treated as a side yard.

**Sec. 35. Maximum Building Height in R-1 and R-2 residential districts.**

The maximum building height permitted in a R-1 and R-2 residential district is thirty-five (35) feet.

## ARTICLE IV. R-3 SINGLE- TO FOUR-FAMILY RESIDENTIAL DISTRICTS

**Sec. 36. Purpose.**

The purpose of this article is to establish a district in which single-family, up to four-family residential use may take place, and to identify other compatible allowable uses, as well as transitional uses and Use Variances which may be allowed under certain circumstances and with limitations as identified hereinafter.

**Sec. 37. Permitted uses.**

The following listed uses and no others are permitted uses in R-3 districts:

(a) Any use permitted in R-1 and R-2 districts.

(b) Additional residential uses as follows: Two-family up to four-family detached buildings.

(c) Nursery schools, both public and private.

(d) Convents, monasteries, rectories and parish houses.

(e) Publicly owned buildings, telephone exchanges and public utility offices, but not including storage yards, transformer stations, substations or gas regulator stations.

(f) Churches.

(g) Nursing homes, convalescent homes and residential facilities for long or short-term care.

(h) Daycare facilities.

(Ord. No. 2020-03, § 5, 2-11-2020)

**Sec. 38. Transitional uses.**

In an R-3 district, the following uses are permitted:

(a) Any transitional use in R-1 and R-2 districts.

(b) Multiple-family detached dwellings.

**Sec. 39. Reserved.**

**Editor's note—**Ord. No. 2020-03, § 6, adopted February 11, 2020, repealed § 39 which pertained to use variances.

**Sec. 40. Minimum lot size.**

(a) Every transitional use permitted in this zoning district hereafter established shall conform to the minimum lot sizes as established in an R-2 residential district, except that multiple-family transitional uses shall have a minimum of three thousand (3,000) square feet of lot area for each dwelling unit in such multiple-family transitional use.

(b) Every single-family dwelling hereafter erected shall be on a zoning lot having a minimum area of nine thousand (9,000) square feet and a minimum lot width of seventy-five (75) feet at the building line. Every two-family dwelling hereafter erected shall be on a zoning lot having a minimum area of ten thousand (10,000) square feet and a minimum lot width of eighty-five (85) feet at the building line; provided that a lot of record on the effective date of this chapter which is less than the required square footage in area or less than the required width may be improved with a single family or two-family detached dwelling where authorized by the board of zoning appeals.

(c) Every three and four-family detached dwelling hereafter erected shall be on a zoning lot having a minimum area of twelve thousand (12,000) square feet and a minimum lot width of ninety (90) feet at the building line.

(d) The regulation governing Use Variance minimum lot size in R-1 and R-2 districts shall apply.

**Sec. 41. Minimum Floor Area In R-3 residential districts.**

In R-3 districts, the regulations governing minimum floor area for a one family dwelling in the R-2 district shall apply. The minimum floor area for a two family dwelling shall be 1,000 square feet per dwelling, and for a two-story structure, the first-floor minimum shall be 600 square feet per dwelling. The minimum floor area for a three or four family dwelling shall be 1,000 square feet per dwelling.
(Ord. No. 2019-09, § 3, 8-13-2019)

**Sec. 42. Maximum floor area ratio.**

In R-3 districts, the floor area ratio of all buildings and structures on a zoning lot shall not exceed 0.5.

**Sec. 43. Maximum coverage.**

In R-3 districts, the maximum building and lot coverage on a zoning lot shall not exceed thirty-five (35) and fifty (50) percent, respectively.

**Sec. 44. Minimum front yards.**

In R-3 districts, the regulations governing front yards in R-1 and R-2 districts shall apply.

**Sec. 45. Minimum side yards.**

Minimum side yard requirements in R-3 districts are as follows:

(a) *For one-family detached dwellings.* The regulations governing side yards for one-family detached dwellings in R-1 and R-2 districts shall apply.

(b) *For two to four-family attached dwellings.* The minimum required side yard for a two to four family dwelling shall be ten (10) feet.

(c) *Reversed corner lots.* On a reverse corner lot the side yard adjacent to the street shall be considered as a front yard and have a yard equal to the required front yard.

(d) *Exceptions for existing narrow lots.* The regulations governing existing narrow lots in R-1 and R-2 residential districts shall apply.

(e) *Required side yards.* The required side yards shall be unobstructed from ground level to sky except as otherwise provided in section 6(g)(5) "Permitted obstructions in required yards"; and except for privacy screens not over six (6) feet above the average level of the adjoining ground. Such privacy shall begin not nearer than five (5) feet from the front of the dwelling and may extend not more than five (5) feet beyond the rear of the dwelling.

**Sec. 46. Minimum rear yards.**

In R-3 districts, the regulations governing required rear yards in R-1 and R-2 residential districts shall apply.

**Sec. 47. Maximum height requirement.**

The maximum building height requirement in R-3 zoning district is thirty-five (35) feet.

## ARTICLE V. R-4 MULTIPLE-FAMILY RESIDENTIAL AND PUD DISTRICTS

**Sec. 48. Purpose.**

The purpose of this article is to establish a district in which multiple-family residential and a PUD use may take place, and to identify other compatible allowable uses, as well as Use Variances, which may be allowed under certain circumstances and with limitations as, identified hereinafter.

**Sec. 49. Permitted uses.**

The following listed uses and no others are permitted uses in R-4 districts.

(a) Any use permitted in R-3 districts, except single-family residences.

(b) Multiple-family residential.

(c) Colleges and universities, including dormitories, fraternities, sororities and other accessory buildings.

(d) Institutions for the care of patients, such as: hospitals, sanitariums, long-term care and short-term care facilities, rest and convalescent homes.

(e) Municipal and privately owned recreation buildings or community centers.

(f) Off-street parking lots and parking garages other than accessory, for vehicles not exceeding one ton capacity.

(g) Churches.

(Ord. No. 2020-03, § 7, 2-11-2020)

**Sec. 50. Reserved.**

**Editor's note—**Ord. No. 2020-03, § 8, adopted February 11, 2020, repealed § 50 which pertained to use variances.

**Sec. 51. Minimum lot size.**

(a) Every two, three, and four-family detached dwelling hereafter erected shall conform to the minimum lot size as set forth in the R-3 district.

(b) Every multiple family building hereafter erected shall have a minimum lot area per dwelling unit of not less than three thousand (3,000) square feet. No existing structure or building shall be converted to conflict or further conflict with the provisions of this section.

(c) The regulations governing nonresidential permitted uses minimum lot size, as set forth in the R-3 district shall apply.

(d) The regulation governing Use Variance minimum lot size, as set forth in the R-3 district shall apply.

**Sec. 52. Minimum floor area in R-4 residential districts.**

In R-4 districts, the regulations governing minimum floor area for one family dwellings in R-2 districts shall apply, and the regulations governing minimum floor area in R-3 districts shall apply for two, three, and four unit structures. For all structures containing five or more units, each unit shall contain at least 600 square feet of floor area.

(Ord. No. 2019-09, § 4, 8-13-2019)

**Sec. 53. Maximum floor area ratio.**

In R-4 districts, the floor area ratio of all buildings and structures on a zoning lot shall not exceed 0.5.

**Sec. 54. Maximum coverage.**

In R-4 districts, the maximum building and lot coverage on a zoning lot shall not exceed thirty-five (35) and fifty (50) percent, respectively.

**Sec. 55. Minimum front yards.**

In R-4 districts, the regulations governing front yards in the R-3 district shall apply.

**Sec. 56. Minimum side yards.**

Minimum side yard requirements in R-4 districts are as follows:

(a) *For multiple-family dwellings and all other residential buildings.* On a lot improved with a multiple-family residential building and for all other residential uses a side yard shall be provided along each side lot line. The combined width of both side yards shall be at least twenty-four (24) feet or thirty (30) percent of the lot width, whichever is greater; provided, that neither side yard shall be less than ten (10) feet in width.

(b) *For nonresidential buildings.* The regulations governing residential buildings, as set forth in section 52(a) [51(a)] shall apply.

(c) *Reversed corner lots.* On a reverse corner lot the side yard adjacent to the street shall be considered as a front yard and have a yard equal to the required front yard.

(d) *Required side yards.* The required side yards shall be unobstructed from ground level to sky except as otherwise provided in section 6(g)(5) "Permitted obstructions in required yards."

**Sec. 57. Minimum rear yards.**

In R-4 districts, the regulations governing required rear yards in R-1 and R-2 residential districts shall apply.

**Sec. 58. Maximum building height.**

The maximum building height requirement in R-4 districts is fifty (50) feet.

## ARTICLE VI. PB PROFESSIONAL BUSINESS DISTRICT

**Sec. 59. Use and bulk regulations in PB Professional Business districts.**

Use and bulk regulations applying specifically to Professional Business districts are set forth in this article. Also applying to Professional Business districts are additional regulations set forth in other articles and sections of this chapter as follows:

| | |
|---|---|
| Section 4. | Zoning districts, establishment and application. |
| Section 5. | Rules and interpretation of district boundaries. |
| Section 6. | General provisions and supplementary district regulations. |
| Section 7. | Definitions. |
| Article XIII. | Planned Unit Development Districts. |
| Article XIV. | Mobile Homes and Mobile Home Parks. |
| Article XV. | Off-Street Parking and Loading. |
| Article XVI. | Signs. |
| Article XVII. | Nonconforming Uses and Nonconforming Buildings. |
| Article XVIII. | Site Plan Review. |
| Article XIX [XX]. | Administration and Enforcement. |
| Article XX [XXI, section 246]. | Use Variances. |


**Sec. 60. Purpose.**

The purpose of this article is to establish a district designed and intended to accommodate uses such as offices for professional and personal services, which can provide a transition area between residential uses, and the more intense uses found in business districts, major thoroughfares and railroads.

**Sec. 61. Permitted uses.**

The following listed uses and no others are permitted uses in PB districts:

(a) Banks, credit unions, savings and loan institution and other similar uses. Drive-up teller windows, cash stations and the like are permitted only as an accessory use.

(b) Churches, rectories and parish houses.

(c) Personal services including barber shops, beauty shops, health and fitness centers and other similar uses.

(d) Medical and dental offices, including clinics.

(e) Office buildings for business and professional offices.

(f) Off-street parking lots, parking garages other than accessory, for vehicles not exceeding one ton capacity.

(g) Medical and dental clinics or offices.

(h) Philanthropic institutes.

(i) Publicly owned buildings, telephone exchanges and public utility offices, but not including storage yards, transformer stations, substations or gas regulator stations.

(j) Lodging rooms and dwelling units which are located above the first floor of a permitted Professional Business use.

(k) Institutions for the care of patients, such as: hospitals, sanitariums, long-term care and short-term care facilities, rest and convalescent homes.

(l) Municipal and privately owned recreation buildings or community centers.

(m) Other uses as determined by the plan commission to be similar in design and intent to the above listed uses.

(n) Accessory structures and uses incidental to the above listed uses.

(o) Funeral parlor or mortuary establishment.

(p) Outdoor commercial recreational enterprise (e.g. miniature golf, go carts, paint ball, laser tag, and similar uses), outdoor amusement establishments, fairgrounds, picnic groves, kiddie parks and other similar amusement centers, including stadiums and arenas.

(q) Theaters and automobile drive-ins.

(Ord. No. 2020-03, § 9, 2-11-2020)

**Sec. 62. Reserved.**

**Editor's note—**Ord. No. 2020-03, § 10, adopted February 11, 2020, repealed § 62 which pertained to use variances.

**Sec. 63. Prohibited uses.**

In PB districts, the following uses are prohibited.

(a) Commercial retail establishments.

(b) Outdoor storage of goods and materials.

(c) Warehousing.

(d) Outdoor sales.

(Ord. No. 2020-03, § 11, 2-11-2020)

**Sec. 64. Maximum floor area ratio.**

In PB districts, the floor area ratio of all buildings and structures on a zoning lot shall not exceed 1.0.

**Sec. 65. Maximum coverage.**

The maximum building and lot coverage in PB districts is thirty-five (35%) and fifty (50) percent, respectively.

**Sec. 66. Minimum front yards.**

In PB districts, the regulations governing front yards in R-1 and R-2 districts shall apply.

**Sec. 67. Minimum side yards.**

In PB districts, the regulations governing side yards in R-1 and R-2 districts shall apply.

**Sec. 68. Minimum rear yards.**

In PB districts, the regulations governing rear yards in R-1 and R-2 districts shall apply.

**Sec. 69. Maximum height.**

In PB districts, no building or structure shall exceed a height of thirty-five (35) feet above grade.

**Secs. 70, 71. Reserved.**

## ARTICLE VII. B-1 NEIGHBORHOOD BUSINESS DISTRICT

**Sec. 72. Use and bulk regulations in all business districts.**

Use and bulk regulations applying specifically to all business districts are set forth in this article. Also applying to business districts are additional regulations set forth in other articles and sections of this chapter as follows:

| | |
|---|---|
| Section 4. | Zoning districts, establishment and application. |
| Section 5. | Rules and interpretation of district boundaries. |
| Section 6. | General provisions and supplementary district regulations. |
| Section 7. | Definitions. |
| Article XIII. | Planned Unit Development Districts. |
| Article XIV. | Mobile Homes and Mobile Home Parks. |
| Article XV. | Off-Street Parking and Loading. |
| Article XVI. | Signs. |
| Article XVII. | Nonconforming Uses and Nonconforming Buildings. |
| Article XVIII. | Site Plan Review. |
| Article XIX [XX]. | Administration and Enforcement. |
| Article XX [XXI, section 246]. | Use Variances. |

**Sec. 73. Purpose.**

The purpose of this article is to establish a district designed and intended to accommodate retail, service, office and other miscellaneous uses and Use Variances, which are most compatible with uses typically found in residential neighborhoods.

**Sec. 74. Limitations of use.**

Permitted uses in the B-1 district are subject to the following additional general limitations:

(a) Dwelling units are not permitted below the second floor.

(b) All business establishments shall be retail or service establishments dealing directly with consumers.

(c) Business establishments classified, as "retail and service" hereinafter are restricted to a maximum gross floor area of twelve thousand five hundred (12,500) square feet each, exclusive of any floor area devoted to off-street parking or loading facilities.

(d) All permitted uses in this district shall be conducted in completely enclosed buildings, except for off-street parking and loading.

(e) Establishments of a "drive-in" type offering goods or services directly to customers waiting in parked motor vehicles are not permitted, except for such services, which are clearly incidental to a principal permitted use.

**Sec. 75. Permitted uses.**

The following listed uses and no others are permitted uses in B-1 districts:

(a) Retail and service uses as follows:

(1) Antique shops.

(2) Apparel stores.

(3) Art and school supply stores.

(4) Art galleries.

(5) Bakeries.

(6) Banks and financial institutions.

(7) Barber shops.

(8) Beauty shops and hair styling salons.

(9) Book and stationery stores.

(10) Camera and photographic supply stores.

(11) Carpet, rug, linoleum and tile stores.

(12) China and glassware stores.

(13) Coin and philatelic stores.

(14) Custom dressmaking and millinery shops.

(15) Dairy, ice cream and candy shops.

(16) Delicatessens.

(17) Florist shops and conservatories.

(18) Gift shops.

(19) Hobby stores.

(20) Interior decorating shops.

(21) Laundries and dry cleaners, automatic, self service coin operated.

(22) Loan offices.

(23) Locksmith shops.

(24) Medical and dental clinics.

(25) Musical instrument stores, including servicing.

(26) Optician shops.

(27) Schools, including music, dance or business.

(28) Sewing machine stores, household machines only.

(29) Shoe and hat repair shops.

(30) Tailor shops.

(31) Telegraph and facsimile offices.

(32) Tobacco shops.

(33) Variety stores.

(b) Offices, business and professional.

(c) Miscellaneous uses, as follows:

(1) Clubs and lodges (non-profit), fraternal or religious institutions.

(2) Electric and gas utilities.

(3) Meeting Halls.

(4) Post offices.

(5) Public libraries.

(6) Radio and television broadcasting.

(7) Signs, as classified and regulated in Article XVI.

(d) Residential uses. In B-1 districts, lodging rooms and dwelling units are permitted if business uses occupy the first floor of the same building.

(e) Uses incidental to principal permitted uses, as follows:

(1) Accessory uses.

(2) Home occupations.

(3) Temporary construction buildings.

(f) Colleges and universities, including dormitories, fraternities, sororities and other accessory buildings.

(g) Philanthropic institutes.

(h) Institutions for the care of patients, such as: hospitals, sanitariums, long-term care and short-term care facilities, rest and convalescent homes.

(i) Municipal and privately owned recreation buildings or community centers.

(j) Off-street parking lots, parking garages other than accessory, for vehicles not exceeding one ton capacity.

(k) Churches.

(l) Funeral parlor or mortuary establishment.

(Ord. No. 2007-07, 6-26-2007; Ord. No. 2020-03, § 12, 2-11-2020)

**Sec. 76. Reserved.**

**Editor's note—**Ord. No. 2020-03, § 13, adopted February 11, 2020, repealed § 76 which pertained to use variances.

**Sec. 77. Maximum floor area ratio.**

In B-1 districts, the floor area ratio of all buildings and structures on a zoning lot shall not exceed 1.5.

**Sec. 78. Maximum lot coverage.**

The maximum lot coverage in B-1 districts is fifty percent (50%).

**Sec. 79. Maximum building height.**

The maximum building height in B-1 districts is thirty-five (35) feet.

**Sec. 80. Minimum yards.**

In B-1 districts, a minimum front yard measuring 25 feet is required. In B-1 districts, there shall be no side yard required along interior side lot lines. On corner lots having a rear yard abutting a residential district, there shall be a minimum setback of twenty (20) feet. On lots bordering a residential district, there shall be a minimum setback of ten (10) feet on the side bordering said residential district. In B-1 districts, a minimum rear yard of twenty (20) feet is required.

**Sec. 81. Residential rear yards.**

In B-1 districts, a rear yard shall be provided for residential uses located above the first floor. Such yard shall be not less than thirty (30) feet in depth and begin at a level no higher than that of the finished floor of the lowest residential unit. Required rear yards shall be unobstructed from ground level to sky except as otherwise provided in section 6(g)(5), "Permitted obstructions in required yards."

**Sec. 82. Residential minimum lot size.**

In B-1 districts, for every dwelling unit hereafter established there shall be provided a minimum of one thousand two hundred (1,200) square feet of lot area; except, that for every efficiency dwelling unit hereafter established there shall be provided a minimum of eight hundred (800) square feet of lot area, and for every lodging room hereafter established there shall be provided a minimum of six hundred (600) square feet of lot area.

## ARTICLE VIII. B-2 CENTRAL BUSINESS DISTRICT

**Sec. 83. Purpose.**

The purpose of this article is to establish a district designed and intended to accommodate retail, service, office and other miscellaneous uses and Use Variances which are most compatible with uses typically found in downtown business districts contained within a concentrated area and offering a broad range of uses.

**Sec. 84. Limitations of use.**

Permitted uses in the B-2 district are subject to the following additional general limitations:

(a) Dwelling units are not permitted below the second floor, on lots, which contain a business use.

(b) All business establishments shall be retail or service establishments not to exceed 3,500 square feet of gross floor area, and dealing directly with consumers, except for wholesale establishments where storage of merchandise is limited to samples.

(c) All permitted uses in this district shall be conducted in completely enclosed buildings, except for off-street parking and loading; and outdoor sales of retail items may be sold only if:

(1) the sale takes place on the same property where a permanent retail business is located,

(2) the items sold are among the permitted uses listed for this district,

(3) the items are sold by the same owners of the permanent business,

(4) said outdoor sales shall not result in a lack of compliance with any other required provision of this chapter, such as setback, parking, etc., and

(5) the outdoor sale is a temporary, infrequent, special event sponsored by the downtown merchants, and approved by the Porter Town Council.

(d) Establishments of a "drive-in" type offering goods or services directly to customers waiting in parked motor vehicles are not permitted, except for such services which are clearly incidental to a principal permitted use, or stand-alone automatic teller machines.

(Ord. No. 2007-07, 6-26-2007)

**Sec. 85. Permitted uses.**

The following listed uses and no others are permitted uses in B-2 districts:

(a) Any use permitted in B-1 districts.

(b) Additional retail and service uses, as follows:

(1) Clothing/costume rental shop.

(2) Convenience printing establishments.

(3) Convenience stores.

(4) Drug stores or convenience pharmacy.

(5) Dry cleaning and laundry receiving stations, (retail only, no plant).

(6) Electric, household appliance, television and radio stores.

(7) Employment agencies.

(8) Furrier shops, including storage.

(9) Garden supply and seed stores.

(10) Grocery store.

(11) Haberdashery stores.

(12) Hardware stores.

(13) Jewelry stores, including watch repairs.

(14) Leather goods and luggage stores.

(15) Liquor stores, package goods only, not for consumption on premises.

(16) Machinery sales rooms, excluding repair or servicing. The storage and display of machinery, except for household appliances and office machines such as typewriters and computers, shall be restricted to new floor samples.

(17) Newspaper offices.

(18) Office supply stores.

(19) Paint and wallpaper stores.

(20) Pawn shops.

(21) Pet shops.

(22) Photograph developing and processing shops.

(23) Physical culture and health spas privately owned and operated. Such centers may include gymnasiums, swimming pools, reducing salons, karate and judo studios and the like.

(24) Picture framing establishments.

(25) Planned unit developments, business.

(26) Radio and television sales, repair and service shops.

(27) Restaurants—no drive-through unless approved as use variance.

(28) Shoe stores.

(29) Sporting goods stores.

(30) Taverns, including live entertainment and dancing and the service of liquor in conjunction.

(31) Theaters, except for drive-in theaters.

(32) Ticket agencies and travel bureaus.

(33) Upholstering shops.

(c) Miscellaneous uses, as follows:

(1) Laboratories, including medical and dental, research and testing.

(2) Restricted production and repair, limited to the following: Art needle-work and hand weaving; clothing, custom industrial and altering for retail only; jewelry; watches; dentures; optical lenses; shoes; and other similar craft and professional services.

(d) Residential uses:

(1) In B-2 districts, single family dwelling units are permitted on blocks on which the current frontage is at least 50 percent single family residential, and must satisfy the requirements of the R-2 District.

(e) Bus terminals.

(Ord. No. 2007-07, 6-26-2007; Ord. No. 2019-09, § 5, 8-13-2019; Ord. No. 2020-03, § 14, 2-11-2020)

**Sec. 86. Maximum building height.**

The maximum building height permitted in a B-2 district is 35 feet.

(Ord. No. 2024-08, § 1, 7-9-2024)

**Sec. 87. Maximum floor area ratio.**

In B-2 districts, the floor area ratio of all buildings and structures on a zoning lot shall not exceed 3.0.

**Sec. 88. Required yards.**

In B-2 districts, there shall be no minimum front setback requirement. In B-2 districts, regulations governing required side and rear yards in B-1 districts shall apply.

**Sec. 89. Residential rear yards.**

In B-2 districts, regulations governing residential rear yards in B-1 districts shall apply.

**Sec. 90. Residential minimum lot size.**

In B-2 districts, for every dwelling unit hereafter established there shall be provided a minimum of one five hundred (500) square feet of lot area; except, that for every efficiency dwelling unit hereafter established there shall be provided a minimum of three hundred fifty (350) square feet of lot area, and for every lodging room hereafter established there shall be provided a minimum of two hundred and fifty (250) square feet of lot area.

## ARTICLE IX. B-3 GENERAL BUSINESS DISTRICTS

**Sec. 91. Purpose.**

The purpose of this article is to establish a district designed and intended to accommodate retail, service, office and other miscellaneous uses and Use Variances which are most compatible with uses typically located along minor and major arterial local roads and county, state and federal highways. Access is provided to customers arriving in vehicles.

**Sec. 92. Limitations of use.**

Permitted uses in the B-3 district are subject to the following additional general limitations:

(a) Dwelling units and lodging rooms other than those located in a transient hotel or motel are not permitted.

(b) All businesses, services, processing or storage shall be conducted in completely enclosed buildings unless said open storage is a minimum of one hundred fifty (150) feet from any residential district, and then only if said open storage is completely invisible by reason of a wall or opaque fence, or as otherwise indicated hereafter, and except when establishments of the "drive-in" type offer goods and services directly to customers waiting in parking motor vehicles.

(c) Outdoor sales of retail items may be sold only if:

(1) the sale takes place on the same property where a permanent retail business is located,

(2) the items sold are among the permitted uses listed for this district,

(3) the items are sold by the same owners of the permanent business,

(4) said outdoor sales shall not result in the lack of compliance with any other required provision of this chapter, such as setback, parking, etc.

**Sec. 93. Permitted uses.**

The following listed uses and no others are permitted uses in B-3 districts:

(a) Any use permitted in B-2 districts except dwelling units, churches, parks, and playgrounds.

(b) Additional retail and service uses, as follows:

(1) Ambulance services.

(2) Amusement establishments, including miniature golf, video game parlors, pool halls, and other similar uses.

(3) Animal hospitals, pounds and shelters; provided that all activities that take place for the care and boarding of animals, except for exercise runs, shall be conducted in completely enclosed buildings.

(4) Auctions.

(5) Automobile accessory stores.

(6) Automobile service stations or filling stations; provided that no automobile service station shall be hereafter erected except on a lot on the comer of an intersection of two streets, or on a lot situated on a corner where one street runs into another at a "T" intersection. In such instances the lot on which the service station is located shall have not less than 100 feet frontage on one street and not less than 150 feet frontage on the other street. Such service stations shall have entrances no closer than 75 feet from the intersection of curb lines.

(7) Battery, brake and tire sales and service stations.

(8) Bicycle stores, including rental and repair.

(9) Blueprinting and Photostatting establishments.

(10) Boat sales, motor and sail, including servicing and repairs conducted in conjunction therewith.

(11) Car washes and auto laundries.

(12) Caskets and casket supplies.

(13) Clothing and costume rental shops.

(14) Dry cleaning plants.

(15) Feed and seed stores.

(16) Frozen food lockers.

(17) Greenhouses and nurseries.

(18) Commercial laundries.

(19) Linen, towel, diaper and other similar services.

(20) Live bait stores.

(21) Machinery sales.

(22) Mobile home sales.

(23) Monument sales.

(24) Motor home sales, camper and motor vehicle trailer sales.

(25) Motor vehicle sales, including servicing and repairs conducted in conjunction therewith.

(26) Motorcycle sales, including servicing and repairs conducted in conjunction therewith.

(27) Orthopedic, medical and surgical supply stores.

(28) Parking lots, open and other than accessory for the storage of private passenger automobiles.

(29) Plumbing, electric and other building material showrooms/sales.

(30) Restaurant, hotel and bar fixture stores.

(31) Second hand stores and rummage shops.

(32) Taxidermists shops.

(33) Undertaking establishments and funeral parlors.

(34) Lumberyards.

(35) Roofing materials sales.

(36) Warehouses, mini, personal type.

(c) Public and community service uses, as follows:

(1) Libraries.

(2) Police stations.

(3) Fire stations.

(4) Other such public uses.

(d) Residential uses, as follows:

(1) Motels and transient hotels.

(Ord. No. 2020-03, § 16, 2-11-2020)

**Sec. 94. Maximum building height.**

The maximum building height permitted in a B-3 district is 35 feet.

(Ord. No. 2024-08, § 2, 7-9-2024)

**Sec. 95. Maximum floor area ratio.**

In B-3 districts, the floor area ratio of all buildings and structures on a zoning lot shall not exceed 5.0.

**Sec. 96. Required yards.**

In B-3 districts, regulations governing required yards in B-1 districts shall apply.

**Secs. 97—101. Reserved.**

## ARTICLE X. I-1 LIGHT INDUSTRIAL DISTRICTS

### Sec. 102. Use and bulk regulations in all industrial districts.

Use and bulk regulations applying specifically to all industrial districts are set forth in this article. Also applying to industrial districts are additional regulations set forth in other articles and sections of this chapter as follows:

| | |
|---|---|
| Section 4. | Zoning districts, establishment and application. |
| Section 5. | Rules and interpretation of district boundaries. |
| Section 6. | General provisions and supplementary district regulations. |
| Section 7. | Definitions. |
| Article XIII. | Planned Unit Development Districts. |
| Article XIV. | Mobile Homes and Mobile Home Parks. |
| Article XV. | Off-Street Parking and Loading. |
| Article XVI. | Signs. |
| Article XVII. | Nonconforming Uses and Nonconforming Buildings. |
| Article XVIII. | Site Plan Review. |
| Article XIX [XX]. | Administration and Enforcement. |
| Article XX [XXI, section 246]. | Use Variances. |

### Sec. 103. Purpose.

The purpose of this article is to establish a district designed and intended to accommodate; retail, service, production, processing, cleaning, repair, testing, wholesaling and warehousing uses, and other miscellaneous uses and Use Variances which are most compatible with uses typically located with access to major highways, expressways and railroads. Care is taken to insure minimal land use and traffic conflicts and to provide adequate separation from residences.

### Sec. 104. Limitations of use.

Permitted uses in the I-1 district are subject to the following additional general limitations:

(a) Dwelling units are not permitted.

(b) All production, servicing and processing shall be conducted in completely enclosed buildings unless otherwise indicated hereafter. Within one hundred fifty (150) feet of any residential district, all storage shall be within completely enclosed buildings or structures, and storage located elsewhere in this district may be open to the sky but shall be enclosed by a solid wall or by solid fences.

(c) However, open off-street loading facilities and open off-street parking of motor vehicles may be unenclosed, except for such screening of parking and loading facilities as may be required under the provisions as set forth in Article XV, "Off-Street Parking and Loading."

(d) Outdoor sales shall be limited as stipulated in Article IX, section 90(c) [92(c)].

**Sec. 105. Permitted uses.**

The following listed uses and no others are permitted uses in I-1 districts:

(a) Retail and service uses as follows:

(1) Auto service stations and truck stops.

(2) Building materials, sales.

(3) Car washes and auto supplies.

(4) Cartage and express facilities.

(5) Contractor and construction shops.

(6) Dry cleaning establishments and pressing plants.

(7) Fuel sales, with storage of fuel oils, kerosene, gasoline and other flammable products limited to 120,000 gallons per tank, with the total storage not to exceed 500,000 gallons.

(8) Garages, model display and sales.

(9) Ice sales.

(10) Linen, towel, diaper and other similar services.

(11) Mobile home sales and house trailer sales.

(12) Motor vehicle sales, including storage, servicing and repairs.

(13) Office and household equipment and machinery, sales and service.

(14) Parking garages and parking lots, other than accessory.

(15) Planned unit developments, industrial.

(16) Truck stops, including the sale of fuel, truck washing, food and supplies.

(b) Production, processing, cleaning, testing and repair, as follows:

(1) Advertising displays.

(2) Art needlework and hand-weaving.

(3) Awnings, draperies and Venetian blinds.

(4) Bakeries.

(5) Beverages, nonalcoholic.

(6) Blacksmith shops and ornamental ironworks.

(7) Boat building and boat repairs of pleasure craft and other small craft, but not including ship building or shop repairs.

(8) Book binding and tooling, hand and machine worked.

(9) Bottling works, beverage.

(10) Brushes and brooms.

(11) Cameras and other photographic equipment and supplies.

(12) Canvas and canvas products.

(13) Ceramic products such as pottery and glazed tile.

(14) Clothing.

(15) Cosmetics and Toiletries.

(16) Data processing, hardware and software.

(17) Dentures.

(18) Drugs, compounding only.

(19) Dry cleaning.

(20) Electrical appliances, such as fixtures, home appliances and toys.

(21) Electrical equipment assembly, such as television, radio and computer.

(22) Electrical supplies, manufacture and assembly of, such as wire and cable assembly, switches, lamps, insulation and dry cell batteries.

(23) Food products, (except for meat or fish), processing and combining of, including baking, boiling, canning, cooking, dehydrating, freezing, frying, grinding, mixing and pressing.

(24) Fur goods, not including tanning and dying.

(25) Glass products, from previously manufactured glass.

(26) Hair, felt and feather products, (except washing, curing and dying).

(27) Hat bodies of fur, felt and cloth.

(28) Hosiery.

(29) Ice, dry and natural.

(30) Ink mixing and packaging, and inked ribbons.

(31) Jewelry.

(32) Laboratories, medical, dental, research, experimental and testing; provided that there is no danger from fire or explosion, nor of offensive noise, vibration, smoke, dust, odors, heat, glare or other objectionable influences.

(33) Laundries.

(34) Leather products, including shoes and machine belting.

(35) Luggage.

(36) Machine shops for tool die and pattern making.

(37) Meat products.

(38) Metal finishing, plating, grinding, sharpening, grinding, polishing, cleaning, rust proofing and heat treatment.

(39) Metal stamping and extrusion of small products such as bottle caps, buttons, costume jewelry, kitchen utensils, pins and needles and razor blades.

(40) Mobile homes and house trailers.

(41) Motor vehicle repair.

(42) Musical instruments.

(43) Orthopedic and medical appliances, such as artificial limbs, braces, supports and stretchers.

(44) Paper products, small items such as envelopes and stationery, bags, boxes, tubes and wallpaper.

(45) Perfumes and perfumed soaps, compounding only.

(46) Pharmaceutical products, compounding only.

(47) Poultry and meat processing and retail sale.

(48) Precision instruments such as optical, medical, testing and measuring.

(49) Products from finished materials, including, bone, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, rubber, semi-precious stones, shell or yarn.

(50) Rubber products and synthetic treated fabrics, small items such as washers, gloves, footwear, bathing caps and atomizers.

(51) Printing and newspaper publishing, including engraving and photo-engraving.

(52) Repair of household and office equipment.

(53) Silverware, plate and sterling.

(54) Soap and detergents, packaging only.

(55) Soldering and welding.

(56) Sporting and athletic equipment such as balls, baskets, bats, cues, gloves racquets and rods.

(57) Statuary, mannequins, figurines and religious and church art goods, excluding foundry operations.

(58) Textiles, including spinning, weaving, manufacturing, dying, printing, knit goods, yam, thread and cordage, but not including textile bleaching.

(59) Tobacco curing and manufacturing of tobacco products.

(60) Tools and hardware such as bolts, nuts and screws, doorknobs, drills, hand tools and cutlery, hinges, house hardware, locks, nonferrous metal castings and plumbing appliances and fixtures.

(61) Toys.

(62) Umbrellas.

(63) Upholstering (bulk), including mattress and rebuilding and renovating furniture.

(64) Vehicles, children's such as bicycles, wagons and baby carriages.

(65) Watches.

(66) Wood products, such as furniture, boxes, crates, baskets, pencils and cooperage works.

(c) Wholesaling and warehousing, including motor freight terminals.

(d) Public and community service uses, as follows:

(1) Publicly owned facilities and utilities.

(2) Private utilities providing service to the public.

(3) Similar uses as determined by the plan commission.

(e) Recycling drop-off centers and recycling stations.

(f) Mini-warehouses (see section 7.116).

(g) Bus terminals.

(h) Miscellaneous uses, as follows.

(1) Radio and television towers.

(2) Signs, as regulated in Article XVI, including without limitation outdoor advertising signs (billboards).

(i) Uses incidental to permitted uses, as follows:

(1) Accessory uses.

(2) Temporary buildings or structures for construction purposes, for a period not to exceed the duration of such construction.

(Ord. No. 2020-03, § 18, 2-11-2020)

**Sec. 106. Reserved.**

**Editor's note—**Ord. No. 2020-03, § 19, adopted February 11, 2020, repealed § 106 which pertained to use variances.

**Sec. 107. Performance standards—Noise.**

In I-1 districts, sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association. Measurements shall be made using the flat network of the sound level meter.

Impulsive type noise shall be subject to the performance standards hereinafter prescribed; provided, that such noise shall be capable of being accurately measured with such equipment. Noises capable of being so measured, for the purpose of this comprehensive amendment, shall be those noises which cause rapid fluctuations of the needle of the sound level meter with a variation of no more than plus or minus two (2) decibels. Noises incapable of being so measured, such as those of an irregular and intermittent nature shall be controlled so as not to become a nuisance to adjacent uses.

At no point either on the boundary of an Open Space or residential district or an PB, B-1, B-2 or B-3 district or at one hundred twenty-five (125) feet from the nearest property line of a plant or operation, whichever distance is greater, shall the sound pressure level of an individual plant or operation (other than the operation of motor vehicles and other transportation facilities) exceed the decibel levels at the designated octave bands shown hereinafter for the districts indicated.

| *Octave band cycles per second* | *Maximum permitted sound level in decibels along OS, R and OS district boundaries or 125 feet from plant or operation boundary line.* | *Maximum permitted sound level in decibels along business district boundaries or 125 feet from plant or operation boundary line.* |
|---|---|---|
| 0000 to 0075 | 67 | 73 |
| 0075 to 0150 | 62 | 68 |
| 0150 to 0300 | 58 | 64 |
| 0300 to 0600 | 54 | 60 |
| 0600 to 1200 | 49 | 55 |
| 1200 to 2400 | 45 | 51 |
| 2400 to 4800 | 41 | 47 |
| Above 4800 | 37 | 43 |

**Sec. 108. Performance standards—Odorous matter.**

In I-1 districts, the emission of noxious odorous matter in such quantities as to produce a public nuisance beyond the property boundaries is prohibited.

**Sec. 109. Same—Vibration.**

In I-1 districts, any process or equipment which produces intense earth-shaking vibrations, such as are created by heavy drop forges or heavy hydraulic surges, shall be set back at least three hundred (300) feet from the property boundaries on all sides, except for a

property line adjoining an I-2 district where such set back shall not be mandatory. However, in no case shall such vibrations be allowed to create a public nuisance beyond the property boundaries.

**Sec. 110. Same—Toxic or noxious matter.**

In I-1 districts, no use of any property shall discharge across the boundaries of such property toxic and noxious matter in such concentrations as to be detrimental or to endanger the public health, safety, comfort or welfare or to cause injury or damage to other property or business.

**Sec. 111. Same—Glare or heat.**

In I-1 districts, any operation producing intense glare or heat shall be performed within a completely enclosed building and effectively screened in such a manner as to not create a public nuisance or hazard along property boundaries.

**Sec. 112. Same—Fire and explosive hazards.**

In I-1 districts, fire and explosive hazards shall be controlled as follows:

(a) Activities involving the storage or manufacture of materials or products, which decompose by detonation, are not permitted in I-1 districts.

(b) The storage, utilization or manufacture of materials ranging from incombustible to moderate burning as determined by the zoning administrator, is permitted.

(c) The storage, utilization or manufacture or products ranging from free or active burning to intense burning, as determined by the zoning administrator, is permitted under the following conditions.

(1) All storage, utilization or manufacture of such materials or products shall be within completely enclosed buildings or structures having incombustible walls.

(2) All buildings or structures shall be set back at least forty (40) feet from the property boundaries or, in lieu thereof, shall be protected throughout by an automatic sprinkler system complying with standards for installation prescribed by the National Fire Protection Association.

(d) Materials or products which produce flammable or explosive vapors or gasses under ordinary weather temperatures shall not be permitted in this district, with the exception of the following which are permitted:

(1) Materials required for emergency or stand-by equipment.

(2) Materials used in secondary processes, which are auxiliary to a principal, operation, such as paint spraying of finished products.

(3) Flammable liquids and oils, sold and used in conjunction with the operation of an automobile service station and customarily required or used in such operation.

**Sec. 113. Same—Air pollution.**

In I-1 districts, any use, which may cause emission of pollutants into the air, shall conform with applicable air quality regulations of the State of Indiana Department of Environmental Management and the United States Environmental Protection Agency.

**Sec. 114. Same—Water pollution.**

In I-1 districts, any use, which may cause emission of pollutants into steams, rivers, lakes, waterways or watercourses, or into the underground water supply and aquifers, shall conform with applicable water quality regulations of the State of Indiana Department of Environmental Management and the United States Environmental Protection Agency.

**Sec. 115. Maximum floor area ratio.**

In I-1 districts, the maximum floor area ratio of all buildings and structures on a zoning lot shall not exceed 2.0.

**Sec. 116. Minimum front yard.**

In I-1 districts, on every zoning lot a front yard of not less than twenty-five (25) feet shall be provided.

**Sec. 117. Minimum side yard.**

In I-1 districts, on every zoning lot a side yard shall be provided along each side lot line. Each side yard shall be not less than ten (10) percent of the lot width but need not exceed twenty (20) feet in width, except as may be required for setbacks along residential district boundaries.

**Sec. 118. Minimum rear yard.**

In I-1 districts, on every zoning lot a twenty-five (25) foot rear yard shall be provided.

**Sec. 119. Regulations along residential district boundaries.**

In I-1 districts, on properties or portions thereof located directly across the street from a residential district, if any point on the exterior surface of any building or structure in I-1 districts is at a greater height than twenty-five (25) feet above curb level, such point projected vertically on the ground shall in no case be nearer to the residential district boundary than a horizontal distance equal to the height of such point above curb level. However, stacks, tanks, bulkheads or ventilating equipment, including towers enclosing same, shall be exempt from such limitation if not exceeding in the aggregate twenty-five (25) feet in lineal dimension parallel to the street for any one hundred (100) feet of street frontage. Parapets not exceeding three (3) feet in height shall also be exempt from such limitation.

Where the boundary line separating an I-1 [district] from a residential district coincides with a property line or is separated by an alley, no building, structure or other obstruction in the industrial district shall be located within twenty (20) feet of the side lot line or thirty (30) feet of the rear lot line of the industrial district where it abuts a residential district. Further, if any point on the exterior surface of any building or structure in I-1 districts is at a greater height than twenty-five (25) feet above curb level, such point projected vertically on the ground shall in no case be nearer to the side or rear lot line of any property in an adjacent residential district than a horizontal distance equal to the height of such point above curb level. However, stacks, tanks, bulkheads or ventilating equipment, including towers enclosing same, shall be exempt from such limitation if not exceeding in the aggregate twenty-five (25) feet in lineal dimension parallel to such residential lot line for any one hundred (100) feet of length of such lot line. Parapets not exceeding three (3) feet in height shall also be exempt from such limitation.

## ARTICLE XI. I-2 HEAVY INDUSTRIAL DISTRICTS

### Sec. 120. Purpose.

The purpose of this article is to establish a district designed and intended to accommodate; retail, service, production, processing, cleaning, repair, testing, wholesaling and warehousing uses; including the conversion of raw material and semi-finished material into finished products or products which are shipped for further processing or finishing; and, other miscellaneous uses and Use Variances which are most compatible with uses typically located with access to major highways, expressways and railroads. Care is taken to insure minimal land use and traffic conflicts and to provide adequate separation from residences.

### Sec. 121. Limitations of use.

Permitted uses in the I-2 district are subject to the following additional general limitations: In I-2 districts, regulations covering limitations of use in I-1 districts shall apply.

### Sec. 122. Permitted uses.

The following listed uses and no others are permitted uses in I-2 districts:

(a) Any use permitted in I-1 districts.

(b) Additional production, processing, cleaning, testing or repair as follows:

(1) Automobile wrecking.

(2) Asphalt and asphalt products.

(3) Charcoal, lampblack and fuel briquettes.

(4) Chemicals, including acetylene, aniline dyes, ammonia, carbide, caustic soda, cellulose, chlorine, carbon black and bone black, cleaning and polishing preparations, creosote, exterminating agents, hydrogen and oxygen, industrial

alcohol, nitrating of cotton and other materials, nitrates (manufactured and natural) of an explosive nature, potash, plastic materials and synthetic resins, pyroxylin, rayon yarn, hydrochloric, picric and sulfuric acids and derivatives.

(5) Coal, coke and tar products, including gas industrial.

(6) Concrete and cement products, batch plants.

(7) Electric power and steam generating plants.

(8) Explosives, when not prohibited by other ordinances.

(9) Fertilizers.

(10) Film, photographic.

(11) Flour, feed and grain, milling and processing.

(12) Gelatin, glue and size, animal.

(13) Incineration or reduction of garbage, offal and dead animals.

(14) Insecticides.

(15) Linoleum and oil cloth.

(16) Magnesium foundries.

(17) Matches.

(18) Metal and metal ores (except precious and rare metals), reduction, refining, smelting and alloying.

(19) Paint, lacquer, shellac, varnishes, linseed oil and turpentine.

(20) Petroleum products, refining, such as gasoline, kerosene, lubricating oil, naphtha and liquefied petroleum gases.

(21) Rubber, natural and synthetic.

(22) Soaps, including fat and oil rendering.

(23) Starch.

(24) Stock yards, slaughterhouses and abattoirs.

(25) Wood, coal and bone distillation.

(26) Wood pulp and fiber, reduction and processing, including paper mill operations.

(27) Any other production, processing, cleaning, servicing, testing and repair which conforms with performance standards hereinafter established for an I-2 district.

(c) Storage, including the following uses and materials and products:

(1) Goods used in or produced by industrial activities permitted in this district.

(2) Explosives, subject to appropriate performance standards.

(3) Grain.

(4) Manure, peat and topsoil, subject to appropriate performance standards.

(d) Miscellaneous uses as follows:

(1) Railroad freight terminals, motor freight terminals, railroad switching and classification yards, repair shops and roundhouses.

(2) Outdoor advertising signs (billboards).

(e) Vehicle salvage yards and disposal sites, including areas for the disposal of garbage, refuse and trash.

(f) Incinerators.

(g) Public or commercial sewage treatment plants, sewage disposal plants and/or pump stations.

(h) Recycling plant.

(i) Airports and heliports.

(Ord. No. 2020-03, § 20, 2-11-2020)

**Sec. 123. Reserved.**

**Editor's note—**Ord. No. 2020-03, § 21, adopted February 11, 2020, repealed § 123 which pertained to use variances.

**Sec. 124. Performance standards—Noise.**

In I-2 districts, the emission of noise from any individual operation or plant (other than the operation of motor vehicles and other transportation facilities) so as to create a public nuisance beyond the boundaries of an individual operation or plant is prohibited. The standards enumerated under the I-2 district shall also apply to the I-2 district.

**Sec. 125. Same—Odorous matter.**

In I-2 districts, the performance standards governing odorous matter in an I-1 district shall apply.

**Sec. 126. Same—Vibrations.**

In I-2 districts, any process or equipment which produces intense earth-shaking vibrations, such as are created by heavy drop forges or heavy hydraulic surges, shall be set back at least five hundred (500) feet from the boundary from a residence or business district and at least one hundred (100) feet from the boundary of an I-1 district, unless such operation is controlled in such manner as to prevent transmission beyond property boundaries of earth-shaking vibrations perceptible without the aid of instruments.

**Sec. 127. Same—Toxic or noxious matter.**

In I-2 districts, the performance standards governing toxic or noxious matter in I-1 districts shall apply.

**Sec. 128. Same—Glare or heat.**

In I-2 districts, the performance standards governing glare or heat in I-1 districts shall apply.

**Sec. 129. Same—Fire and explosive hazards.**

In I-2 districts, fire and explosive hazards shall be controlled in the following manner:

(a) Activities involving the storage or manufacture of materials or products which decompose by detonation are not permitted in the I-2 district unless authorized by the fire chief of the Town, but in no case shall such uses be permitted closer than five hundred (500) feet to the boundary of another district. A partial list of such materials which decompose by detonation when they are in sufficient concentration includes, but is not limited to, the following:

(1) Acetylates.

(2) Ammonium nitrates.

(3) Anhydrous hydrazine.

(4) Azines.

(5) Black powder.

(6) Blasting gelatin.

(7) Chlorates.

(8) Cylonite or hexogen (trimethylene, trinitramine).

(9) Dinitrobenzene.

(10) Dinitroresorcinol.

(11) Dinitrotoluene.

(12) Dynamite.

(13) Fireworks

(14) Fulminates.

(15) Greek fire.

(16) Guanidine nitrate.

(17) Gun cotton (cellulose nitrate with nitrogen content in excess of 12.2% or pyroxylin.

(18) Hexane.

(19) Nitroglycerin.

(20) Perchlorates (when mixed with carbonaceous materials).

(21) Permanganates.

(22) Pent (pentaerythritoltetranitrate).

(23) Petryl.

(24) Picric acid.

(25) Tetryl (trinitrophenylmethyltramine).

(26) TNT (trinitrotoluene).

(b) The storage, utilization or manufacture of materials or products ranging from incombustible to moderate burning, as determined by the zoning administrator, is permitted.

(c) The storage, utilization or manufacture of materials or products ranging from free or active burning to intensive burning, as determined by the zoning administrator, is permitted under the following conditions:

(1) All storage, utilization or manufacture of such materials or products shall be within completely enclosed buildings or structures having incombustible exterior walls.

(2) All buildings or structures shall be set back at least forty (40) feet from property boundaries or, in lieu thereof, shall be protected throughout by an automatic sprinkler system complying with standards for installation prescribed by the National Fire Protection Association.

(d) Materials or products which produce flammable or explosive vapors or gases under ordinary weather temperature shall not be permitted in this district, with the exception of the following which are permitted:

(1) Materials required for emergency or standby equipment.

(2) Materials used in secondary processes, which are auxiliary to a principal, operation, such as paint-spraying of finished products.

(3) Flammable liquids and oils stored, sold and used in conjunction with the operation of an automobile service station and customarily required or used in such operation.

**Sec. 130. Same—Air pollution.**

In I-2 districts, the performance standards governing air pollution in I-1 districts shall apply.

**Sec. 131. Same—Water pollution.**

In I-2 districts, the performance standards governing water pollution in I-1 districts shall apply.

**Sec. 132. Maximum floor area ratio.**

In I-2 districts, the maximum floor area ratio of buildings and structures on a zoning lot shall not exceed 3.0.

**Sec. 133. Minimum front, side, and rear yards.**

In I-2 districts, the regulations governing minimum front, side, and rear yards in I-1 districts shall apply.

**Sec. 134. Regulations along residential district boundaries.**

In I-2 districts, the regulations governing residential district boundaries in I-1 districts shall apply, except where the boundary line separating an I-2 from a residential district coincides with a property line or is separated by an alley, no building, structure or other obstruction in the industrial district shall be located within thirty (30) feet of the side lot line or fifty (50) feet of the rear lot line of the Industrial district where it abuts a residential district.

**Secs. 135—138. Reserved.**

## ARTICLE XII. F-1 FLOOD PLAIN DISTRICTS

**Sec. 139. Purpose.**

The purpose of this article is to establish a district to meet the needs of water ways in the Town to carry the abnormal flow of water at times of flood; to prevent encroachments into the district which might increase flood height, decrease the capacity for flood water storage and consequently, increase the potential for loss of life and damage to property in the areas of greatest flood hazard. The flood plain districts are those as identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the Town of Porter" dated December 1979, with the accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps along with any subsequent revisions to the text or maps are hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file in the Office of the Clerk Treasurer.

**Sec. 140. Limitations of use.**

Permitted uses in the F-1 district are subject to the following additional general limitations:

(a) No filling of land shall be permitted, except where authorized by the plan commission and with any conditions as may be stipulated to protect the public interest.

(b) The natural drainage grade shall not be substantially altered.

(c) Any structure permitted shall be placed on the lot so as to offer a minimum obstruction to the flow of water and shall be firmly anchored to prevent the structure from floating or swept away by the flood water and thus threatening to further restrict bridge openings and other restricted sections of the stream.

**Sec. 141. Permitted uses.**

The following listed uses and no others are permitted uses in F-1 districts:

(a) Open Space uses, including farming, grazing and livestock raising, gardens, orchards and nurseries; provided, that such uses are auxiliary to permitted uses in an adjoining district.

(b) Boat docks and fishing piers (public or private), including the selling or leasing of fishing and boating equipment and bait.

(c) Artificial lakes of three acres or more.

(d) Any other use customarily accessory or incidental to the above uses.

(e) Campgrounds, provided that plans have first been approved by the Indiana State Board of Health and the Indiana Department of Natural Resources if and as required by applicable law.

(f) Country club or golf course.

(g) Outdoor commercial recreational enterprise (e.g., miniature golf, go carts, paint ball, laser tag, and similar uses), outdoor amusement establishments, fairgrounds, picnic groves, kiddie parks and other similar amusement centers, including stadiums and arenas.

(h) Private camp.

(i) Riding stable and/or riding trails.

(j) Public or commercial sewage treatment plants, sewage disposal plants and/or pump stations.

(Ord. No. 2020-03, § 22, 2-11-2020)

**Sec. 142. Reserved.**

**Editor's note—**Ord. No. 2020-03, § 23, adopted February 11, 2020, repealed § 142 which pertained to use variances.

**Sec. 143. Flood plain fringe areas.**

Areas lying outside of and adjacent to the flood plain districts, as shown on the zoning map of the Town shall be subject to the following regulations:

(a) No building or structure shall be erected and no existing building or structure shall be moved unless the main floor of such building or structure is above the highest recorded flood level for the Little Calumet River, plus two (2) feet and receives prior approval by the Town engineer.

(b) No basement floor or other floor shall be constructed below or at a lower elevation than the main floor.

(c) Foundations of structures shall be designed to withstand flood conditions at the site.

**Sec. 144. Designation and duties of the administrator.**

The Building Commissioner is hereby designated to administer the provisions of the Flood Plain District. The administrator shall review all development and subdivision proposals for compliance with these provisions and report to the plan commission any and all proposals that have potential flood impacts.
(Ord. No. 2015-08, § 1, 9-22-2015)

**Sec. 145. Development prohibition.**

Other than those permitted and Use Variances listed all development shall be prohibited in the Flood Plain District.

**Sec. 146. Non-conforming uses.**

Any building, structure or use of land in the Flood Plain District, which is not in conformance with this chapter, constitutes a non-conforming use. All applications to repair, extend or enlarge a non-conforming use shall be forwarded to the Federal Emergency Management Agency for review and comment. All terms and conditions imposed by the Federal Emergency Management Agency shall be incorporated into the issuance of any local permit.

**Sec. 147. Variance.**

Applications for variances to the provisions of this chapter shall be forwarded to the Federal Emergency Management Agency for review and comment. All terms and conditions imposed by the Indiana Department of Natural Resources shall be incorporated into the issuance of any local permit.

**Sec. 148. [Conflicting provisions.]**

Where this Ordinance and the flood plain regulations incorporated by reference into Section 30-1 of the Town of Porter Code of Ordinances conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
(Ord. No. 2015-08, § 2, 9-22-2015)

**Secs. 149—151. Reserved.**

## ARTICLE XIII. PLANNED UNIT DEVELOPMENTS DISTRICTS

### Sec. 152. Purpose.

The purpose of this article is to provide greater design flexibility in the development of land when consistent with the Comprehensive Plan and intent of the Zoning Ordinance. The use of planned unit developments shall be encouraged when such use promotes a harmonious variety of uses, and/or provides for an economy of shared services and facilities, and/or are compatible with surrounding areas and/or foster the creation of attractive, healthful, efficient and stable environments for living, shopping or working.

The Planned Unit Development District regulations and procedures may apply to the redevelopment of presently developed lands, or the development of open or vacant lands, and may apply to parcels of relatively small size as well as large-scale developments and their relationship with other surrounding uses and the overall characteristics of the area in which it is to be located.

Planned Unit Development District regulations are intended to encourage innovations in land development techniques so that the growing demands of the community may be met with greater flexibility and type, design and layout of sites and buildings and by the conservation and more efficient use of open spaces and other amenities generally enhancing the quality of life.

Planned Unit Development District projects should also encourage a more efficient use of land, which reflects the changes in technology of land development so that the resulting economies may accrue to the benefit of the community at large.

To that end the regulations and development guidelines contained in this chapter as to use, bulk, yards and height may be waived or modified to provide relief therefrom to allow unconventional development in the specific Planned Unit Development project. The community may then benefit from such desirable but unconventional developments and be protected and insured through the limitations and conditions placed upon and made part of the ordinance granting the specific "Planned Unit Development District."

### Sec. 153. Planned unit developments, classification.

Planned unit developments may be classified in the following designations.

(a) *Planned unit development - Residential.* Any development consisting of not less than five (5) acres in which more than eighty (80) percent of the interior floor area of all buildings to be included in the development is used for residential purposes and/or those accessory purposes customarily related to residential use.

(b) *Planned unit development - Business.* Any development consisting of not less than five (5) acres in which all of the interior floor area of all buildings to be included in the development is to be used for business or commercial purposes.

(c) *Planned unit development - Industrial.* Any development consisting of not less than ten (10) acres in which more than eighty (80) percent of the interior floor area of all

buildings to be included in the development is used, for industrial or industrial purposes or such accessory uses customarily relating to industrial or industrial uses, with balance of such interior floor area, if any, being intended for such business or commercial uses as reasonably relate to the support or convenience of the intended industrial or industrial uses or their occupants.

(d) *Planned unit development - Mobile Home Park.* Any development consisting of not less than seventy-five (75) mobile home sites of not less than forty-five hundred (4,500) square feet each in which more than eighty (80) percent of the interior floor area of all the mobile homes and all the other buildings combined in the development is used for mobile home residence or such accessory uses customarily related to mobile homes, with the balance of such interior floor area, if any, being intended for such business, commercial and community uses as reasonably relate to the support or convenience of the Mobile Home Park residents.

**Sec. 154. Organization of proposals.**

Any person, corporation, partnership or association having an ownership interest in a proposed development, or any group of owners united in interest, acting jointly, and in pursuance to an agreement to carry out the proposal in separate ownership may propose a Planned Unit Development District in accordance with the procedures hereinafter established, where such individual owner or group of owners in making such proposal intends to act as developer or sponsor of the development if the Planned Unit Development ordinance is adopted and indicates the requisite capabilities to carry out such proposal. A parcel, or site proposed for a Planned Unit Development need not be under single ownership where the proposed development consists of a group of structures or improvements capable of being developed separately but in accordance with a single, unitary plan, and in which the separate owners have given their expressed intentions to enter into such private agreements between or among themselves as will facilitate their mutual enterprise, and assure its completion as planned to the satisfaction of the Plan Commission.

**Sec. 155. Filing procedure.**

The general and specific procedures for filing for a Planned Unit Development District are as set forth in the following:

(a) A petition and all other documents required for the requested Planned Unit Development District shall be submitted, which petition shall be signed by the owner or owners of all real estate involved in the petition for the Planned Unit Development District, or which petition shall have attached thereto the notarized consent of all such owners to the filing of such petition.

(b) The PUD petition shall include a preliminary plan and plat for any area proposed for development. Sixteen (16) copies of said plan and plat shall be filed with the Plan Commission. The preliminary plan and plat shall include:

(1) The proposed layout of streets, open space and other basic elements of the plan.

(2) Identification of location and types of structures and their use categories within the area, including proposed densities of said uses.

(3) Proposals for handling traffic, parking, water supply, sewage disposal, storm drainage, tree preservation and removal, landscaping, lighting, signage and other pertinent development features.

(4) A separate location map to scale shall show the boundary line of adjacent land and the existing zoning of the area proposed to be developed as well as the adjacent land.

(5) The condominium declaration (if applicable), a document creating an owners' association and any covenants which are to be made part of the Planned Unit Development District as well as the order and estimated time of development.

(6) A statement of the proposed order of development of the major elements of the project, including whether the development will be accomplished in phases, and, if so, the order and content of each phase.

(7) An environmental and/or community impact study, conducted by a qualified individual, if required by the plan commission.

(c) The preliminary plan shall be presented to the Plan Commission at the regularly scheduled meeting with copies for each member thereof and additional file copies for a total of ten (10) copies drawn to a scale ratio not to exceed 100' = 1". The preliminary plan may include any additional graphics, which will help to explain the features of the development. The Plan Commission shall then schedule the preliminary plan for a public hearing, in accordance with the provisions of this ordinance and applicable state law. The preliminary plan shall also be provided to the following checkpoint agencies for their review and comment:

(1) Porter Dept. of Public Works.

(2) Porter Police Department.

(3) Porter Fire Department.

(4) Porter Parks Department.

(5) Duneland School Corporation.

(6) Porter County Soil and Water Conservation District.

(d) After assignment of a docket number and prior to the date of the public hearing on the preliminary plan as established by the Plan Commission, the Administrator shall meet with the petitioner regarding the preliminary plan and checkpoint agency comments. Checkpoint agency personnel may attend this meeting to provide additional comments and/or clarifications thereto. After such consultation the petitioner may make modifications to the petition. The Administrator may require revision to the preliminary plan if the modifications are deemed to be substantive. Such revised preliminary plans shall be made available to the members of the Plan Commission at least ten (10) days prior to the date of the public hearing thereon.

**Sec. 156. Preliminary plan hearing.**

The petition, if and as modified, shall be heard by the Plan Commission as a petition under the Planned Unit Development District provisions of the Zoning Ordinance, and subject to the procedures applicable thereto. The Plan Commission shall schedule and convene a public hearing on the proposed development in accordance with the requirements of Section 245. The Plan Commission may recommend approval or disapproval of the plan and may impose any reasonable condition(s) with its affirmative recommendation. If disapproval is recommended, the application shall not be certified to the Council of the Town of Porter. If approval is recommended, the preliminary plan shall be stamped Approved Preliminary Planned Unit Development and be signed by the President and Secretary of the Plan Commission. One copy shall be permanently retained in the files of the Plan Commission, one copy shall be returned to the petitioner and one copy and all conditions shall be certified as described below.

The Approved Preliminary Planned Unit Development shall then be certified to the Council of the Town of Porter for adoption as a Planned Unit Development District pursuant to the laws governing proposals to change zoning maps. Upon adoption by the legislative body, the petitioner shall prepare the final detailed plan.

**Sec. 157. Approval of the final detailed plan.**

The procedures for approval of the Final Detailed Plan shall be as follows:

(a) After adoption of an ordinance by the Council to establish a Planned Unit Development District and before any development takes place, the petitioner shall file with the Plan Commission a minimum of six (6) sets of the final detailed plan specifying the location, composition and engineering features of all lots, storm drainage, sanitary sewage, water supply facilities, public or private streets, recreation facilities, site perimeter, treatment, landscaping, plat and other site development features including locations of buildings. The petitioner shall file the original of all signed and notarized documents pertaining to all restrictive covenants, condominium declaration and/or the creation of a homeowners association, along with financial assurance for the satisfactory installation of all public improvements in the form of bonds or such other assurances as are required in the normal procedures of platting pursuant to the provisions of the Porter Subdivision Ordinance. The Plan Commission shall then approve said final detailed plans by duly adopted motion upon an affirmative finding that the final detailed plan is consistent with the Approved Preliminary Planned Unit Development as adopted and passed by the Council of the Town of Porter upon rezoning. Having so once approved the final detailed plan, the Plan Commission shall have no further review or act thereon, except as to enforcement, except as to an amendatory ordinance, and except as to hereafter provided for.

(b) The Approved Preliminary Planned Unit Development may provide for the development of the property involved in phases. If such phasing is included as a part of the approval of the preliminary plan, the petitioner may submit partial final detailed

plans, which correspond to the phases involved. Such partial final detailed plans, when approved, shall be treated in the same manner as approved final detailed plans for an entire Planned Unit Development.

(c) The approved final detailed plan or phase thereof shall be stamped "Approved Final Detailed Planned Unit Development" and be signed by the President and Secretary of the Plan Commission with one copy permanently retained in the files of the Plan Commission following recordation as specified in Sec. 158 [159].

(d) Unless extended by the Plan Commission pursuant to Sec. 161 [162], approval of the first phase of the final detailed plan shall be obtained within twelve (12) months of preliminary approval, and approval of the balance of the final detailed plan shall be obtained within five years after adoption of the Planned Unit Development District by the Porter Town Council.

(e) In the event that approval of a final detailed plan is not obtained within twelve (12) months of initial application, the Plan Commission may initiate an amendment to remove "Planned Unit Development District" designation and rezone the property to another land use designation.

(f) Approval of a final detailed plan shall expire after a period of five (5) years from the approved phasing of the preliminary plan unless the development is fifty (50%) percent completed in terms of public improvements including streets, parks, walkways, utility installations and sanitary sewers. Determination of the amount of completion shall be made by the Plan Commission upon a recommendation of the Administrator. Following expiration of the final detailed plan, the Town of Porter shall declare the bond to be in default and cause all public improvements to be installed according to the final detailed plan.

**Sec. 158. Covenants and maintenance.**

The Plan Commission shall require and accept covenants and restrictions to the use of property in the Planned Unit Development as follows:

(a) All covenants required by the Plan Commission shall be set forth in detail and provide for a provision for the release of such restriction by execution of a document so stating and suitable for recording, signed by the Plan Commission President and Secretary upon authorization by the Plan Commission and all of the owners of property in the area involved in the petition for whose benefit the covenant was created. Such covenants shall provide that their benefits run to the Plan Commission and shall be specifically enforceable by the Plan Commission in addition to the property owners.

(b) The Plan Commission shall require the recording of such covenants for any reasonable public or semi-public purpose, including but not limited to, the allocation of land by the petitioner for public thoroughfares, parks, schools, recreational facilities, and other cited public and semi-public purposes. Such covenants shall provide that if a governmental unit or agency thereof does not proceed with acquisition of the allocated land

within a specific period of time, the covenants shall automatically terminate. If such termination does occur, the petitioners shall then submit for approval by the Plan Commission a modified final detailed plan for such land, otherwise consistent with the approved Preliminary Planned Unit Development.

(c) The Plan Commission shall require the recording of covenants for any other reasonable purpose, including but not limited to, imposing standards for the development of property in a Planned Unit Development. Such development standards may include, but are not limited to, requirements as to the following:

(1) Lot area.

(2) Floor area.

(3) Ratios of floor space to land space.

(4) Areas in which structures may be built ("Buildable area").

(5) Open space.

(6) Setback lines and minimum yards.

(7) Building separations.

(8) Height of structures.

(9) Signs.

(10) Off-street parking and loading space.

(11) Design standards (including landscaping requirements).

(12) Phasing of development.

(d) Adequate provision shall be made for a private organization with direct responsibility to, and control by, the property owners involved to provide for the operation and maintenance of all common facilities, including private streets, jointly shared by such property owners if such facilities are a part of the Planned Unit Development, and, in such instances legal assurances shall be provided and recorded which show that the private organization is self-perpetuating.

(e) Common facilities, which are not dedicated to the public, shall be maintained to standards assuring continuous and adequate maintenance. Common facilities not dedicated to the public shall be operated and maintained at no expense to any governmental unit.

(f) All private streets shall be maintained by the aforementioned private organization in such a manner that adequate access is provided at all times to vehicular traffic so that fire, police, health, sanitation and public utility vehicles can serve the properties contiguous or adjacent thereto, and so that said vehicles will have adequate turning area. All streets and roadways not dedicated to the public shall be operated and maintained at no expense to any governmental unit.

**Sec. 159. Recording.**

All approved Final Detailed Planned Unit Development Plans and Plats and any modifications thereof shall be recorded in the Office of the Porter County Recorder within one (1) year after approval, but before any development takes place. The certification of recording shall be kept on file with the plans and plats. Failure to record shall automatically void the approval of the Final Detailed Planned Unit Development.

Upon the completion of all development, the developer shall submit exact measurements, as to the location of buildings or structures erected during the development. The developer shall submit a copy of the approved Final Detailed Plan Unit Development to the Administrator as an amended Final Detailed Plan Unit Development. The exact measurements shall be shown on said amended plan. Once satisfied that the measurements are substantially the same as was indicated on the original Final Detailed Planned Unit Development, the Administrator shall approve, date and sign said amended Final Detailed Planned Unit Development, which the developer shall then record.

**Sec. 160. Permit.**

An improvement location permit shall be issued for a Planned Unit Development District upon full compliance with the approved Final Detailed Planned Unit Development.

**Sec. 161. Construction.**

No construction or installation work shall be done on any public improvements until the petitioner has, at least twenty-four (24) hours in advance, notified the appropriate governmental inspector(s) of his intention to begin such work, in order that inspections may be made as the work progresses.

All development shall be in conformity with the approved and recorded Final Detailed Planned Unit Development and any material deviations from the approved and recorded Final Detailed Planned Unit Development shall be subject to the appropriate enforcement action as provided for in this chapter.

**Sec. 162. Extensions, abandonment, and expiration.**

Extension of the time for accomplishing any matters set forth herein may be granted by the Plan Commission at a public hearing for good cause shown.

Abandonment shall have occurred when no improvements have been made pursuant to the approved Final Detailed Planned Unit Development for 12 consecutive months. Upon the abandonment of a development authorized under this section, or upon the expiration of five years from the date of the approval of a Final Detailed Planned Unit Development for a development which has not been completed, an amendment may be initiated as provided by

law to the zoning map so that the land will be zoned into a category or categories which most nearly approximate the intended use in accordance with the Porter Comprehensive Land Use Plan.
(Ord. No. 2022-05, § 1, 6-28-2022)

**Sec. 163. Limitation of rezoning.**

The Plan Commission shall not initiate any amendments to the zoning map concerning the property involved in a Planned Unit Development before completion of the development as long as the development is in conformity with the approved Final Detailed Planned Unit Development and is proceeding in accordance with the time requirements imposed herein. Property within the Town of Porter may be rezoned as a PUD with an underlying zoning classification in advance of a development plan being submitted. Development of said property shall then be advanced by following the procedures outlined in his article.
(Ord. No. 2007-07, 6-26-2007; Ord. No. 2022-05, § 2, 6-28-2022)

**Secs. 164—167. Reserved.**

## ARTICLE XIV. MOBILE HOMES AND MOBILE HOME PARKS

**Sec. 168. Purpose.**

The purpose of this article is to establish the criteria for determining the minimum acceptable standards for the development of a mobile home park and the placement thereon of mobile homes, as well as the accessory services primarily intended for the use of residents of the mobile home park which may be allowed by ordinance as part of a Planned Unit Development District-Mobile Home Park as set forth in Article XIII Planned Unit Development Districts.

**Sec. 169. General requirements.**

The following general requirements applicable to Mobile Home Park:

(a) Each mobile home park shall provide for not less than seventy-five (75) mobile home sites of not less than five thousand (5000) square feet each.

(b) No mobile home park shall be located within four hundred (400) feet of an R-1, R-2 or R-3 residential zoning district.

(c) Each mobile home park shall be located so as to have direct access to a street designated as an arterial road on the Thoroughfare Plan, as part of the Town of Porter Comprehensive Plan as heretofore or hereafter adopted and from time to time amended. Two copies of the Thoroughfare Plan shall be kept on file and available for public inspection in the Office of the Town Clerk-Treasurer.

(d) Each mobile home park shall have streetlights provided by the developer, of sufficient number, placement and illumination to permit safe movement of vehicles and pedestrians at night.

(e) Each mobile home park shall contain a greenbelt of not less than twenty (20) feet in width adjacent to all abutting properties and public rights-of-way. The Plan Commission may recommend and the Common Council may approve as part of the Planned

Unit Development District-Mobile Home Park, the erection of an obscuring wall or fence not less than four feet six inches (4'-6") but not more than six (6) feet in height to be built in combination with or in lieu of a greenbelt.

(f) Each mobile home park shall provide and contain an area of land not less than the greater of two hundred fifty (250) square feet multiplied by the number of mobile home sites or of twenty thousand (20,000) square feet, exclusive of the greenbelt, for recreational purposes. Such area shall be maintained, and as part of the Planned Unit Development District-Mobile Home Park may be required to be graded, sodded and otherwise developed in a manner appropriate for recreational use by the residents of the mobile home park.

(g) Each mobile home park shall be developed so that more than eighty (80) percent of the interior floor area of all the mobile homes and all the other buildings combined in the development is used for mobile home residence or such accessory uses customarily related to mobile homes, with the balance of such interior floor area, if any, being intended for such business, commercial and community uses as reasonably relate to the support or convenience of the Mobile Home Park residents.

(h) Unless otherwise authorized as part of the Planned Unit Development, each building or structure within a mobile home park, other than mobile homes, shall have a front and rear yard of not less than forty (40) feet each and shall have side yards of not less than twenty (20) feet each.

(i) Each mobile home site shall have a front yard of not less than twenty (20) feet, a rear yard of not less than fifteen (15) feet, an entrance side yard of not less than twenty (20) feet and an opposite side yard of not less than ten (10) feet. Yards shall be measured in depth at the shortest distance from each mobile home site boundary on a line perpendicular to such boundary, to the nearest edge of the mobile home.

(j) The boundaries of each mobile home site shall be clearly and permanently designated; fences, if any, along the side and rear yards, shall be of uniform height not in excess of forty-two (42) inches.

(k) Each mobile home site shall be provided, at the developer's expense, all municipal and other utilities, including public sewer and water, underground electric, and natural gas.

(l) There shall be no storage of any kind beneath any mobile home in a mobile home park. Boats, snowmobiles, similar recreational equipment and storage structures may be allowed or stored on a mobile home site only if the following conditions are continuously met:

(1) Such items shall be placed or stored only in the rear yards.

(2) Such items shall be placed or stored no closer than four (4) feet from the nearest mobile home site boundary.

(3) Such items shall be maintained so as not to be unsightly and/or to have a detrimental affect on the appearance of the mobile home park.

(4) The aggregate area occupied by such items on any one mobile home site shall not exceed two hundred (200) square feet.

**Sec. 170. Compliance required.**

The following standards for development of a mobile home park are required and must be complied with in the request for a Planned Unit Development District-Mobile Home Park:

(a) *Suitability of land.* Land subject to flooding and land deemed by the Plan Commission to be unsuitable for platting because of topography, drainage or for other reasons, shall not be eligible for use as a mobile home park. Land deemed unsuitable for platting shall include, but not be limited to:

(1) Land with an elevation less than four (4) feet above the highest ground water level; provided that land with an elevation of between two (2) and four (4) feet above the highest ground water level may comprise not more than ten (10) per cent of the minimum lot area of a mobile home site.

(2) Land with an elevation less than two (2) feet above the approximate high water elevation of any lake, stream or swamp affecting the plat; provided, that such land may comprise not more than ten percent (10%) of the minimum lot area of a mobile home site.

(b) *Streets.*

(1) Streets within the mobile home park shall be so designed and developed to take into consideration their relationship to existing and planned streets in the area surrounding the mobile home park, as well as to topographical conditions and natural terrain features such as streams, wetlands and existing tree growth. Street jogs shall be avoided. Half streets shall be prohibited.

(2) Such internal streets shall be so arranged as to provide access to all mobile home sites. Each mobile home site shall have frontage on a street.

(3) The minimum sight distance on all streets within the mobile home park shall be two hundred (200) feet.

(4) The minimum centerline radius for horizontal curves on all streets within the mobile home park shall be one hundred (100) feet.

(5) Intersecting streets shall be laid out as nearly at right angles as possible with no angle of intersection being less than sixty (60) degrees. The minimum corner radius at the curbs shall be twenty (20) feet, except that a larger radius may be required where the angle of intersection is less than seventy-five (75) degrees.

(6) Local streets within a mobile home park shall have not less than thirty (30) feet of roadway width from back to back of curbs.

(7) Dead end streets shall be not more than five hundred (500) feet in length and shall be provided with a turn around (cul de sac) having a minimum roadway radius of at least thirty-five (35) feet.

(8) Minimum street grade shall not be less than one half of one (0.5) percent. Maximum street grade shall not be more than five (5) percent.

(9) All changes in grade shall be connected with vertical curve with minimum lengths of eight (8) times the algebraic difference in slope of the street grades.

(10) Concrete curb and gutter shall be provided on all streets, and shall be depressed so as to provide handicapped accessibility.

(11) Sidewalks shall be provided within a mobile home park and shall not be less than four (4) feet in width. Walks shall be provided at least on one side of all streets in the mobile home site areas; in front of all mobile home park accessory service areas, the clubhouse, recreational areas and along routes leading to aforesaid areas.

(c) *Easements.* Easements shall be provided, where necessary, utilities, watercourses, drainage ways, channels or streams. Width of each easement shall be a minimum of twenty (20) feet.

(d) *Blocks.* Blocks within the mobile home park shall be designed so as to meet the following characteristics:

(1) Block length shall not exceed one thousand (1,000) feet nor be less than five hundred (500) feet.

(2) Pedestrian crosswalks not less than six (6) feet wide in a ten (10) foot easement may be required in blocks longer than six hundred (600) feet.

(3) Blocks shall be wide enough to allow two (2) tiers of lots of at least minimum depth, except where there is frontage on major streets, or where prevented by topographic conditions or property dimensions, in which case the Plan Commission may approve a single tier of lots of at least minimum depth.

(e) *Lots.* Lots within the mobile home park shall be designed so as to meet the following characteristics:

(1) Lots in a mobile home site shall have an area of not less than five thousand (5,000) square feet. The least lot dimension shall not be less than fifty (50) feet.

(2) Double frontage lots shall be avoided, except for frontage along a major street and for unusual topographic features, in which case double frontage lots may be approved by the Plan Commission provided that access to the lot is limited to the interior street and screen planting is provided along the rear property line.

(3) Corner lots shall be sufficiently wider to provide for the width of a front yard or entrance side yard required by this chapter.

**Sec. 171. Improvement standards.**

The following standards for improvements in a mobile home park are required and must be complied with in the request for a Planned Unit Development District-Mobile Home Park:

(a) *Generally.* Every mobile home park shall be required to install sanitary sewers; storm sewers or alternative storm water drainage system; Water main distribution and fire protection system; street pavement with curb, gutters and sidewalks; and other improvements deemed necessary by the Plan Commission.

(b) *Sanitary sewers.* Sanitary sewers connected to a municipal sewage system shall be constructed in accordance with current Town of Porter standards and specifications. Septic systems and private treatment plant systems will not be approved.

(c) *Storm sewers.* A storm sewer system to collect all run off water from the site shall be constructed in accordance with current Town of Porter standards and specifications. Such system shall discharge to a public storm sewer, watercourse, drainage way, retention or detention area or other acceptable receptacle. Care shall be taken to protect the upstream and downstream areas from flood hazard that may be caused by the development.

(d) *Water mains.* Water mains shall be placed to serve all parcels and lots proposed for development. Mains shall be sized to provide adequate water supply for fire protection. Hydrants for fire protection shall be provided at the number and location agreed to by the Porter Town Fire Department.

(e) *Streets, curbs, gutters and walks.* Streets, curbs, gutter and walks shall be provided according to the following improvement standards:

(1) Street pavement shall be constructed of a minimum of eight (8) inches of compacted aggregate base, two (2) inches of hot asphalt binder and one (1) inch of hot asphalt surface. Where traffic loads or sub-grade soils warrant, the pavement and/or material may be increased or changed based upon design criteria.

(2) Concrete curb and gutter shall be constructed of thirty-five hundred (3,500) pounds per square inch concrete with proper air entrainment. Reinforcing steel may be required if sub-grade conditions warrant. Curb and gutter shall have a minimum section eight and one-half (8½) inches at front edge, eight (8) inches at gutter, twelve (12) inches at back of curb, and shall be a minimum of eighteen (18) inches wide.

(3) Concrete walk shall be a minimum of four (4) feet wide and four (4) inches thick, constructed of thirty-five hundred (3,500) pounds per square inch concrete with proper air entrainment on a prepared sub-grade with a minimum of three (3) inch thick granular material.

**Secs. 172—175. Reserved.**

## ARTICLE XV. OFF-STREET PARKING, LOADING AND LANDSCAPING

### Sec. 176. Purpose.

The purpose of this article is to alleviate or prevent the congestion of the public streets and to promote safety and welfare of the public by establishing minimum requirements for the

off-street parking, the loading and unloading of motor vehicles, and landscaping, in accordance with the use to which the property is put. The off-street parking and loading provisions of this chapter shall apply as follows:

**Sec. 177. General provisions.**

(a) *Required facilities.* For all buildings and structures erected and all uses of land established after the effective date of this chapter, accessory parking, landscaping, and loading facilities shall be provided as required by the regulations of the zoning district within which such buildings or uses are located. However, where a permit has been issued prior to the effective date of this chapter; and provided, construction is begun within one year of such effective date, and diligently prosecuted to completion, parking, landscaping, and loading facilities as required hereinafter need not be provided.

(b) *Increase in intensity of use of building, structure or premises.* When the intensity of use of any building, structure or premises shall be increased through the addition of dwelling units, gross floor area, seating capacity or other units of measurement specified herein for required off-street parking, landscaping, or loading facilities; parking, landscaping, and loading facilities as required herein shall be provided for such increase in intensity of use.

(c) *Changes in use of building or structure.* Whenever the existing use of a building or structure shall be changed hereafter to a new use, parking, landscaping, or loading facilities shall be provided as required for such new use. However, if such building or structure was erected prior to the effective date of this chapter, additional parking, landscaping, or loading facilities are mandatory only in the amount by which the requirements for the new use would exceed those for the existing use if the latter were subject to the parking, landscaping, and loading provisions of this chapter.

(d) *Existing parking and loading facilities.* Accessory off-street parking or loading facilities which are located on the same lot as the building or use served and which were in existence on the effective date of the chapter or were provided voluntarily after such effective date shall not hereafter be reduced below, or if already less than, shall not further be reduced below, the requirements of this chapter for a similar new use or building.

(e) *Permissive parking, landscaping, and loading facilities.* Nothing in this chapter shall be deemed to prevent the voluntary establishment of off-street parking, landscaping, and loading facilities to serve any existing use of land or buildings; provided, that all regulations herein governing the location, design, improvement and operation of such facilities are adhered to.

(f) *Damage or destruction.* For any conforming or legally non-conforming use or building which is in existence on the effective date of this chapter, which subsequent thereto is damaged or destroyed by fire, collapse, explosion or other cause, and which is reconstructed, reestablished or repaired, off-street parking, landscaping, or loading facilities equivalent to any maintained at the time of such damage or destruction shall be restored or continued in

operation. However, in no case shall it be necessary to restore or maintain parking, landscaping, or loading facilities in excess of those required by this chapter for equivalent new uses or construction.

(g) *Submission of plot plan.* Any application for permit or for certificate of zoning compliance where no permit is required, shall include therewith a plot plan, drawn to scale and fully dimensioned, showing any parking, landscaping, or loading facilities to be provided in compliance with this chapter.

**Sec. 178. Location of accessory off-street parking facilities.**

The location of off-street parking spaces in relation to the use served shall be prescribed hereinafter. All distances specified shall be walking distance between such parking space and the main entrance to the use served.

(a) *For uses in a residential district.* Parking spaces accessory to dwellings shall be located on the same zoning lot as the use served. Spaces accessory to uses other than dwellings may be located on a lot adjacent to, or directly across a street or alley from, the lot occupied by the use served, but in no case at a distance in excess of three hundred (300) feet from such use.

(b) *For uses in business or industrial districts.* All required parking spaces shall be within six hundred (600) feet of the use served, except for spaces accessory to dwelling units, which shall be within three hundred (300) feet of the use served. However, no parking space accessory to a use in a business or industrial district shall be located in a residential district.

**Sec. 179. Additional parking regulations.**

Off-street parking facilities shall be subject to the following additional parking regulations:

(a) *Use of parking facilities.* Off-street parking facilities accessory to residential use and developed in any residential district in accordance with the requirements of this section shall be used solely for the parking of passenger vehicles, recreational vehicles, boats, and similar equipment, owned by occupants of the dwelling structures to which such facilities are accessory or by guests of such occupants. Utility service vehicles are exempt from the requirements of this provision. Under no circumstances shall the parking or storage of commercial vehicles, construction equipment, or the parking of automobiles belonging to employees, owners, tenants, visitors or customers of business or industrial establishments take place in any residential zoning district.

(b) *Joint parking facilities.* Off-street parking facilities for different buildings, structures or uses, or for mixed uses, may be provided collectively in any zoning district in which separate parking facilities for each constituent use would be permitted; provided, that the total number of spaces so located together shall not be less than the sum of the separate requirements for each use.

(c) *Computation.* When the determination of the number of off-street parking spaces required by this chapter results in the requirement of a fractional space, only fractions of one-half (½) or less may be disregarded, while a fraction in excess of one-half (½) shall be counted as one (1) parking space.

(d) *Size.* A required off-street parking space shall be at least nine (9) feet in width and at least twenty (20) feet in length, exclusive of access drives or aisles, ramps, columns or office or work areas. Such space shall have a vertical distance of at least seven (7) feet.

(e) *Access.* Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner, which will least, interfere with traffic movement.

(f) *In yards.* Off-street parking of passenger vehicles shall be located in the front or side yards only, and on a hard surface. Recreational vehicles, boats, and similar equipment, required for uses permitted in residential districts, may only be located in a required side or rear yard. Off-street parking for permitted uses in business or industrial districts may be located in a required rear or side yard, except for the ten (10) feet adjacent to the rear or side lot line adjacent to a residential district, and in the front yard except for the ten (10) feet adjacent to the front lot line.

(g) *Design and maintenance.* Off-street parking facilities shall observe the following design and maintenance regulations:

(1) Open and enclosed parking spaces. Accessory parking spaces located on the same lot as occupied by the use served may be open to the sky or enclosed by a building. Accessory parking spaces located in a residential district elsewhere than on the same lot occupied by the use served shall be open to the sky except when otherwise allowed.

(2) Surfacing. All open off-street parking areas shall be improved with either a minimum of five (5) inches of portland cement or a compacted macadam or equal base, not less than four (4) inches thick, surfaced with asphaltic concrete or some comparable all-weather, dustless material.

(3) Screening and landscaping. All open automobile parking areas that contain more than four (4) parking spaces shall be effectively screened on each side adjoining or fronting on any property situated in a residential district or any institutional property by a wall, fence or densely planted compact hedge not less than five (5) feet nor more than seven (7) feet in height. Such required screening shall conform with the front yard requirements of the district in which the parking is located. Any business or industrial off-street parking area located in the front yard shall be screened from the street by a ten (10) foot planting area, which will effectively screen the parked cars. The Plan Commission shall approve said landscaping plan, prior to the issuance of a building permit.

(4) Lighting. Any lighting used to illuminate off-street parking areas shall be directed away from residential properties in such a way as to not create a nuisance.

(5) Signs. Accessory signs are permitted on parking areas.

(6) Repair and service. No motor vehicle repair work of any kind shall be permitted in conjunction with accessory off-street parking facilities provided in a residential district.

(7) Fuel sales. The sale of gasoline, diesel fuel or motor oil in conjunction with accessory off-street parking facilities is not permitted in any residential district.

(8) Floor area exemptions. When two (2) or more uses are located on the same zoning lot, only one (1) exemption in terms of floor area, as set forth in section 183 [182], shall be taken.

(Ord. No. 2004-21, 11-11-2004)

**Sec. 180. Schedule of parking requirements.**

For the following uses, accessory off-street parking spaces shall be provided as required hereinafter. Parking spaces required on any employee basis shall be based on the maximum number of employees on duty, or residing, or both on the premises at any one time.

(a) *Residential uses.*

(1) Lodging Houses. One (1) parking space shall be provided for each two (2) lodging rooms, plus one (1) space for the owner or manager.

(2) Mobile Home Parks. Two (2) parking spaces shall be provided on each mobile home site, plus one (1) space for the manager and each employee.

(3) Multiple-Family Dwellings, including Apartment-Hotels. Two (2) parking spaces shall be provided for every one (1) dwelling unit. For lodging rooms located in an apartment-hotel, one (1) parking space shall be provided for each two (2) lodging rooms, plus one (1) space for the manager and each employee.

(4) One-Family Dwellings and Two-Family Dwellings. Two (2) parking spaces shall be provided for each dwelling unit.

(5) Tourist Courts, Tourist Homes and Motels. One (1) parking space shall be provided for each dwelling unit or lodging room, plus one (1) space for the manager and each employee.

(6) Transient Hotels. One (1) parking space shall be provided for each dwelling unit and one (1) parking space for each two (2) lodging rooms, plus one (1) space for the manager and each employee.

(b) *Retail and service uses.*

(1) Automobile Laundry/Car Wash. Ten (10) stacking spaces shall be provided for each wash rack, plus one (1) parking space for each employee.

(2) Automobile Service Stations. One parking space shall be provided for each two (2) employees, plus such additional spaces required hereinafter for affiliated retail uses such as convenience store items, plus one (1) parking space for each employee.

(3) Bowling Alleys. Three (3) parking spaces shall be provided for each alley, plus such additional spaces required hereinafter for affiliated retail and recreational uses such as bars, restaurants, pool halls and the like, plus one (1) parking space for each employee.

(4) Drive-In Establishments. Six (6) stacking spaces shall be provided for each customer service window, plus one (1) parking space for each employee.

(5) Food and/or Beverage Establishments (dispensed for consumption on the premises). One (1) parking space shall be provided for each one hundred (100) square feet of floor area, excluding food preparation, mechanical, and storage.

(6) Furniture and Furniture Repair, and Household Appliance Stores. One (1) parking space shall be provided for each six hundred (600) square feet of floor area, plus one (1) parking space for each employee.

(7) Motor Vehicle Sales and Machinery Sales. One (1) parking space shall be provided for each three hundred (300) square feet of floor area, plus one (1) parking space for each employee.

(8) Private clubs and Lodges. One (1) parking space shall be provided for each two hundred (200) square feet of floor area, plus one (1) parking space for each employee.

(9) Retail Stores and Banks. One (1) parking space shall be provided for each two hundred (200) square feet of floor area. Banking drive-in facilities shall provide one (1) service space and three (3) stacking spaces per customer service window, plus one (1) parking space for each employee.

(10) Theaters (indoor). One (1) parking space shall be provided for each three (3) seats, plus one (1) parking space for each employee.

(11) Undertaking Establishments and Funeral Parlors. Fifteen (15) parking spaces shall be provided for each chapel or parlor, one (1) parking space for each funeral vehicle kept on the premises, plus one (1) parking space for each employee. In addition, not less than ten (10) automobile stacking spaces shall be provided for funeral procession assembly.

(12) Health Clubs. One (1) parking space shall be provided for each one hundred (100) square feet of floor area excluding mechanical and storage areas.

(c) *Offices - business, professional, medical, and governmental.* One (1) parking space shall be provided for each three hundred (300) square feet of floor area, plus one (1) parking space for each employee. Medical offices shall provide one (1) parking space for each two hundred (200) square feet.

(d) *Industrial uses.* One (1) parking space shall be provided for each employee.

(e) *Establishments engaged in production, processing, cleaning, servicing, testing or repair of materials, goods, or products.* One parking space shall be provided for each two (2) employees, plus one (1) parking space for each vehicle used in the conduct of the enterprise.

(f) *Warehouses and storage buildings.* One parking space shall be provided for each two (2) employees, plus one (1) parking space for each vehicle used in the conduct of the enterprise.

(g) *Community service uses.*

(1) Church, School, College and other Institutional Auditoriums. One (1) parking space shall be provided for each three (3) auditorium seats. Adequate space shall also be provided for off-street parking of buses used in connection with events held at the auditoriums, and all loading and unloading of passengers shall take place upon the premises.

(2) Colleges, Universities, and Business, Professional and Trade Schools. One (1) parking space shall be provided for each two (2) employees and one (1) parking space shall be provided for each three (3) students based on the maximum number of students attending classes on the premises at any one time during any twenty-four (24) hour period.

(3) Health Centers, Government Operated. Three (3) parking spaces shall be provided for each staff doctor and visiting doctor plus one (1) parking space for each two (2) employees.

(4) Hospitals. One (1) parking space shall be provided for each two (2) hospital beds, plus one (1) parking space for each two (2) employees, other than staff doctors, plus one (1) parking space for each staff doctor, plus one (1) parking space for each vehicle used in the conduct of the enterprise.

(5) Libraries, Art Galleries and Museums. One (1) parking space shall be provided for each one thousand (1,000) square feet of floor area.

(6) Municipal or Privately Owned Recreation or Community Center. One (1) parking space shall be provided for each two (2) employees, plus spaces adequate in number, as determined by the Plan Commission, to serve the visiting public.

(7) Public Utility and Public Service Uses. One and one-half (1½) parking spaces shall be provided for each employee, plus one (1) parking space for each vehicle used in the conduct of the enterprise.

(8) Schools, Nursery and Elementary. One (1) parking space shall be provided for each employee, plus one (1) space for each three (3) pupils, except as otherwise provided.

(9) High Schools. One parking space for each employee, plus one (1) space for each two (2) pupils, except as otherwise provided.

(h) *Places of assembly.*

(1) Stadiums, Arenas, Convention or Banquet Halls, Auditoriums (other than Church, College or Institutional Schools), and other similar places of assembly. Parking spaces equal in number of fifty (50%) percent of the capacity in persons shall be provided.

(i) *Miscellaneous uses.*

(1) Fraternities, Sororities and Dormitories. One (1) parking space shall be provided for each five (5) active members and/or residents, plus one parking space for the manager thereof.

(2) Institutions for the Care of the Mentally Impaired and Developmentally Disabled. One (1) parking space shall be provided for each two (2) employees (other than staff doctors), plus one (1) parking space for each staff doctor, plus spaces adequate in number, as determined by the Plan Commission, to serve the visiting public, plus one (1) parking space for each vehicle used in the conduct of the enterprise.

(3) Rest Homes or Nursing Homes. One (1) parking space shall be provided for each four (4) beds, plus one (1) parking space for each two (2) employees (other than staff doctors), plus one (1) parking space for each staff doctor, plus spaces adequate in number, as determined by the Plan Commission, to serve the visiting public, plus one (1) parking space for each vehicle used in the conduct of the enterprise.

(4) Sanitariums, Convalescent Homes or Institutions for the Care of Children and the Aged. One (1) parking space shall be provided for each four (4) beds, plus one (1) parking space for each two (2) employees (other than staff doctors), plus one (1) parking space for each staff doctor, plus spaces adequate in number, as determined by the Plan Commission, to serve the visiting public, plus one (1) parking space for each vehicle used in the conduct of the enterprise.

(5) For the following uses, parking spaces adequate in number, as determined by the Plan Commission, to serve persons employed or residing on the premises as well as the visiting public.

a. Airports and heliports.

b. Convents and monasteries.

c. Crematories and mausoleums.

d. Fraternal and religious institutions.

e. Outdoor amusement establishment, fairgrounds, permanent carnivals, kiddie parks, and other similar amusement centers.

f. Penal and correctional institutions.

g. Rectories and parish houses.

h. Swimming pools.

(j) *Mixed uses.* When two (2) or more uses are located on the same zoning lot within the same building, parking spaces equal in number to the sum of the separate requirements of such use shall be provided. No parking space or portion thereof shall serve as the required space for more than one use unless otherwise authorized by the Board of Zoning Appeals.

(k) *Other uses.* For uses not listed heretofore in this schedule of parking requirements, parking spaces shall be provided on the same basis as required for the most similar use, or as determined by the Plan Commission.

**Sec. 181. Additional loading regulations.**

Off-street loading facilities shall be subject to the following additional loading regulations:

(a) *Location.* All required loading berths shall be located on the same lot as the use served. No loading berth for vehicles over two (2) tons capacity shall be closer than fifty (50) feet to any property in a residential district unless completely enclosed by building walls, or a uniformly painted solid fence or wall, or any combination thereof, not less than six (6) feet in height. No permitted or required loading berth shall be located within twenty-five (25) feet of the nearest point of intersection of any two (2) streets.

(b) *Size.* Unless otherwise specified, a required loading berth shall be at least ten (10) feet in width by at least twenty-five (25) feet in length, exclusive of aisles and maneuvering space, and shall have a vertical clearance of at least fourteen (14) feet.

(c) *Access.* Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street or alley in a manner, which will least, interfere with traffic movement.

(d) *Surfacing.* All open off-street loading berths shall be improved with a compacted macadam base, not less than seven (7) inches thick, surfaced with not less than two (2) inches of asphaltic concrete or some compatible all-weather, dustless material.

(e) *Repair and service.* No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any residence or business district.

(f) *Space not to be used to satisfy parking facility requirements.* No space allocated for any off-street loading berth shall, while so allocated, be used to satisfy the space requirement for any off-street parking facility, or portion thereof.

(g) *Special uses.* For special uses other than prescribed for hereinafter, loading berths adequate in number and size to serve such uses, as determined by the Plan Commission, shall be provided.

(h) *Receiving facilities.* Uses for which off-street loading facilities are required herein but are located in buildings of less floor area than the minimum prescribed for such required facilities shall be provided with adequate receiving facilities, accessible by motor vehicle, off any adjacent alley, service drive or open space on the same lot.

**Sec. 182. Schedule of loading requirements.**

For the uses listed in the following table, off-street loading berths shall be provided on the basis of gross floor area of buildings or portions thereof devoted to such uses, in the amounts shown herein.

| | *Use.* | *Gross floor area in square feet.* | *Number and Horizontal dimension of berths.* |
|---|---|---|---|
| 1. | Hospitals, sanitariums and other institutional uses. | 10,000 to 200,000. | 1 - (10 ft. × 25 ft.). |
| | | For each additional 200,000 or fraction thereof. | 1 additional (10 ft. × 25 ft.). |
| 2. | Hotels, clubs and lodges, except as set forth in item 3 below. | 10,000 to 20,000. | 1 - (10 ft. × 25 ft.). |
| 3. | Hotels, clubs and lodges, when containing any of the following: Retail shops, convention halls, auditoriums, exhibition halls, or business or professional offices(other than accessory). | 10,000 to 20,000. | 1 - (10 ft. × 25 ft.). |
| | | 20,000 to 150,000. | 1 - (10 ft. × 50 ft.). |
| | | For each additional 150,000 or fraction thereof. | 1 additional (10 ft. × 50 ft.). |
| 4. | Retail stores. | 5,000 to 10,000 | 1 - (10 ft. × 25 ft.). |
| | | 10,000 to 25,000 | 1 - (10 ft. × 50 ft.) |
| | | For each additional 25,000 or fraction thereof. | 1 additional (10 ft. × 50 ft.) |
| 5. | Establishments dispensing food or beverages for consumption on the premises. | 10,000 to 25,000 | 2 - (10 ft. × 25 ft. ea.). |
| | | For each additional 25,000 or fraction thereof. | 1 additional (10 ft. × 25 ft.) |
| 6. | Motor vehicle and machinery sales. | 10,000 to 25,000. | 1 - (10 ft. × 25 ft. ea.) |
| | | 25,000 to 40,000. | 1 additional (10 ft. × 50 ft.). |
| 7. | Wholesale establishments(but not including warehouse and storage bldg. other than accessory). | 10,000 to 200,000. | 1 - (10 ft. × 50 ft.). |

| | *Use.* | *Gross floor area in square feet.* | *Number and Horizontal dimension of berths.* |
|---|---|---|---|
| | | For each additional 200,000 or fraction thereof. | 1 additional (10 ft. × 50 ft.). |
| 8. | Auditoriums, convention halls, exhibition halls, sports arenas, stadiums. | 10,000 to 20,000. | 1 - (10 ft. × 25 ft.). |
| | | 10,000 to 150,000. | 1 - (10 ft. × 50 ft.). |
| 9. | Bowling alleys. | 20,000 to 100,000. | 1 - (10 ft. × 25 ft.). |
| | | For each additional 100,000 or fraction thereof. | 1 additional (10 ft. × 25 ft.). |
| 10. | Banks and offices. | 10,000 to 100,000. | 1 - (10 ft. × 25 ft.). |
| | | For each additional 100,000 or fraction thereof. | 1 additional (10 ft. × 25 ft.) |
| | | For each additional 500,000 or fraction thereof. | 1 additional (10 ft. × 25 ft.) |
| 11. | Establishments engaged in production, processing cleaning, servicing, testing or repair of materials, goods or products. | 5,000 to 10,000. | 1 - (10 ft. × 25 ft.). |
| | | 10,000 to 40,000. | 1 - (10 ft. × 50 ft.). |
| | | 40,000 to 100,000. | 2 - (10 ft. × 50 ft. ea.). |
| 12. | Warehouses and storage buildings. | For each additional 100,000 or fraction thereof. | 1 additional (10 ft. × 50 ft.). |
| 13. | Theaters. | 8,000 to 25,000. | 1 - (10 ft. × 25 ft.). |
| | | For each additional 50,000 or fraction thereof. | 1 additional (10 ft. × 25 ft.). |

**Sec. 183. Additional landscaping provisions.**

(a) *Purpose.* The regulations of this chapter are intended to provide minimum aesthetic controls through the implementation of landscaping standards, which will improve community appearance and further provide a desirable environment for occupants, visitors, and the general public.

(b) *Interpretation.* Where the requirements imposed by any provision of the Porter Zoning Ordinance involving landscaping, screening, buffer strips, yards, or other open space requirements are either more or less restrictive than the provisions of this chapter, the regulations which impose a higher standard or requirement shall govern.

(c) *Applicability.* The provisions of this chapter shall apply to property presently zoned, or which is later zoned within the following zoning districts: PB, B-1, B-3, I-1, and I-2; when either construction of a new structure, or additions or alterations to an existing structure occurs.

(d) *Standards.* A minimum of fifteen (15%) percent of the site area of sites of at least one (1) acre in size shall be devoted to landscaping. The minimum required landscaped area shall be that portion of land contiguous to a public street right-of-way, and extending to a depth of ten (10) feet, excluding vehicular access ways and sidewalks. Sites which are less than one (1) acre in size may comply with the landscaping requirements by landscaping the public right-of-way, provided that right-of-way area being landscaped consists of at least fifteen (15%) percent of the total property being improved. If the landscaped right-of-way is less than fifteen (15%) percent, then the balance of the landscaping must be located on the lot being improved.

(e) *Responsibility of landscaping in the public right-of-way.* On sites where landscaping of the public right-of-way complies with the provisions of this chapter, the adjacent property owner assumes full responsibility for maintenance and upkeep of the right-of-way. The owner also accepts full financial responsibility for the cost of movement, replacement, and relocation of landscaping should the Town require the use of the right-of-way.

(f) *Permissible landscape materials.* Living trees, shrubs, vines, flowers, grass areas, ground cover, crushed rock, sand, wood chips, concrete sculptures, landscape furniture, boulder grouping, or as approved by the Plan Commission.

(g) *Requirements.*

1. Landscape materials used either singly or in combination, shall not constitute more than thirty (30%) percent of the ground area to be landscaped.

2. At least one tree shall be provided for each three hundred (300) square feet of required landscape area.

3. No tree, measured from its center, shall be located within ten (10) feet of a street light, fire hydrant, or vehicular access way, nor within five (5) feet of a public sidewalk.

4. At least one shrub shall be provided for each fifty (50) square feet of required landscape area.

5. No shrub, as measured from its perimeter, shall be located within five (5) feet of a fire hydrant or vehicular access way.

6. No permanent surfacing shall be located around the base of any tree or shrub, which may impede the growth of the tree or shrub.

(h) *Procedure.* For sites requiring a site plan review in accordance with article XIX [XVIII], or those approved as part of a Planned Unit Development in accordance with article XIII, the landscaping plan approval shall be a part of the required procedures of these articles. For all other sites, the Plan Commission shall review and approve the landscaping site plan presented at a regular meeting by motion without a required public hearing.

## ARTICLE XVI. SIGNS

### Sec. 184. Purpose and general provisions.

The purpose of this article is to regulate, restrict and control the location, size, placement and maintenance of all signs within the Town of Porter for the purpose of preserving the health, safety and general welfare of the Town and its citizens by: reducing hazards to the safety of the motoring public or pedestrians; facilitating aesthetic harmony with the overall urban design for the area and the Comprehensive Plan; promoting capability of signs with their surroundings and applicable land uses; and providing for maintenance of signs.

The following additional definitions apply for purposes of this article:

(a) *Banner.* A banner is a temporary sign made of fabric or other flexible material that is displayed on and attached on two or more sides to a pole, a staff or line, or a building.

(b) *Flag.* A flag is a piece of cloth, fabric, bunting or other flexible material of varying size, shape, color and design that is attached along one side only to a single pole or cord and that is either free standing or attached to a building. A flag is not a sign.

(c) *Sign, feather or teardrop.* A feather or teardrop sign is a type of banner which is attached to a pole that runs along one side and curves over the top of the banner.

(Ord. No. 2021-02, § 4, 5-25-2021)

### Sec. 185. Permitted signs—Open Space districts.

In all Open Space districts the following classes of signs are permitted, in accordance with the regulations set forth herein and provided that no sign shall project higher than one story or fifteen (15) feet above curb level, whichever is lower.

(a) *One (1) nameplate;* excluding flashing and illuminated signs, not exceeding two (2) square feet in area.

(b) *One (1) advertising sign;* excluding flashing and portable signs, offering the sale of Open Space products grown or produced on the property, not to exceed thirty-two (32) square feet in area, either single faced or double faced, and to be no closer than ten (10) feet to the right-of-way line of the adjacent street, provided however, that no such sign shall obstruct the view or sight distance of any driveway, street or highway or any other point of ingress or egress.

(c) *One (1) for sale sign;* excluding flashing or portable signs, advertising the sale, lease, or rental of the property on which the sign is located, not to exceed thirty-two (32) square feet in area.

**Sec. 186. Same—Residential districts.**

In all residential districts the following classes of signs are permitted, in accordance with the regulations set forth herein and provided that no sign shall project higher than one story or fifteen (15) feet above curb level, whichever is lower.

(a) *For one (1) and two (2) dwellings, one (1) nameplate;* excluding flashing and illuminated signs, not exceeding two (2) square feet in area, and bearing only the name of the occupant and/or the street number.

(b) *For multiple family dwellings, for apartment hotels and buildings other than dwellings, one (1) identification sign;* excluding flashing and portable signs, not exceeding twelve (12) square feet in area.

(c) *For apartment and condominium complexes, one (1) identification sign for each building;* excluding flashing and portable signs, bearing the name of the building and/or the name of the management firm, not exceeding four (4) square feet in area and one (1) identification sign for the entire complex; identifying the complex, excluding flashing and portable signs, not exceeding twenty-four (24) square feet in area.

(d) *For home occupations (where permitted), one (1) identification sign;* excluding flashing and portable signs, not exceeding two (2) square feet in area.

(e) *For public or private educational institutions, churches, libraries, hospitals, other public or quasi-public buildings, parks, playgrounds and off-street parking areas, identification signs;* excluding, flashing and portable signs, bearing the name and/or such other information pertaining to the premises as is reasonably necessary for the convenience of the general public, not exceeding forty-five (45) square feet of total sign area for all signs on the premises.

**Sec. 187. Same—Professional Business districts.**

In all Professional Business districts the following classes of signs are permitted, in accordance with the regulations set forth herein.

(a) All signs and nameplates permitted in the residential districts.

(b) *Business signs;* excluding flashing and portable signs, directing attention to a business or profession conducted or to a commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is affixed, not exceeding two in number, (one freestanding and one flush mount).

(1) Area. All signs shall sum to forty-five (45) square feet of total sign area for all signs on the premises.

(2) Location. All freestanding signs shall be located a minimum of ten (10) feet from any property line.

(3) Projection. No portion of any sign shall project over any property line.

(4) Height. No freestanding sign shall project higher than ten (10) feet above the curb level. No portion of any sign attached to the building shall project above the roofline of the principal building located on the same lot.

**Sec. 188. Same—Business districts.**

In all business districts the following classes of signs are permitted, in accordance with the regulations set forth herein.

(a) All signs and nameplates permitted in the residential districts.

(b) Business signs; excluding flashing and portable signs, directing attention to a business or profession conducted or to a commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is affixed.

(c) Advertising signs; including billboards and poster panels, directing attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where such sign is located or to which it is affixed permitted only as a Use Variance in the B-3 district. For any such advertising sign the copy area shall not exceed six hundred (600) square feet. In addition to the copy area, all trim, apron and embellishment shall not exceed four hundred (400) square feet in area.

(d) Signs on marquees and canopies; when pre-existing on the date of the adoption of this chapter, signs on marquees and canopies may extend into the public right-of-way no more than fifteen (15) feet but in no case beyond a point which is within two (2) feet of the vertical extension of the curb line or paved portion of the street where no curb exists. Any sign on a marquee or canopy shall have a minimum vertical clearance of at least fourteen (14) feet above street level, further such sign on a marquee or canopy shall be affixed flat to the surface thereof and no such sign shall extend vertically or horizontally beyond the limits of such marquee or canopy; except, that individual free standing letters may project to a height not exceeding twenty-four (24) inches above same. However, from the date of the adoption of this chapter forward, no signs on marquees or canopies shall extend into the public right-of-way.

(e) Signs on pylons, standards and separate supports; business and advertising signs, (except billboards and poster panels), which are erected upon pylons, standards or separate supports shall be placed so as to be entirely within the property lines of the premises upon which the sign is located.

(f) Signs on masonry pylons; signs may be placed on the face of a masonry pylon when the pylon is constructed as an integral part of the building and such pylon does not project above the roof line more than five (5) feet.

(g) In all business districts, permitted signs are subject to the following:

(1) *Area.* The gross area in square feet of all signs on a zoning lot shall not exceed the lineal footage of frontage of the lot, or 100 square feet, whichever is less, except on lots with frontages of fifty (50) feet or less between buildings, where the gross area in square feet of all signs on such lots shall not exceed fifty (50) square feet. (Example: a lot with a frontage of one hundred (100) feet may have a total gross area of all signs added together of no more than 1 × 100, or one hundred (100) square feet). For businesses located in B-3 or Business PUD Districts with building setbacks greater than fifty (50) feet from a principal arterial roadway, the maximum size of the permitted signage may be increased by 10% for every twenty (20) foot increments of setback beyond fifty (50) feet. In no case shall the signage due to excessive setback exceed two times (2x) the original maximum.

(2) *Location.* Signs shall front on the principal street, an off-street parking area or in the case of a corner lot, on that portion of the side street within fifty (50) feet of the principal street.

(3) *Projection.* Signs which pre-existed the date of the adoption of this chapter which are suspended from any building shall not project more than eight (8) feet beyond the property line into the public right-of-way or within two (2) feet of the vertical extension of the curb line or paved portion of the street where no curb exists, whichever is less. The bottom of the sign shall not be less than fourteen (14) feet above the street level. Any such sign suspended from a building shall not exceed twelve (12) feet in height and its location shall be subject to approval by the administrative official. However, from the date of this chapter forward, no signs may extend into the public right-of-way.

(4) *Height.* In a B-1 district, no freestanding sign shall project higher than fifteen (15) feet above the curb, and no sign shall project above the principal building to which it is affixed. In the B-2 and B-3 districts no sign shall project higher than thirty-five (35) feet above the curb level or where no curb exists, above the average level of the ground on which the sign exists, and in no case shall a sign project more than twelve (12) feet above the roof line or above the parapet line should one exist.

(5) *Number.* The maximum number of signs permitted shall not exceed two (2).

(Ord. No. 2007-07, 6-26-2007)

**Sec. 189. Same—Industrial districts.**

In all industrial districts the following classes of signs are permitted, in accordance with the regulations set forth herein:

(a) All signs and nameplates permitted in the business districts.

(b) In all industrial districts, permitted signs are subject to the following:

(1) *Area.* The gross area in square feet of all signs on a zoning lot shall not exceed one (1) times the lineal feet of frontage of the lot, except on lots with frontages of fifty (50) feet or less between buildings, where the gross area in square feet of all signs on such lots shall not exceed fifty (50) square feet. Total signage may be increased by ten (10) square feet for each ten (10) feet of sign setback, up to a maximum of two hundred (200) square feet. (Example: a lot with a frontage of one hundred (100) feet and a sign setback of thirty (30) feet may have a total gross area of all signs added together of no more than 100 + 30 = 130 square feet).

(2) *Location.* Signs shall front on the principal street, an off-street parking area or in the case of a corner lot, on that portion of the side street within fifty (50) feet of the principal street. All freestanding signs shall be setback from the property line a distance equal to its height or a minimum of ten (10) feet. No advertising sign erected after passage of this chapter shall be located within three hundred (300) feet of any public park of more the five (5) acres in area, nor shall such sign be located within ten (10) feet of any property line. Further, no advertising sign shall be located within seventy-five (75) feet of a residential district.

(3) *Projection.* No sign shall project into the public right-of-way.

(4) *Height.* No sign shall project higher than fifty (50) feet above the curb level or where no curb exists, above the average level of the ground on which the sign exists.

(5) *Number.* The maximum number of signs permitted shall not exceed two (2).

(Ord. No. 2007-07, 6-26-2007)

**Sec. 190. Temporary signs.**

The following temporary sign regulations shall apply to each Zoning District as indicated except to the extent otherwise provided in IC § 36-1-3-11.

(a) *All Zoning Districts.* Temporary signs permitted in all zoning districts are subject to the following standards, in addition to any requirements applicable to a specific zoning district.

(1) No more than four (4) total temporary signs shall be permitted on any lot in any zoning district.

(2) A temporary sign shall not be located within any public right-of-way.

(3) A temporary sign shall not be placed on public property, within public easements, or on public utility poles, traffic poles or standards or other public structures or buildings.

(4) A temporary sign shall not be illuminated.

(5) A temporary sign shall not contain profanity or obscene displays.

(6) The anchoring and structure of a temporary sign shall be adequate to prevent it from becoming a projectile during high winds.

(7) Every temporary sign shall be maintained in a safe, presentable and good structural condition at all times. The face of a temporary sign shall be properly maintained to avoid cracking, peeling or fading to the point of being a blighting influence.

(b) *Residential Zoning Districts.* Temporary signs are permitted on any property located in a residentially zoned district in the Town of Porter, including R-1, R-2, R-3 and R-4, subject to the following:

(1) The sign surface area of any individual temporary sign shall not exceed nine (9) square feet, except that the foregoing sign surface area limit shall not apply to feather or teardrop signs, and except that the sign surface area limit of any individual sign shall be thirty-two (32) square feet.

(2) On corner lots, temporary signs located on the ground must be set back at least ten (10) feet from a public right-of-way.

(3) If located on the ground, the top of the any individual temporary sign may not be over four (4) feet above the ground, except that feather or teardrop signs may extend up to eight (8) feet above the ground.

(c) *Non-Residential Districts.* Temporary signs are permitted on any property located in a non-residentially zoned district in the Town of Porter (i.e. any district other than R-1, R-2, R-3 and R-4), subject to the following:

(1) The combined surface area of all temporary signs shall not exceed sixty-four (64) square feet, except that the foregoing combined surface area limit shall not apply to properties in non-residential districts with frontage along a limited access highway or a highway.

(2) The surface are of any individual sign shall not exceed thirty-two (32) square feet, except that the foregoing surface area limit shall not apply to feather or teardrop signs, and except that the surface area limit of any individual banner sign shall be sixty-four (64) square feet.

(3) On corner lots, temporary signs located on the ground must be set back at least ten (10) feet from a public right-of-way.

(4) If located on the ground, the top of the temporary sign may not be over six (6) feet above the ground, except that feather or teardrop signs may extend up to fifteen (15) feet above the ground.

(5) Reserved.

(6) If located on the wall of a building, the top of the temporary sign may not be over fifteen (15) feet above the ground.

(d) *Temporary Subdivision Signs.* Notwithstanding any conflicting provisions in this Section 190, temporary subdivision signs are permitted only in conjunction with and for a period of twenty-four (24) months following the grant of final subdivision approval by the Plan Commission, subject to the following:

(1) A maximum of two (2) temporary subdivision signs shall be permitted on any subdivision parcel, provided that in any subdivision larger than five (5) acres in size, one (1) additional sixty-four (64) square foot sign may be placed for each five (5) acre increment.

(2) The surface area of any temporary subdivision sign shall not exceed sixty-four (64) square feet.

(3) Temporary subdivision signs must be located on the subdivision property.

(4) Temporary subdivision signs must be located a minimum of ten (10) feet from the property line and may not obstruct traffic sight distance.

(5) The Building Commissioner may grant a reasonable extension to the time limit after expiration of the twenty-four (24) month period, not to exceed an additional twelve (12) months.

(e) *Abandonment.* Any temporary sign located on property that becomes vacant and unoccupied for a period of six (6) months or more, or any temporary sign which pertains to a time, event, or purpose which no longer applies, shall be deemed abandoned. Temporary signs deemed abandoned are hereby declared a nuisance, and may be removed by the Building Commissioner or his authorized agent without first delivering prior notice to the property owner. Upon removal of any temporary sign deemed abandoned hereunder, the Building Commissioner shall notify the property owner in writing of the removal of such sign, and the property owner shall have thirty (30) days from receipt of such notice to retrieve the sign so removed.

(f) *Exemption.* The provisions of this Section 190 shall not apply to any temporary sign erected by any Federal, State or local governmental body.

(Ord. No. 2021-02, § 5, 5-25-2021)

**Sec. 191. Landscaping**

(a) Prior to the issuance of any sign permit for a self-supported ground sign, a landscaping treatment plan shall be submitted to the Building Department showing a location of sign and landscape treatment to be provided as required in Section 183. Should the Building Department disapprove the design, then the Board of Zoning Appeals shall make the final decision with no public hearing being necessary.

(b) Each sign support shall have at least thirty-six (36) square feet of landscaping treatment encircling the base.

(c) Landscaping shall project at least two (2) feet in height, and shall not exceed three (3) feet in height.

(d) Landscaping shall not encroach on public sidewalks, vehicular access ways, or public street or alley right-of-ways.

(e) Landscaping encircling the sign base shall be consistent with the remainder of the landscape treatment provided for the site, and shall count toward the total required area.

(f) Landscaping shall be continuously maintained.

**Secs. 192—198. Reserved.**

## ARTICLE XVII. NONCONFORMING USES AND NONCONFORMING BUILDINGS

### Sec. 199. Purpose.

The purpose of this article is to describe nonconforming uses and nonconforming buildings and the conditions that apply to their termination and removal, additions and enlargements, repairs and maintenance, restoration and repair after damage or destruction, and to their continuation of use.

Within the zoning districts established by this ordinance or by amendments which may later be adopted, there exists; lots; structures; uses of land and structures; and, characteristics of use, which were lawful before this chapter was passed or amended, which would be prohibited, regulated or restricted under the terms of this chapter or future amendments. It is the intent to permit these nonconformities to continue until they are removed. It is further the intent of this chapter that nonconformities, except as otherwise noted or required by law, shall not be made more nonconforming, nor be used as the grounds for adding other structures or uses prohibited elsewhere in the district.

### Sec. 200. Incompatibility of nonconforming uses.

Nonconforming uses are declared by this chapter to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination, shall not be extended or enlarged after the passage of this chapter if said extension or enlargement makes the nonconforming building or use more nonconforming. In addition, no additional signs intended to be seen from off the premises or additional uses of a nature which would be prohibited generally in the district involved, shall be permitted.

### Sec. 201. Avoidance of undue hardship.

To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of a building on which the actual and physical

construction was lawfully begun prior to the enactment of this chapter and upon which actual physical building construction has been carried on diligently. Actual physical construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition, or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition, or removal shall be deemed to be actual construction; provided, that the work shall be carried on diligently.

**Sec. 202. Single nonconforming lots of record.**

In any district in which single-family dwellings are permitted, a single family dwelling may be constructed on a nonconforming lot of record notwithstanding limitations imposed by other provisions of this chapter. Such lot must be in separate ownership and not be of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable within the district; provided, that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations of the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Zoning Appeals.

**Sec. 203. Nonconforming lots of record in combination.**

If two (2) or more lots or combinations of lots and portions of lots with contiguous frontage in single ownership are of record at the time of enactment of this chapter or amendments thereto, and if all or parts of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purpose of this chapter, and no portion of such parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this chapter, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this chapter.

**Sec. 204. Nonconforming uses of land.**

Where, at the time of adoption of this chapter, lawful uses of land exist which would not be permitted by the regulations imposed by this chapter, the uses may be continued so long as they remain otherwise lawful, provided:

(a) No such nonconforming uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter, except as may be required by law.

(b) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such uses at the effective date of adoption or amendment of this chapter, except as may be required by law.

(c) If any such nonconforming uses of land are discontinued or abandoned for more than one (1) year (except when government action impedes access to the premises), any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

(d) No additional structure, which does not conform to the requirements of this chapter, shall be erected in connection with such nonconforming use of land.

**Sec. 205. Nonconforming structures.**

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not now be built under the terms of this chapter by reasons of restrictions on area, lot coverage, height, yards, its location on the lot, bulk, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(a) No such nonconforming structure may be enlarged or altered in a way, which increases its nonconformity, except as required by law, but any structure may be altered to decrease its nonconformity.

(b) Should any nonconforming structure or nonconforming portion of a structure be destroyed by any means, it shall be permissible to reconstruct such structure only if: it is constructed in such a way that the dimensions and location of the reconstructed structure are identical to the dimensions and location of the original structure prior to being destroyed; or it is constructed in conformity with the provisions of this chapter.

(c) Should such structure be moved for any reason for any distance whatever, it shall therefore conform to the regulations for the district in which it is located after it is moved.

(Ord. No. 2019-09, § 6, 8-13-2019)

**Sec. 206. Nonconforming uses of structures or of structures and land in combination.**

If a lawful use involving individual structures, or if a structure and land in combination, exists at the effective date of adoption or amendment of this chapter that would not now be allowed in the district under the terms of this chapter, this lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(a) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, moved, constructed, reconstructed, or structurally altered, except in changing the use of the structure to a use permitted in the district in which it is located, or except as required by law.

(b) A nonconforming use may be extended throughout any part of the building, which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building, except as required by law.

(c) Any structure, or structure and land in combination, in or on which a nonconforming use is substituted by a conforming use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.

(d) When a nonconforming use of a structure, or of a structure and land in combination is discontinued or abandoned for more than one (1) year (except when government action impedes access to the premises), the structures or structures and land in combination, shall not thereafter be used except in conformance with the regulation of the district in which it is located.

(e) Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

**Sec. 207. Repairs and maintenance.**

On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not to exceed twenty (20%) percent of the current replacement cost of the nonconforming structure and market value of real estate, provided that the cubic content existing when it became nonconforming shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.

**Sec. 208. Changing the use of a nonconforming use.**

A nonconforming use as described in this chapter shall not be changed to another use unless the resultant use meets a use, which is first permitted in the current zoning classification.

## ARTICLE XVIII. SITE PLAN REVIEW

**Sec. 209. Purpose.**

Site Plan Review is the systematic assessment of land development proposals in terms of a community's land development policies and regulations and commonly accepted site design practices. Site Plan Review assures conformance to the Town's comprehensive plan, resolves policy issues, creates site planning and design policy, expedites project approval, solves technical errors, and encourages planning and design in accordance with generally accepted practice.

**Sec. 210. Rules for review.**

The rules to be used when reviewing the site plan are derived from the comprehensive plan, zoning ordinance, subdivision regulations, building code and the review factors listed below.

**Sec. 211. Applicability of review.**

The following shall be required to undergo site plan review prior to issuance of preliminary subdivision approval, or in the case of a parcel already subdivided, prior to issuance of a building permit:

(a) Single-family residential subdivisions containing more than five lots.

(b) Multi-family residential developments containing more than four units.

(c) Industrially zoned property of any size.

(d) Highway-oriented business zoned property of any size.

(e) General business zoned property of any size.

(f) Planned Unit Developments of any size.

(g) Colleges and universities, including dormitories, fraternities, sororities and other accessory buildings, trade schools and business colleges of any size.

(h) Institutions for the care of patients such as: hospitals, sanitariums, long-term care and short-term care, rest and convalescent homes of any size.

(i) Outdoor commercial recreational enterprise (e.g., miniature golf, go carts, paint ball, laser tag, and similar uses), outdoor amusement establishments, fairgrounds, picnic groves, kiddie parks and other similar amusement centers, and stadiums and arenas of any size.

(j) Open Space and F1 zoned property of any size.

(Ord. No. 2020-03, § 24, 2-11-2020)

**Sec. 212. Components of review.**

The following subjects are appropriate for review of a site plan:

(a) land use

(b) traffic impact

(c) utility impact

(d) urban design principles

(e) public safety/services

**Sec. 213. Review factors.**

In reviewing a site plan, the Plan Commission shall consider the above-mentioned components as follows:

(a) *Land use.*

1. The development must comply with the land use plan.
2. The development must be consistent with area development trends.
3. The development must be properly zoned for the intended use.
4. Natural features of the property to be developed must be maintained and accentuated.
5. The development must be consistent with adjacent land use.
6. Compatible uses shall be located adjacent to each other, while incompatible uses shall be buffered from each other.

7. Uses shall be located in direct proximity to that portion of the transportation system best suited to accommodate these uses.
8. The developer shall locate uses so as to continue areas containing such uses.
9. Uses should be located in a manner, which will minimize changes to topography and vegetation.
10. The development must organize density to locate the largest number of people in closest proximity to their destination.

(b) *Traffic impact.*

1. The development must contain an appropriate level of accessibility.
2. The thoroughfare system, which the development depends on, must have sufficient capacity.
3. The residual impact to adjacent roadways and intersections must be minimized.
4. Functional and alignment continuity between developments must be maintained.
5. Adequately sized and paved off-street parking must be a part of each development.
6. Pedestrian/bicycle routes should be encouraged, while maintaining safe separation from vehicular movements.
7. All industrial, highway oriented businesses, and high-density multi-family uses shall be provided principle access via an arterial.
8. All neighborhood and general businesses and offices shall be provided principle access via an arterial or collector.
9. All single-family and low density multi-family shall be provided principle access via a local road.
10. Other factors being equal, the amount of pavement shall be minimized.
11. Parking shall be separated from access drives.
12. Delivery and loading areas shall be separated from customer/pedestrian areas.
13. Pedestrian and vehicular movement areas shall be separated to the extent possible.
14. The distance between parking areas and structures, which they serve, shall be minimized.
15. Parking when possible shall be obscure from the roadway system, and rather the structure and accompanying landscaping shall dominate the line of sight.
16. Access roads shall align with other roadways to result in four way intersections, rather than offset.
17. T or off-set intersections shall be discouraged, but unavoidable, shall be a minimum of 250' apart, measured at their centerline.
18. Roadways shall intersect with others at or near 90 degrees.

19. Developments, or phases of developments shall not result in deadend streets.
20. The number and length of cul-de-sacs shall be minimized, and in no case shall the length exceed 600'.
21. Frontage roads paralleling arterials shall intersect with adjacent roadways a minimum of 500' from the arterial.
22. One-way diagonal parking areas are preferable to two-way 90 degree parking.

(c) *Utilities.*

1. The utilities servicing the development must have sufficient current and potential capacity.
2. The potential benefits of over sizing for future use must be weighted against cost.
3. The development shall not have an adverse effect on the downstream storm water outlet.
4. The off-site utilities must be installed consistent with the Capital Improvements Program.
5. All developments must result in a storm water management system which simulates the pre-developed condition, or better.
6. Pond design and placement shall be regionalized when possible, but otherwise shall result in an aesthetically pleasing architectural amenity.
7. Utility location shall result in maximizing maintenance access and avoiding backyard or side yard locations.
8. No large-scale development shall occur which is reliant on individual septic systems.
9. When developments are phased, each phase must be viewed as the last phase, and shall therefore not rely on any future phase in order to satisfy the provisions of this policy.

(d) *Urban design principles.*

1. The proposed development must be compatible as to form with neighboring developments.
2. Each development must become a part of a larger neighborhood, and therefore cannot be an island unto itself.
3. Each site to be developed must be well defined, and shall be large enough to avoid a piecemeal approach.
4. The development must be adequately screened and buffered to minimize the ill effects of both the development on the surrounds and vice versa, and to provide identity and definition to the development.
5. Open space, trees and shrubs, fences, earth berms, or compatible transitional land uses may all serve as buffers.

6. Adequate landscaping shall be placed around the perimeter of the site, near the building, and internal to the parking lot to minimize the ill effect of excessive paved areas.
7. Features, which possess uniqueness on a site, shall be preserved.
8. Structures shall not be located in the floodway.
9. Changes to the natural terrain shall be minimized, including stands of mature trees.
10. Open space proposed by a developer must be accessible, and where possible linked to an overall Town-wide system.
11. The development must result in a separation of residential areas from major noise-producing sources.
12. Development shall be restricted on lands with steep slopes, wetlands, unstable soil, filled areas, or areas of unique vegetation.

(e) *Public services.*

1. The proposed development shall not pose an undo burden on police or fire services.
2. If the development results in a significant increase for park, school, or other public services, property dedicated for these purposes shall be required as a condition of development.
3. Appropriate right-of-way and easement dedications shall occur in order to provide necessary access for proper utility maintenance.
4. Streets internal to a development may be dedicated or private, depending on their design and function.

## ARTICLE XIX. REGULATIONS FOR CELLULAR ANTENNA TOWERS AND CELLULAR TELECOMMUNICATION SERVICES

### Sec. 214. Purpose.

The purpose of these regulations is to provide for the safest and most efficient integration of cellular antenna towers for cellular telecommunication services or personal communication services within the community, to provide for such facilities in coordination with the recommendations of the comprehensive plan, and to allow for such facilities with the intention of furthering the public health, safety, and general welfare.

### Sec. 215. Pre-application conference.

Applicants are required to notify the planning commission's duly authorized representative to discuss proposals, allow for early coordination, and to identify those items which are in conformance or nonconformance with the comprehensive plan, local zoning ordinance, and the provisions of these regulations.

**Sec. 216. Definitions.**

For the purposes of these regulations, the following definitions shall apply:

216.1 *Cellular Antenna Tower.* A tower constructed for, or an existing facility that has been adapted for the location of transmission or related equipment to be used in the provision of cellular telecommunication services or personal communication services.

216.2 *Cellular Telecommunications Service.* A retail telecommunication service that uses radio signals transmitted through cell sites and mobile switching stations.

216.3 *Co-locating [Collocating].* Location two (2) or more sets of antennas or related equipment on the same cellular antenna tower.

216.4 *Multiple Use Facility.* Cellular communication facilities that are shared with other existing or newly constructed uses, including but not limited to, ball field lights, freeway signs or light standards, flagpoles, church steeples, bell towers, etc.

216.5 *Personal Communications Service.* As defined in 47 U.S.C. sec. 332(c).

216.6 *Telecommunication Utility or Service Provider.* Any entity except a town, who owns, controls, or operates or manages any facility used or to be used for or in connection with the transmission or conveyance over wire, in air, or otherwise, of any message by telephone or telegraph for the public, for compensation.

**Sec. 217. General.**

All new cellular antenna towers for cellular telecommunication services or personal communication services are permitted in 11 or 12 manufacturing zone, or B-3 general business zone, after a planning commission review in accordance with the following procedures to ascertain agreement with the comprehensive plan and the applicable regulations contained within the zoning ordinance, and after being granted a Site Plan approval by the Plan Commission. All multiple use facilities are permitted in the zoning districts where the shared use is permitted.

**Sec. 218. Applicability.**

All telecommunication utilities, telecommunication service providers, and/or companies that are engaged in the business of providing the required infrastructure to the same, that proposes to construct an antenna tower or antenna for cellular telecommunication services or personal communication services shall submit a copy of the completed application in accordance with the following regulations.

**Sec. 219. Application requirements.**

Applications for the construction of cellular antenna towers for cellular telecommunication services or personal communication services must be signed by the owner of the cellular

antennae tower and in any case where the cellular antennae tower shall be located on land or a structure which will be leased, the application must also be signed by the owner of the land or structure. The application shall include the following:

a. A copy of the applicant's FCC license, or, if the applicant is not a FCC license holder, a copy of at least one letter of commitment from an FCC license holder to locate at least one antenna on the applicant's tower.

b. Radio frequency requirements, as follow,

    a. General coverage area, including overlap ("hand-off") area with other sites.

    b. Specific (targeted) coverage area(s) and required field strength(s).

c. System specifications of the proposed site, including:

    a. Number of antennas and sectors.

    b. Model and manufacturer of antennas.

    c. Antenna specifications, including horizontal and vertical beam width, gain, down tilt (electrical and mechanical), and horizontal and vertical radiation patterns.

    d. Orientation (azimuth) of antennas sectors, in degrees, including reference to true north.

    e. Effective radiated power (ERP) of each antenna.

    f. Transmission line size and number.

    g. Geographical coordinates for tower location.

    h. Height of the antenna center of radiation, above ground level and above mean sea level.

    i. Frequency or frequency band(s) of operation used by the provider analysis.

    j. Search "ring" area used by the provider to locate to the site.

    k. Number of potential co-locators.

In the event specifications a. through c. (excluding down tilt modifications) require modification or amendment either during or after the application is approved, the Town Engineer shall review the request to change specification and determine if said change is material to the intent of these regulations. If the Engineer finds that the change is material, he shall require the applicant to follow the same procedure as a new application. If the Engineer determines that the change is not material, he shall update the file and approve the change administratively.

d. Unless co-locating [collocating] or using a multiple use facility, certification, supported by evidence, that co-location [collocation] of the proposed facility with an existing approved tower or facility cannot be accommodated. The applicant's certification shall include a listing of all existing towers and facilities within a one (1) mile radius of the

proposed tower location, a description of each existing site, and a discussion of the ability or inability to co-locate [collocate] on each existing site, according to the following:

1. No existing towers or facilities are located within a one (1) mile radius of the proposed tower location.
2. Existing towers or facilities are not of sufficient height to meet the applicant's engineering requirements.
3. Existing towers or facilities do not have sufficient structural strength to support the applicant's proposed antenna(s) or related equipment.
4. The applicant's planned equipment would cause frequency interference with other existing or planned equipment of the tower of facility, or the existing or planned equipment of the tower or facility would cause frequency interference with the applicant's planned equipment, and which cannot be reasonably prevented.
5. Unwillingness of the owner of the existing tower/towers or facility to entertain a co-location proposal on commercially reasonable terms.
6. Existing towers are not located within a reasonable distance to provide the necessary coverage.

e. Unless co-locating or using a multiple use facility, certification, supported by evidence, that the proposed site is appropriate for the location of the facility. The applicant's certification shall include a listing of at least three (3) commercially viable sites within the search ring of the proposed tower location, a description of each potential site, and a discussion of the ability of the site to host such a facility, according to the following:

1. Unwillingness of the site owner(s) to permit such a facility.
2. Topographic limitations of the site.
3. Adjacent impediments that would obstruct adequate transmission.
4. Physical site constraints that would preclude the construction of such a facility.
5. Unfeasible from a technical standpoint.

f. A statement demonstrating that the proposal is in agreement with the adopted comprehensive plan and is in conformity with these regulations.

g. Unless co-locating or using a multiple use facility, a development plan of the entire lot of record upon the cell tower is proposed to be located, drawn to a scale not smaller than one (1) inch equals one hundred (100) feet, showing the following information, where applicable:

1. The total acreage of the lot upon which the proposed tower will be located.
2. All current or proposed public and private rights-of-way and easements located on or adjacent to the subject property.

3. Existing topography, and approximate delineation of any topographical changes shown by contour with intervals not to exceed two (2) feet of the entire lot of record upon the cell tower is proposed to be located.

4. Location, height, arrangement, and identification of all buildings, structures, and uses within a distance equal to twice the height of the cell tower.

5. Location and identification of all residential buildings, structures, and uses, and residentially zoned property with 500 feet of where the cell tower is proposed to be located.

6. Landscaping features, including identification of planting areas and the location, type, and height of walls and fences of the portion of the parcel developed for cellular tower purposes.

7. Location of signs, indicating their orientation, size, and height of that portion of the parcel developed for cellular tower purposes.

8. All utility lines and easements of that portion of the parcel developed for cellular tower purposes.

9. Location of all off-street parking, loading and/or unloading, and driveway areas, including typical cross sections, the type of surfacing, dimensions, and the number and arrangement of off-street parking and loading and/or unloading spaces of that portion of or leading to the parcel developed for cellular tower purposes.

10. Pedestrian walkways, including alignment, grades, type of surfacing, and width of that portion of or leading to the parcel developed for cellular tower purposes.

11. Streets, including alignment, grades, type of surfacing, width of payment and right-of-way, geometric details, and typical cross sections of that portion of or leading to the parcel developed for cellular tower purposes.

12. Provisions for control of storm water detention/retention, erosion, hillside slippage and sedimentation, indicating the temporary and permanent control practices and measures, which will be implemented during all phases of clearing, grading, and construction. If the portion of or leading to the parcel developed for cellular tower purposes is less than one (1) acre, then this provision is unnecessary.

h. If co-locating or using a multiple use facility, a copy of all co-location or multiple use facility agreements. Proprietary financial information may be censored from these agreements. Information identifying parties to the agreement, and indicating maintenance responsibilities shall not be censored.

**Sec. 220. Processing of Application.**

Applications for the construction of cellular antenna towers for cellular telecommunication service or personal communication services shall be processed as follows:

a. *New sites.*

1. If that portion of the property upon which or leading to the parcel developed for cellular tower purposes does not permit that particular land use, the applicant may file to obtain a rezoning of the entire lot of record to a zone which does permit this use by right; or a use variance for that portion of the lot of record used for or leading to the parcel developed for cellular tower purposes; all in accordance with the provision found in Sections 4 and 245 [246], respectively, of this code.

2. If that portion of the property upon which or leading to the parcel developed for cellular tower purposes does permit that particular land use, the applicant must then obtain a site plan approval in accordance with the provision found in Sections 209 through 213 of this code.

3. The application shall meet all Designs Standards requirements listed in Section 220 [221].

b. *Previously approved sites or multiple-use facilities.*

1. For facilities located on previously approved sites or multiple use facilities, the Town Engineer shall review the application for its conformity with the building permit regulations, and the applicable regulations contained within the Town of Porter Zoning Ordinance.

2. If the Town Engineer determines that the application is in conformity with these regulations then a building permit will be issued.

3. If the Town Engineer determines that the application is not in conformity with these regulations, the applicant may file an application for a developmental standards variance with the Town of Porter Advisory Board of Zoning Appeals.

4. The application shall meet all Designs Standards requirements listed in Section 220 [221], except Requirement 1, 4, 9, 10, 11, 13, 14, and 15.

**Sec. 221. Design standards.**

At the time the application is submitted, the applicant shall provide information demonstrating compliance with the following requirements. Where the Planning Commission, or its duly authorized representative, finds that circumstances or conditions relating to the particular application are such that one or more of the requirements listed below are not necessary or desirable for the protection of surrounding property or the public health, safety, and general welfare, and that special conditions or circumstances make one or more said requirements unreasonable, the Planning Commission must hold a public hearing regarding the proposed modification or waiver of the requirement. The Plan Commission shall give notice of the public hearing by publication under IC 5-3-1. In accordance with its rules, the Plan

Commission shall also provide for due notice to interested parties at least ten (10) days prior to the date set for public hearing. Any such modification or waiver shall be requested by the applicant, and the applicant shall submit a written justification for each requested modification or waiver.

1. All facilities shall be approved pursuant to the Site Plan Review process required by the Porter Zoning Code.
2. All permit fees are due and payable at the time specified by the Porter Municipal Code and prior to commencing any work.
3. All equipment shall be enclosed within appropriately secured equipment shelters or cabinet with appropriate locks.
4. All new cellular antenna towers shall be located a minimum distance equal to:
    a. One-half the height of the tower, from any property line of adjacent property zoned other than 1-1 [I-1], 1-2 [I-2], or B-3; and
    b. One half the height of the tower from the front and side property line, and twenty (20) front the rear property line, on adjacent property zoned 11 [I-1], 12 [I-2], or B-3; and
    c. Five hundred (500) feet from residentially zoned or used property.
5. A cellular antenna tower, or multiple use facility, may be constructed to a maximum height of one hundred eighty (180) feet regardless of the maximum height requirements listed in the specific zoning district. This also applies to any tower taller than fifteen (15) feet constructed on the top of another building or structure, with the height being the overall height of building/structure and tower together, measured from the grade to the highest point.
6. When any cellular antenna tower, or alternative antenna tower structure is proposed, the applicant shall furnish the Planning Commission with a certification from an engineer registered in the State of Indiana that the tower will meet the current applicable state structural standards for steel antenna towers.
7. Cellular antenna towers shall not be illuminated, except in accord with state or federal regulations.
8. Except in the case of multiple use facilities, the site shall be non-staffed. Personnel may periodically visit the site for maintenance, equipment modification, or repairs. To accommodate such visits, ingress/egress shall only be from approved access points.
9. Fences shall be provided in accordance with the required Site Plan approval.
10. Screening shall be provided in accordance with the required Site Plan approval.
11. Surfacing of all driveways and off-street parking areas shall comply with the requirements of the zoning ordinance.

12. There shall be no signs permitted, except those displaying emergency information, owner contact information, warning or safety instructions, or signs, which are required by a federal, state, or local agency. Such signs shall not exceed five (5) square feet in area.
13. All new cellular antenna towers shall be designed and built so as to capable of use by three or more wireless communications providers including providers such as cellular or PCS providers using antennas arrays of nine (9) to twelve (12) antennas each within fifteen (15) vertical feet of each other with no more than three (3) degrees of twist and sway at the top elevation and the owner of the telecommunication tower must certify to the Town that the antenna is available for use by another wireless telecommunication provider on a reasonable and non-discriminatory basis and at a cost not exceeding the market value for the use of the facilities. If a portion of the telecommunication tower is to be leased to other wireless communication providers, the portions of the actual or proposed lease that demonstrate compliance with the requirements of this paragraph shall be submitted with the application for Site Plan approval.
14. All telecommunication towers shall be of a tapering monopole construction, except that another type of telecommunication tower structure may be allowed upon showing that the alternate type of telecommunication tower structure would cause less visual impact on surrounding property than a similar monopole structure.
15. No lettering, symbols, images, trademarks, signs, or advertising shall be placed on or affixed to any part of telecommunication tower, antenna array or antenna, other than as required by FCC regulations regarding Telecommunication Tower registration or other applicable law.
16. Telecommunication towers and/or antennas, which have not been used for a period of one (1) year or more, shall be removed, at the expense of the owner, within ninety (90) calendar days of the serving of a certified notice to do so. If the owner fails to remove said tower or antenna within the time prescribed, the Town shall then have the right to remove said tower and/or antenna and recover the cost of removal by initiating a collection suit with attorney fees and costs paid by the owner. No later than thirty (30) days from the last date of use for telecommunication services, the most recent telecommunication service provider to use the tower and/or antenna shall notify the Town Engineer that use has been discontinued.
17. No option or site lease agreements shall prohibit the possibility of co-location.

**Sec. 222. Fees.**

An application fee of $500 shall be paid to reimburse the Town the cost of the technical review required by this ordinance. In addition, all applicable building permit fees shall be paid.

**Sec. 223. Amendments.**

Any amendments to plans, except for minor adjustments as determined by the planning commission, or its duly authorized representative, shall be made in accordance with the procedure required by Section 219 [221], above, subject to the same limitations and requirements as those under which such plans were originally approved.

## ARTICLE XX. ADMINISTRATION AND ENFORCEMENT

### Sec. 224. Purpose.

The purpose of this section is to describe the process required for obtaining improvement location or building permits and the conditions, which have to be met in order to obtain them. It also deals with occupancy permits. The issuance of such permits is absolutely critical for the implementation of a zoning ordinance with respect to both temporary and permanent improvements to structures, buildings and land.

### Sec. 225. Administrative official.

The Town hereby designates its Building Commissioner as the Administrator for the purpose of implementing this Chapter and has the principal responsibility for enforcing this Chapter. The Administrator may be assisted by other persons as the Town of Porter may direct. It shall be the duty of the administrative official and the Plan Commission to enforce the provisions of this chapter in the manner and form and with the powers provided by the state.

### Sec. 226. Applicability.

No Use Variance approved under Article XVII, no change in a Flood Plain district may be made under Article XII, and no other change in the use of land (except an Open Space use) that involves a change in any structure on or in any land, or in the condition of the land, may be made unless the Administrator on application, issues a building and/or improvement location permit authorizing the change.

No building permit for a principal building or use shall be issued, unless the property for which the permit is being requested is a legal lot of record.

### Sec. 227. Certificate of occupancy.

No application for an improvement location permit under Section 211 may be considered unless the applicant has also applied for a certificate of occupancy.

No land or structure with respect to which an improvement location permit has been issued under Section 211 may be used for the purposes contemplated by the permit unless the Administrator, after the change is completed, issues a certificate of occupancy stating that the change complies with this chapter and with the permit.

Within ten (10) working days after the completion of the change authorized by the improvement location permit, the Administrator or his designee shall inspect the premises and, if the change conforms to this chapter and to the location improvement permit, and that a certificate of compliance, if required by Section 214, has been obtained, he shall issue a certificate of occupancy.

**Sec. 228. Site plan and construction drawings.**

In addition to all other applications, information and permits from all other governmental agencies, a person who applies for an improvement location permit under Section 211 must furnish the Administrator with plans drawn to scale showing the following:

(a) The location and legal description of the land involved.

(b) The location and size of all buildings and structures already on the land and those to be erected, including parking, signage, landscaping and screening.

(c) The size of all entrances to and exits from the land, including all adjacent streets and highways.

(d) Detailed drawings showing all construction and materials.

(e) Elevation of all buildings to be constructed.

As a condition to issuing a permit, the Administrator may require changes to the landscape plan upon recommendation of the Plan Commission, the relocation of any structures or buildings, or of any entrance or exit, or the inclusion of entrances or exits not shown on the plan, or the deletion of any entrance or exit, if the requirement is necessary in the interest of the public welfare or to an appropriate balancing of the interests of the persons in the district and vicinity involved.

**Sec. 229. Industrial uses; certificate of compliance.**

If an application for an improvement location permit relates to an industrial use, it must be accompanied by a certificate of compliance, certified by a registered professional engineer of the state, stating that the use will meet the performance standards of the district concerned. After ten (10) working days have elapsed during which the Administrator has not required additional information or objected in writing, he shall issue the permit.

**Sec. 230. Records.**

A record of each improvement location permit and each certificate of occupancy shall be kept by the Administrator. Upon request, a copy shall be furnished to any person having a proprietary or possessory interest in the premises involved.

**Sec. 231. Issuance or denial.**

The Administrator shall accept only a complete application and issue the improvement location permit or deny the application together with a statement of reasons for the denial within a period of eight (8) working days following its submittal, except for the longer period of time required for industrial uses as provided in Section 214 [229].

**Sec. 232. Appeals.**

A decision of the Administrator under Section 216 [219] may be appealed to the Board of Zoning Appeals subject to the provisions of Section 233 [232].

**Sec. 233. Expiration.**

An improvement location permit shall be valid for a period of one (1) year at which time it shall expire, unless work authorized by the improvement location permit is proceeding and inspections have been made by an official Porter inspector, in which case it shall remain in full force and effect.

## ARTICLE XXI. BOARD OF ZONING APPEALS

**Sec. 234. Purpose.**

The purpose of this section is to explain the makeup of, jurisdiction of and procedures to be used by this Board. It should be noted that use variances are permitted by state statute, but the practice of permitting them is not recommended. Use variances have virtually the same affect as rezoning but without benefit of Plan Commission review for their relationship to the overall fabric of the comprehensive plan and the potential for adverse consequences thereto. In most states such a delegation of de facto rezoning authority to Board of Zoning Appeals is avoided.

**Sec. 235. Created.**

There is hereby reestablished the BOARD OF ZONING APPEALS of the Town of Porter, Indiana. The Board of Zoning Appeals shall be a continuation of the present Board of Zoning Appeals of the Town of Porter heretofore established under the advisory plan law, IC 36-7-4-900, as added by acts 1981, PL 309 § 23.

**Sec. 236. Membership.**

The Board of Zoning Appeals shall consist of and continue as a five (5) member board, appointed as follows:

(a) Four (4) citizen members appointed by the Town Council of the Town of Porter, of whom one (1) must be a member of the Plan Commission and three must not be members of the Plan Commission.

(b) One (1) citizen member appointed by the Plan Commission who must be a member of the Plan Commission other than the member appointed by the Town Council of the Town of Porter.

**Sec. 237. Terms of office.**

Following adoption of this chapter, each of the above members shall be re-appointed for the balance of the term being served on the present Board of Zoning Appeals of the Town of Porter. Thereafter each member, except those appointed from the Plan Commission shall be for a term of four (4) years. The members appointed from the Plan Commission shall be for a term of one (1) year. Each term shall expire on the first Monday of the year of termination.

**Sec. 238. Quorum.**

The presence of three (3) members of the board shall constitute a quorum. No action of the board is official, however, unless authorized by a majority of the constituted board.

**Sec. 239. Territorial jurisdiction.**

The Board of Zoning Appeals shall have jurisdiction over all the land subject to the zoning ordinance.

**Sec. 240. Subject matter jurisdiction.**

The Board of Zoning Appeals shall have exclusive jurisdiction for:

(a) variance under the statute and this chapter, except it shall have no jurisdiction to grant a variance from a use district or classification;

(b) Use Variances;

(c) appeals, as provided by statute, and including requirements for procurement of improvement location or occupancy permits or any ordinance adopted under IC 36-7-4 or any prior zoning statute, and any other appeals authorized by statute.

**Sec. 241. Staff.**

The Staff of the Board of Zoning Appeals shall consist of the Administrator as defined in this chapter and such other persons employed by the Town of Porter as may from time to time be assigned to assist him or her and the Board of Zoning Appeals.

**Sec. 242. Rules and bylaws.**

The Board of Zoning Appeals shall have sole authority to adopt any and all rules under IC 36-7-4-916 and any and all by-laws concerning organization, selection of officers, forms for applications, filing requirements, other than as to place of filing as herein provided for, procedures, notices for and conduct of meetings. Upon adoption of such rules and by-laws they shall be applicable to the Board of Zoning Appeals.

**Sec. 243. Facilities and funding.**

The Town of Porter shall provide suitable facilities for the holding of Board of Zoning Appeals hearings and the storage of its recorded documents and accounts, and in its annual budget to provide sufficient funds for the functioning of said Board and staff.

**Sec. 244. Filing.**

All applications for variances, Use Variances, and requests for appeal shall be filed by the applicant with the staff of the Board of Zoning Appeals.

**Sec. 245. Hearings.**

All hearings required for variances, Use Variances, and appeals shall be by the Board of Zoning Appeals. As per Section 245, procedures for public notice setting forth time and place for all hearings by the Board of Zoning Appeals shall be established by the Board of Zoning Appeals.

**Sec. 246. Use variances.**

In making its determination to grant or deny a request for a Use Variance, the Board of Zoning Appeals shall take into consideration all of the following factors:

(a) There shall be no classes of cases or applications, nor any particular situation in which this chapter authorizes special uses, special exceptions or contingent uses.

(b) The Board of Zoning Appeals may approve a Use Variance in a district if, after a hearing under Section 230 [245] it makes the following findings of fact in writing:

(1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;

(3) The need for the variance arises from some condition peculiar to the property involved;

(4) The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and

(5) The approval does not interfere substantially with the comprehensive plan adopted by the Town.

The above criteria was taken from Indiana Code Section 36-7-4-918.4. If the language of that section is amended or otherwise changed, the language in this section shall automatically reflect to the language provided under Indiana Code.

(c) The Board may impose such reasonable conditions upon its approval, as it deems necessary to find that item (b) (3) above will be served.

(d) The Board may permit or require the owner of the parcel of property to make a written commitment concerning the use or development of the parcel as specified under IC 36-7-4-921.

(e) The approval of a Use Variance under item (b) above is unnecessary for a use that was listed as a Use Variance in the district in which it is requested if that use existed on the date of adoption or amendment of this chapter. However, this shall not authorize the expansion of such use if it involves the enlargement of a building, structure or land area.

(f) A Use Variance approved by the Board may not be expanded, extended or enlarged unless re-approved by the Board under the provisions set forth in this chapter for approving a Use Variance.

(g) A Use Variance, approved under item (b) above or authorized by item (e) above ceases to be authorized and is void if that use is not established within a twelve (12) month period of the date the Use Variance was approved, or if that Use Variance is discontinued at that site for a twelve (12) month period during which time it is not succeeded by the same specifically approved Use Variance.

(h) A Use Variance may be terminated by the Board of Zoning Appeals, upon filing of an application by an interested person or the Administrator, and upon a finding at a public hearing, with notice to the property owner, that the terms of this chapter, or conditions of approval or commitments have not been complied with.

(i) For a Use Variance to be eligible for a public hearing by the Board under this section, an applicant must first receive a determination from the Administrator that a Use Variance is required for the intended use or for the expansion, extension or enlargement of a use under (f) above. The Administrator shall file a report of determination (in a form prescribed by the Advisory Board) with the Plan Commission which body shall determine how the granting of a Use Variance would affect the purposes served by this chapter in furtherance of the Comprehensive Plan. Within thirty (30) days of the date on which it received the application, the Commission shall report its determination to the Board for action by it as authorized by item (b) above. If the Board grants the Use Variance, it shall direct the applicant to apply for an improvement location permit under Section 211. If such application complies with this chapter and with all other applicable codes and ordinances, the Administrator shall issue the improvement location permit for the approved Use Variance.

(Ord. No. 2009-22, 12-8-2009)

**Sec. 247. Variances.**

In making its determination to grant or deny a request for a variance, the Board of Zoning Appeals shall take into consideration all of the following factors:

(a) The Board of Zoning Appeals may grant a variance from the development standards (such as height, bulk and area) of a zoning ordinance if, after a public hearing, it makes the following findings of fact in writing:

(1) The approval will not be injurious to the public health, safety, morals and general welfare of the community;

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

The above criteria was taken from Indiana Code Section 36-7-4-918.5. If the language of that section is amended or otherwise changed, the language in this section shall automatically reflect to the language provided under Indiana Code.

(b) The Board may permit or require the owner of a parcel to make written commitment concerning the use or development of that parcel or may impose conditions upon that grant of variance.

(c) The variance granted by the Board shall run with the land until such time as:

(1) The use of the variance ends.

(2) The property conforms with the chapter as written.

(d) Where the owner has failed to comply with any condition and/or with any commitment permitted or required by the grant of the variance, the Board may authorize any action as it may deem appropriate to obtain compliance by the owner with the condition or commitment of the grant, or with the terms of this chapter in the same manner as if the variance had not been granted.

(Ord. No. 2009-22, 12-8-2009)

**Sec. 248. Appeals.**

A decision of the Administrator enforcing this chapter may be appealed to the Board of Zoning Appeals by any person who is adversely affected by the decision. On an appeal, the Board of Zoning Appeals may make any decision that the Administrator might have made.

All appeals from a decision of the Board of Zoning Appeals shall be made pursuant to IC 36-7-4-1001 through 36-7-4-1020. The person aggrieved by a decision of such Board of Zoning Appeals shall present the petition provided for in IC 36-7-4-1003 to the Court within thirty (30) days after the entry of the decision of the Board of Zoning Appeals.

## ARTICLE XXII. SCHEDULE OF FEES

**Sec. 249. Purpose.**

The purpose of this section is to describe the method by which fees, charges and expenses are established for all the actions contemplated in this chapter, and to identify the responsibility for their collection and maintenance.

**Sec. 250. Establishment.**

The Town Council of the Town of Porter shall establish by chapter a schedule of fees, charges and expenses and a collection procedure for; location improvement permits; certificates of occupancy; certificates of compliance; applications for rezoning; applications for variance, for Use Variance and for appeal from the decisions of the Administrator. Further the Town shall establish the method of collection, receipt and accountability.

**Sec. 251. Payment prerequisite to action on application or appeal.**

Until all application fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

## ARTICLE XXIII. AMENDMENTS

### Sec. 252. Purpose.

The purpose of this section is to establish the method by which amendments to the zoning ordinance are initiated, hearings held and resolved. For the purpose of providing for the public health, safety and general welfare, the Town on recommendation of the Plan Commission, may from time to time amend the text of this chapter and/or the Zoning Map(s) incorporated by reference in this chapter.

### Sec. 253. Who may initiate.

Amendments to this chapter may be proposed by the Town Council, or by petitions, duly signed and presented to the Town Clerk, requesting an amendment, supplement or change of the regulations of this chapter by:

(a) The Plan Commission, or

(b) The owners of fifty (50%) percent or more of the area involved in the petition.

The term "amendment" as used hereinafter in this Article shall include the terms "supplement," "change" or "repeal" as applied to the regulations of this chapter.

### Sec. 254. Referral to the plan commission.

Any proposed ordinance for the amendment of this chapter not originating from petition of the Plan Commission shall be referred to the Plan Commission for consideration and report before any final action is taken by the Town Council.

### Sec. 255. Public hearing.

Before submission to the Town Council of a Plan Commission petition or report on a proposed ordinance referred to the Plan Commission for an amendment to this chapter, the Plan Commission shall hold a public hearing thereon.

At least ten (10) days prior to the date set for the hearing, the initiator of said amendment shall publish in a newspaper of general circulation as designated by the Porter Town Council, notice of the time and place of the hearing. The initiator of the amendment shall also provide said notice by certified mail, or hand-delivered to property owners who own property adjacent to the property which is the subject of the amendment. The initiator of the amendment shall also place a public notice sign at least ten (10) days in advance of the public hearing, on the subject property in full view from the adjacent street, which sign shall be provided by the Porter Building Department.

### Sec. 256. Minimum size of parcel.

No amendment of the official Zoning Map shall be made with respect to any parcel of real estate unless said parcel has more than one hundred sixty (160) feet of frontage and at least

twenty thousand (20,000) square feet of area, except where in the event of an amendment the parcel would be in the same zoning district, or in a more restrictive zoning district, as an adjoining parcel of land.

The following zoning districts, and no others, shall be deemed to be a "more restrictive zoning district" as the term is used above:

(1) R-1, with respect to R-2, R-3 and R-4.

(2) R-2, with respect to R-3 and R-4.

(3) R-3, with respect to R-4.

(4) B-1, with respect to B-2 and B-3.

(5) B-2, with respect to B-3.

(6) I-1, with respect to I-2.

## ARTICLE XXIV. PORTER BEACH OVERLAY*

### Sec. 257. Background.

The Porter Beach neighborhood presents the challenge of managing single-family residential development, within a lake environment with a natural dunal setting, based on a non-conforming recorded subdivision plat. The Porter Beach area is one of high dunes, with dune-land soil type, steep to very steep topography, excessively drained on low sand dunes and beach ridges ending at the edge of Lake Michigan. Communities clustering near the lake shore, Porter Beach, Michiana Shores, Long Beach, Beverly Shores, Dune Acres, and Ogden Dunes are all spatially elongated. Their soil is characterized by stabilized sand dunes on which dwellings have been built. This soil has poor potential due to slopes and instability of the sand. Lack of moisture and shifting sands make it difficult to grow plants. Beach grasses are found to have limited success in stabilizing dune sand. The slopes and loose sand have the potential to hinder standard new home construction practices.

Much of this area should have been designated as public open space, however, since the location is very desirable, privately owned, subdivided, and zoned residential, most of the area will be developed. Adding to development difficulties mentioned earlier is the fact that most of the lots are much too small (25'x100') to build on, and the lots lack building setback lines on the plat. The Town has permitted as a matter of policy, structures to be built on multiple lots, without requiring re-subdivision. In this way several lots of record were permitted to be considered as one (1) zoning lot, thereby avoiding subdivision.

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***Editor's note—**At the town's instruction Ord. No. 2009-25, adopted Dec. 8, 2009, did not specify manner of codification hence these provisions have been included as Article XXIV, §§ 257—262. Please note Article XXIV, §§ 257, 258 have been renumbered as Article XXV, §§ 263, 264. At the town's instruction Article XXV has been renumbered as Article XXVI.

Low-density single-family usage with developmental controls and open space requirements to protect sensitive areas, offers the town the best compromise. This report proposes the idea of using a flexible zoning technique to create a lakeshore preservation overlay district, which will implement design and building standards that are unique to Porter Beach.

A Lakeshore Preservation District would help preserve and protect the residential environment and balance residential developmental growth pressure and environmental sensitivity in the duneland lakeshore area. It is the goal of the Plan Commission to permit the continuation of residential development in Porter Beach, but to impose more rigorous restrictions on construction practices based on the unique character of the Porter Beach Community.
(Ord. No. 2009-25, 12-8-2009)

**Sec. 258. Planning history.**

The Porter Beach neighborhood was originally platted in 1893. The topography was more severe then and clearly unsuitable for development on the platted gridiron pattern. Since 1969, Block Four (4), Block Five (5) and Block Six (6) have been completely underwater. Property owners in Blocks 10-18, are partial victims of beach erosion. Past development has changed original street layouts, and in addition, substandard private roads with inadequate design and dead ends hamper the proper functioning of access.

In 1979, the Plan Commission recommended the extension of public services to the Beach. Sewer and public water were to be made a top priority. In 1982, the Plan Commission study panel, with town planner support and town engineer approval, recommended Porter Beach become a planned unit development (PUD) for better growth management.

In 1988, the town engineer felt that the town did not have an accurate legal description of the area. Without a replat of Porter Beach, officials had to work with outdated county plats. The town engineer recommended the boundaries and zoning districts be resurveyed. Before this engineering recommendation, a district judge warned the town of the immediate need to correct errors on the official zoning map.

In 1989, there were preliminary discussions initiated by the Indiana Department of Natural Resources, which focused on extending sewer from the Waverly, U.S. 12 lift station into Porter Beach. The plan called for the removal of the sewage treatment plant at Indiana Dunes State Park after connecting to the Porter Beach sewer extension. This project was to be followed by public water supplied to Porter Beach.

In 1992 the recommendation and subsequent action by the town was the rezoning of Porter Beach to R-1 residential single-family. Existing multi-family units and land became non-conforming uses and not permitted uses in the future. The Plan Commission did not recommend stopping growth in Porter Beach. On the contrary, the adopted comprehensive planning policy for the Town of Porter called for managed growth, by requiring site plan review prior to the approval of the granting of a developmental standards variance, or street and alley vacations, (see Resolution 92-03). The Commission's intent was to conserve the natural character of the Porter Beach neighborhood and insure functional and compatible arrange-

ments for residential structures. The promotion of fair and equitable enforcement of the subdivision regulations was seen as an attempt to assure property owners throughout the community that the town would impose management growth principles.

The resolution authorizes the Town of Porter Plan Commission to review and approve or disapprove plats for subdivision throughout the municipality, which show lots, blocks, or sites with or without new streets or highways. This authority was supposed to extend to the development or re-subdivision of undeveloped portions of recorded plats. No building permit or certificate of occupancy was to be issued for any parcel or plat of land, which did not conform, with the provisions of the lakeshore protection district's design standards.

In 1993, the Plan Commission recommended a mapping survey and plat of the lakeshore preservation district. Expenses arising from the survey were supposed to be paid by the property owners. In all cases, property owners were supposed to submit a legal description and in selected cases a recorded plat, to the town engineer. Those who did not would be assessed the cost of town engineer services in order to obtain all necessary data pertaining to the specific lot(s). This requirement was only partially completed.

In 2002, the Plan Commission once again discussed the idea of treating Porter Beach differently than other residential areas. When the overlay zoning idea was discussed, the Plan Commission decided that Porter Beach was part of the town, and the town should have only one set of standards for R1 developments. The fact is that Porter Beach differs in development history, soils, topography, environmental sensitivity, and access and traffic patterns.
(Ord. No. 2009-25, 12-8-2009)

**Sec. 259. Lakeshore preservation district policies.**

The intention of these regulations is to conserve the natural resources in the area, while at the same time, respecting private property rights. The long-term impact of these recommendations on air and water quality, waste disposal, natural resources and conservation of energy will be positive. This plan will foster sound growth thereby minimizing potential adverse environmental impacts. Porter's managed growth policies should be designed to encourage growth in areas, which can be served by public services, and to discourage it in areas, which do not have services readily available. The Commission would prefer to see better timing and sequencing of growth. Past development in Porter Beach should have been required to re-subdivide and be responsible for a fair share of the cost of providing reasonable and necessary circulation improvements, water, sewerage, drainage facilities and other improvements, including public use land and recorded walking easements. The planning goal should be to promote a healthy and stable housing market within Porter Beach.

The landscaping of a lot should blend with the landscaping on adjacent lots or be so designed that landscaping on adjacent undeveloped lots could later blend with that on the applicant's lot. Access difficulties need to be corrected, along with utility issues. Porter Beach lends itself to the unique and non-traditional; however, the area must function and must avoid fluctuating property values due to the extreme.

A building, structure, or appurtenance may not be constructed in a location on a zoning lot, which creates a nuisance by interfering with the ventilation of existing dwellings on neighboring zoning lots; and a building, structure, or appurtenance may not be constructed in a location on a zoning lot, which creates an unreasonable fire hazard to neighboring buildings.

The following policies of this district shall be construed as being supplemental to the building rules adopted by the Administrative Building Code of Indiana.
(Ord. No. 2009-25, 12-8-2009)

**Sec. 260. Applicability statement.**

Any article not covered by this document will revert to existing zoning standards.
(Ord. No. 2009-25, 12-8-2009)

**Sec. 261. Developmental standards.**

(1) No residential or other use shall be established or built on a zoning lot, which has less area or does not comply with the requirements set forth in this Ordinance.

(2) No conversion of an existing structure, residence or building shall be permitted which violates this Ordinance.

(3) Not more than one (1) dwelling shall be erected on a zoning lot, and no structure shall be located on more than one (1) zoning lot.

(4) No Building Permit shall be issued for a newly constructed dwelling on a zoning lot with access from an unimproved street unless the applicant improves such street from the dwelling access to the nearest improved street or deposits with the Town of Porter, funds to pay for the improving of such street.

(5) All utilities installed in connection with any improvements for which a Building Permit is required under this Ordinance shall be installed underground.

(6) Zoning Lot Area - Except as otherwise provided, each single-family detached dwelling hereafter erected, together with its accessory buildings, shall be located on a zoning lot having an area of not less than 12,000 square feet and a width of not less than 100 feet, unless the zoning lot has a valid septic permit, as of the effective date of this ordinance, approved by the Porter County Health Department and is not less than 10,000 square feet.

(7) Building Setback - No principal structure shall be located closer to a property line than fifteen (15) feet, and no pools, decks, fences, sheds, etc. within 15 feet of any zoning lot perimeter line, see #21 of the Performance Standards for fencing exceptions.

(8) Zoning Lot Width - Each zoning lot shall have its narrowest dimension of not less than 100 feet, except for frontage on a cul-de-sac when the-narrowest dimension shall not be less than 45 feet, except as otherwise provided in this Ordinance.

(9) Dwellings on Nonconforming Zoning Lots - Notwithstanding the limitations imposed by any other provisions of this Ordinance, the Plan Commission shall permit erection

of a dwelling on any duly and legally platted zoning lot which contains an area, width or depth less than that required herein for a one-family dwelling; provided, the Plan Commission shall not permit such erection if the zoning lot was diminished in area, width or depth subsequent to its final platting made in accordance with law.

(10) Existing non-conforming structures may be maintained, and rebuilt if damaged to no more than the previous square footage using the same footprint, unless said structure currently encroaches into a street right of way, or utility easement. If the current structure does encroach, then it may be rebuilt up to the previous square footage using a different footprint, so long as other zoning restrictions are not violated.

(11) Steep slopes in excess of 20 percent as measured over a 10-foot interval shall be preserved as undeveloped open space unless appropriate engineering measures concerning slope stability, erosion, and resident safety are approved by the town engineer.

(12) No structure, planting or other material shall be placed - or be removed or other activities undertaken which may damage or interfere with established slope terrain or vegetation of adjoining property, create erosion or cause water drainage problems, or which may change water drainage or obstruct or retard the flow of water.

(13) Proposed changes in contours, which will result in a significant ground surface slope as determined by the Town Engineer, will require a stabilization or retention system. This requirement is to prevent any unwanted, unintentional and potentially damaging movement of the ground surface or ground mass by creep, erosion or mass slides.

(14) Plans or specifications submitted for any building permit will include the design for any necessary sand (ground mass) retention system. The drawings will clearly show the ground surface areas, which have or will have a significant slope with the horizontal, as determined by the Town Engineer. Any stabilization or retention systems (walls, piling, etc.) applications which are required by this ordinance will have a minimal design life of forty years and the design will be approved by an Indiana Registered Professional Engineer.

(Ord. No. 2009-25, 12-8-2009)

**Sec. 262. Performance standards.**

The following is intended to preserve the natural terrain and contours, to regulate and control drainage and the blowing of sand, to prevent erosion, and protect adjacent property from damage resulting from land disturbing activities:

(1) Definitions (applies to any section of this document).

a. Land Disturbing Activities: Any activity which may result in soil erosion from water or wind and the movements of sediments onto State waters, including but not limited to, clearing, grading, excavating, transporting and filling of land.

b. Clearing: Any depositing, removing or stockpiling of vegetative ground cover.

c. Filling: Any depositing or stockpiling of natural or man-made materials.

d. Excavating: Any digging, scooping or other methods of removing earth materials.

e. Grading: Any excavating or filling of natural or man-made materials or any combination thereof, including the land in its excavated or filled condition.

f. Transportation: Any moving of natural or man-made materials from one place to another other than such movement incidental to grading, when such movement results in destroying the vegetative cover either by tracking or the build-up of natural or man-made materials to the extent that erosion and sedimentation will result.

g. Building Height: The average distance from the elevation of the finished grade adjacent to the foundation wall, measured at the mid-point of all four sides of the structure up to the highest point of said structure, excluding chimneys, antenna, and other similar appurtenances.

h. Zoning Lot: A lot of record, which is a tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or of building development.

(2) No person shall engage in any land disturbing activity until a plan has been submitted to and approved by the Building Commissioner a plan for such land such disturbing activity and that plan has been reviewed and approved.

(3) An application for a permit for a land disturbing activity shall be filed with the Building Commissioner on the application form prescribed by the Town. Applications for any such permit shall include the following:

a. A general description of streets, highways or other landmarks in the immediate area surrounding the proposed land disturbing activity.

b. A legal description of the particular site of the proposed land disturbing activity.

c. A plot/site plan or survey, prepared, signed, and sealed by an Indiana licensed professional engineer or land surveyor.

d. An accurate estimate of the amount of sand or other material in cubic yards expected to be excavated, graded, filled or transported during the life of the permit, and if excavation is to occur, the location of where the excavated material will be finally deposited.

(4) The Building Commissioner may place conditions on the land disturbing activity permit, which in his opinion, may be required for the protection of public health, safety, and welfare. Special conditions shall be in writing, and shall be attached to and made a part of the permit.

(5) When sand or other natural or man-made materials are to be added or removed or moved in connection with the construction, alteration of structures or for accessory uses, approval by the Building Commissioner shall be required. Construction drawings, plot plans, and when deemed necessary, topographic maps shall be presented to the Building Commissioner for review.

(6) Changes in the approved plans may become necessary. The Building Commissioner must agree to appropriate modifications in writing, before the changes can be implemented.

(7) All abandoned wells shall be sealed in a manner that will render them watertight. All individual sewage disposal systems and water wells shall be located and installed in accordance with the State of Indiana and Porter County Board of Health regulations.

(8) Land with an elevation less than four feet above the highest ground water level is deemed unsuitable for residential building; provided, however, that land with an elevation of between two and four feet above such highest ground water level may comprise not more than 20 percent of the minimum lot area of a residential lot.

(9) Septic tanks and disposal fields shall be located and installed in accordance with the laws of the State of Indiana and the County of Porter.

(10) It is the duty of the owner, contractor, builder, or other person having control or supervision of a construction site to prevent loose sand from blowing or sifting onto public roads or adjacent property. This requirement may be satisfied by providing suitable ground cover, by erecting suitable fencing, or by immediate cleaning.

(11) Existing vegetation shall remain undisturbed during construction, except for an area 20 feet beyond the perimeter of the building. Existing foliage shall be protected by roping it off from construction activities. It shall be protected from paint-over spray and from trash. Sod is not permitted. New planting materials shall be indigenous species or from the approved plant material list.

(12) All wood exposed to weather shall be resistant to rotting, excessive fading, or discoloration, and shall be kept in a good state of maintenance.

(13) Air-conditioning compressors shall be screened or fenced so that they are not visible from the adjacent property and so that the sound transmission to neighboring properties is minimized.

(14) Driveways and Parking Areas:

a. An area adequate for the off-street parking of at least two (2) motor vehicles or 180 square feet exclusive of drives or aisles on the private property shall be provided at each building.

b. A driveway or parking area shall be constructed of materials and in such a manner which prevents sand, stone, cinders, or other ground materials from being washed, thrown, or carried onto public roads.

c. A driveway or parking area, which slopes toward a public road, shall be constructed with a suitable drainage system on the property of the owner to prevent water from running or draining from the driveway or parking area onto public roads. Drainage systems shall be connected to dry wells or provided with gravel for absorbing run-off. Residents shall be responsible for maintaining the

system. The required drainage system may be installed on public property in accordance with the approved plans, provided the topography does not allow it on private property.

d. A driveway shall meet the paved portion of the Town's street at an elevation no higher than the street elevation at that point, and extend back toward the building owner's property at or below this elevation for a minimum distance of three (3) feet.

e. Because of drainage problems, no private party shall pave adjacent public property, except for driveway access, which shall not exceed twenty-four (24) feet in width.

f. Driveway surfaces shall be: concrete, bituminous, brick pavers, or of a material approved by the Building Commissioner.

g. Roofs, walkways, and other elements of construction that contribute to run-off shall be designed and installed to prevent run-off onto public roads and onto other public and private propertied.

(15) The homeowner shall maintain and encourage natural drainage.

(16) During construction, no zoning lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall only be kept in accepted containers. Contractors shall furnish trash containers and, at all times, shall keep the premises free from accumulation of trash and scrap caused by construction. Trash shall not be allowed outside a designated trash and scrap area and any that does intrude beyond shall be cleaned up immediately. At the completion of the work, all remaining trash and scrap shall be disposed of legally. Tools, construction equipment, machinery, and surplus materials shall be removed from the site. The Town shall charge the contractor for any clean up of contractor's building area.

(17) A certified as-built drawing, signed and sealed by a Indiana licensed professional engineer or land surveyor, shall be submitted to the Building Commissioner and Town Engineer, and is to document the built improvement locations and grading in accordance with the proposed locations and grade. Marked up drawings by contractors or builders will not be accepted as certified as-built drawings.

(18) Pools over 10 foot in diameter and greater than 18 inches in depth are required to receive a Town of Porter building permit. A 6-foot safety fence must be erected a maximum of 10 foot from the pool walls and may not be within 15 foot of any zoning lot line. A dry well detention system must be installed for discharging of pool water. Pool water may not be discharged without first entering the dry well detention system. Heating and cleaning systems must be screened or fenced so that they are not visible from adjacent properties and so that the sound transmission to neighboring properties is minimized.

(19) Accessory structures are allowed provided they are not within 15 foot of a perimeter lot line.

(20) Landscape fencing, 48 inches or less in height, 16 feet or less in contiguous length and no less than 50% opacity is allowed outside of the 15 foot setback. The landscape fencing can not impede the traffic line of site as determined by the Building Commissioner. See #18 for restrictions.

(Ord. No. 2009-25, 12-8-2009)

## ARTICLE XXV. INVASIVE SPECIES CONTROL

1. *Definitions.* For purposes of this chapter, the following definitions shall apply:

(a) "Ecosystem" means any living or non living organisms interacting as a unit wholly or partly within or adjoining the territorial boundaries' of the Town of Porter.

(b) "Live transport species" means any species of aquatic or terrestrial life which may be transported live but which shall not be sold live and which are listed as a live transport species by the building department pursuant to rules and regulations promulgated by the building department.

(c) "Regulated invasive species" means any species of aquatic or terrestrial life listed as a regulated species by the building department pursuant to rules and regulations promulgated by the building department, including but not limited to the listed species in section 4 of this article.

(d) "Regulated plant species" means any plant or viable plant material from a regulated invasive species.

(e) "Viable plant material" means any portion of a plant capable of reproduction, including but not limited to, any seeds, fragments, roots, flowers, or whole plants.

(f) "District" means the Lake Shore Preservation District as indicated on the official Town of Porter Zoning Map.

2. *List of regulated invasive species.* The building department shall keep and update as necessary a list of regulated invasive species. Such list shall be based upon, but not limited to, the following: (1) the economic impact of introducing this species into the ecosystem; (2) the hazards that this species present to the wildlife and wildlife resources of the district; (3) diseases and parasites associated with this species; and (4) any food or commercial value of this species. Except in an emergency as determined by the building department, the building department shall provide a reasonable period of public notice before updating the list to add one or more regulated plant species. Such list shall be published as provided in section 4 of this Code.

3. *Regulated invasive species.*

(a) It shall be unlawful for any person to do the following:

(1) Import, sell, transport, plant or transplant any live regulated plant species or any viable plant material from a regulated plant species within the district; or

(2) Release or introduce into the environment anywhere within the district any live regulated invasive species or viable plant material from a regulated plant species.

(b) Violation of any portion of this article shall constitute a public nuisance. In addition to any fine or penalty, an amount up to the cost or expense incurred by the town in abating a nuisance may be recovered in an appropriate action instituted by the town council. Nothing in this section shall be construed to prevent the town from acting without notice to abate a nuisance in an emergency where the nuisance poses an immediate threat to public health or to the environment.

(c) Any violation of this chapter shall result in fines and penalties as stipulated in the Town of Porter Code Section 1-18.

(d) In addition to any other remedies, penalties of enforcement, the building department may request the town attorney to make application on behalf of the town to any court of competent jurisdiction for an injunction requiring compliance with this article or for such other order as the court may deem necessary or appropriate to secure such compliance.

4. *Regulated Species List.* This regulated list represents species that (1) have the potential to cause harm to regional natural areas and public lands and (2) are in trade and, therefore, can be regulated. While there are many more invasive species that could cause harm in the region, this list focuses on species that pose the most critical threat. This list includes all cultivars except those that have been proven by the scientific community to be functionally sterile.

| COMMON NAME | BOTANICAL NAME |
|---|---|

1. *Invasive.* An invasive plant is one that is not indigenous to northwest Indiana, is ecologically aggressive, and/or tends to displace indigenous plants. Invasive plants may be forbs, shrubs, trees, grasses or vines. Without seeking to enumerate all plants of this category, examples of plants falling within this category include:

| | |
|---|---|
| • Purple Loosestrife | Lythrum salicaria |
| • Garlic Mustard | Alliaria petiolata |
| • Black Locust | Robinia pseudoacacia |
| • Reed Canary Grass | Phalaris arundinacea |
| • Autumn Olive | Elaeagnus umbellata |
| • Common Reed/Phragmites | phragmites australis |
| • Common Teasel | Dipsacus sylvestris |
| • Cut-leaved Teasel | Dipsacus laciniatus |
| • Common Tansy | Tanacetum vulgare |
| • Japanese Knotweed | Fallopia japonica |
| • Common Buckthorn | Rhamnus cathartica |
| • Glossy Buckthorn | Frangula alnus |

| | |
|---|---|
| • Oriental Bittersweet | Celastrus orbiculatus |
| • Chocolate Vine | Akebia quinata |
| • Elegans Porcelain Berry Vine | Ampelopsis brevipendiculata |
| • Wild Chervil | Anthriscus sylvestris |
| • Japanese Hops | Humulus japonicus |
| • Lyme Grass | Leymus arenarius |
| • Privet | Ligustrum spp. |
| • Amur Silver Grass | Miscanthus sacchariflorus |
| • Princess Tree | Paulownia tomentosa |
| • Amur Corktree | Phellodendron amurense |
| • Japanese Corktree | Phellododendron japonica |
| • Sawtooth Oak | Quercus acutissima |
| • Lesser Celandine | Ranunculus ficaria |

• Exotic bush honeysuckles (genus Lonicera, including Tartarian, Japanese and Morrow's honeysuckles)

| | |
|---|---|
| • Canada thistle | Cirsium arvense |
| • Bouncing Bet | Saponaria officinalis |
| • Cat-Tail | Typha sp. |
| • Crown Vetch | Coronilla varia |
| • Cypress Spurge | Euphorbia cyparissias |
| • Multiflora Rose | Rosa multiflora |
| • Musk Thistle | Carduus nutans |
| • Periwinkle | Vinca minor |
| • Queen Anne's Lace | Daucus carota |
| • Sow-Thistle | Sonchus sp. |
| • Spotted Knapweed | Centaurea maculosa |
| • Sweet Clover | Melilotus sp. |
| • Tree of Heaven | Ailanthus altissima |
| • Dame's Rocket | Hesperus matronalis |
| • Japanese barberry | Berberis thunbergii |
| • Baby's breath | Gypsophila paniculata |
| • Burning bush | Euonymus alata |
| • Lombardy Poplar | Populus nigra |
| • Chinese/Siberian Elm | Ulmus pumila |

2. *Have toxicological impacts to humans.* These plants include those that are poisonous on contact as well as plants that are poisonous when ingested. Without seeking to enumerate all plants of this category, examples of plants falling within this category include:

| | |
|---|---|
| • Poison Ivy | (Rhus radicans, Toxicodendron radicans, or Rhus toxicodendron) |
| • Poison Sumac | (Toxicodendron bemix, Toxicodendron vernix or Rhus vernix) |

| | |
|---|---|
| • Stinging Nettle | Urtica dioica |
| • Wild Parsnip | Pastinaca sativa |
| • Poison Hemlock | Conium maculatum |
| • Bitter Nightshade | Solanum dulcamara |
| • Jimson Weed | Datura stramonium |
| • Spotted Knapweed | Centaurea maculosa |

3. Harmful to human health by means of aggravating allergies or that are thorny, barbed plants. Without seeking to enumerate all plants of this category, examples of plants falling within this category include:

| | |
|---|---|
| • Common ragweed | Ambrosia artemisiifalia |
| • Giant Ragweed | Ambrosia trifida |
| • Bull thistle | Cirsium vulgare |
| • Beggar Ticks | Bidens frondosa |
| • Cocklebur | Xanthium strumarium |
| • Sandburs | Cenchrus longspinus |

(Ord. No. 2010-12, § 1, 11-9-2010)

## ARTICLE XXVI. ENFORCEMENT, VIOLATION AND PENALTIES*

### Sec. 263. Purpose.

The purpose of this section is to address the manner in which the enforcement, violation and penalties of this chapter are administered.

### Sec. 264. Enforcement, violation and penalties.

The enforcement of the provisions of this chapter, investigation into possible violations of this chapter and the penalties prescribed for violations of this chapter are as follows:

(a) It shall be the duty of the Administrator to enforce these regulations and to bring any violations or lack of compliance to the attention of the Town Attorney who may file a complaint against the person and prosecute the alleged violation.

(b) Any person may, by suit in the circuit or superior court of the county, enjoin the violation of this chapter.

(c) The Board of Zoning Appeals by mandatory injunction in the circuit court of the county against the owner or possessor of the real estate may require the removal of a structure erected in violation of this chapter, or the removal of any use or condition permitted in violation of this chapter.

(d) A use that violates this chapter shall be treated as if it were a common nuisance, and the owner or possessor of the structure, land, or premises upon which the use is maintained shall be liable for such nuisance.

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***Editor's note—**See editor's note, Article XXIV.

(e) Any person whether owner or possessor, who shall violate, or who permits or allows a violation, of any of the provisions of this chapter, or who fails to comply therewith or with any requirements thereunder, or who shall build, reconstruct, or structurally alter any building in violation of any detailed statement or plan submitted, upon which an approval or grant is given under this chapter, shall, under complaint filed in any court of the county and upon judgment finding such violation, be fined not less than ten dollars ($10.00) and not more than three hundred dollars ($300.00), and each day that such violation or noncompliance shall be permitted to exist, shall constitute a separate violation. The town building commissioner is hereby empowered to issue citations as a response to violations of this chapter.

(f) No improvement Location Permit or Building Permit required under the Uniform Building Code or this chapter shall be issued on any property subject to this chapter in violation of the provisions of this chapter.

(g) Attorney's Fees. Notwithstanding anything contained in this chapter to the contrary or appearing to the contrary, and in addition and supplementary to other provisions of this chapter, if the Board of Zoning Appeals of the Town is required to utilize the Town Attorney or any other attorney in investigating a possible violation of this chapter or enforcing the provisions of this chapter pursuant to Section 243(c) [258(c)], 243(d) [258(d)] or 243(e) [258(e)] or any other Section, before any board or court (including appeals), and such investigation results in a determination that a violation has occurred or if the Board of Zoning Appeals or Town is successful in its enforcement of the chapter by way of suit, appeal or other appropriate proceedings, the respondent, defendant or party investigated for a violation shall pay the Town's reasonable attorney fees and all costs related to the investigation of the violation and/or the enforcement of this chapter, unless such attorney fees or costs are specifically waived by the Town Council of Porter.

(Ord. No. 2004-21, § 2, 11-11-2004)

## ARTICLE XXVII. FENCE AND WALL RESTRICTIONS

### Sec. 265. All districts.

The following standards apply to all districts:

(1) Fences and walls shall be permitted in the front, side and rear yard in any district.

(2) Fences shall not be erected or maintained in such a way as to obstruct the vision of motorists exiting driveways or at intersections.

(3) All exposed posts of a fence shall be located on the inside of the property they are intended to enclose with the finished side of the fence facing outward towards the adjacent street, property or place.

(4) Fences and walls shall not be erected within any public right-of-way.

(5) All fences and walls shall be durable and constructed of materials such as wood, metal (ornamental or chain link), brick, stone or vinyl. Fence posts shall be structurally stable. Wood fence posts shall be lumber treated or made of decay resistant material.

(6) Fences shall not contain barbed or razor wire, electric current or charge of electricity. No fence shall be constructed of material considered rubble, cardboard, chicken wire, downed trees and brush, corrugated metal, utility poles, railroad ties, broken glass or other deleterious material.

(7) Chain link fencing shall not be used to meet buffer or screening requirements.

(8) Fences and walls, including underground electronic pet containment fencing, may be located directly on a property line. A property survey shall be required when property line survey pins do not exist or when the location is in dispute.

(9) The design, location and construction of a fence or wall shall be approved by the Building Commissioner prior to the issuance of a building permit.

(10) Fences shall not be placed within drainage or utility easements unless approved by the Building Commissioner.

(Ord. No. 2015-01, § 1, 1-27-2015)

**Sec. 266. Residential districts.**

The following standards apply to residential districts:

(1) Fences and walls located in the front yard only if the property is located within the front yard fence overlay district depicted on Exhibit A attached hereto.

(2) Fences and walls located within the front yard shall not exceed four feet (4') in height and shall not be in excess of forty-nine percent (49%) opaque.

(3) Front yard fences shall be split rail, picket or ornamental metal construction only, no chain link. Split rail fences may have wire farm fencing attached to the inside of the split rail with staples as an animal barrier.

(4) Fences and walls located within the side or rear yard shall not exceed a height of six feet (6').

(5) This section shall not apply to security fences surrounding utility, institutional or public uses.

(Ord. No. 2015-01, § 1, 1-27-2015)

**Editor's note—**Exhibit A as referenced above has not been set out, but may be inspected at the town office.

**Sec. 267. Nonresidential districts.**

The following standards apply to nonresidential districts:

(1) Fences and walls may be located in the front yard only if the property is located within the front yard fence overlay district depicted on Exhibit A attached hereto.

(2) Fences and walls shall not exceed eight feet (8') in height.

(3) Poured concrete, concrete block or other similar materials may only be used for walls not facing a street or residential district, and must be permanently installed.

(4) Fence location, height, and appearance shall be the subject of a site plan review.

(Ord. No. 2015-01, § 1, 1-27-2015)

Appendix B

# SUBDIVISIONS*

## Section 1. General Requirements


Sec. 1-1. Policy.
Sec. 1-2. Purposes.
Sec. 1-3. Authority.
Sec. 1-4. Approval time limit.
Sec. 1-5. Jurisdiction.
Sec. 1-6. Enactment.
Sec. 1-7. Interpretation.
Sec. 1-8. Separability.
Sec. 1-9. Repeal.
Sec. 1-10. Amendments.
Sec. 1-11. Enforcement.
Sec. 1-12. Development permitted only within approved subdivisions.
Sec. 1-13. Approval of plats required prior to recording.


## Section 2. Approval Procedure


Sec. 2-1. Application for certificate of approval.
Sec. 2-2. Letter of intent.
Sec. 2-3. Fees.
Sec. 2-4. Minor subdivisions.
Sec. 2-5. Payment of costs of special studies.
Sec. 2-6. Payment of costs of special studies.
[Sec. 2-7.] Technical advisory committee.


## Section 3. Primary Plat


Sec. 3-1. Required; submission.
Sec. 3-2. General standards; scale.
Sec. 3-3. Vicinity key map; topographical survey.


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***Editor's note—**Ord. No. 2009-24, adopted Dec. 8, 2009, amended the former Appendix B, and enacted a new Appendix B as set out herein. The former Appendix B pertained to similar subject matter. For complete derivation see the Code Comparative Table at the end if this volume. Formerly, printed herein is the Subdivisions Control Ordinance of the Town of Porter, Indiana. Amendments to the Subdivisions Control Ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. The title, enactment, severability, repealer, transitional, ratification, publication and effective date provisions have been omitted, and where a section has been amended or repealed by a later provision, only the current language has been printed. Additions made for clarity are indicated by brackets.

**State law references—**Subdivision control generally, IC 36-7-4-700 et seq.; adoption of subdivision ordinance, IC 36-7-4-701(b), 36-7-4-602 et seq.

Sec. 3-4. Basic information.
Sec. 3-5. Existing conditions.
Sec. 3-6. Proposed conditions.
Sec. 3-7. Public hearing.
Sec. 3-8. Action by plan commission.
Sec. 3-9. Effective period of approval.
Sec. 3-10. Findings of fact by plan commission.
Sec. 3-11. Construction schedule.

**Section 4. Secondary Plat**

Sec. 4-1. Required; submission.
Sec. 4-2. Contents.
Sec. 4-3. Completion of improvements; guarantee of improvements.
Sec. 4-4. Action by plan commission.

**Section 5. Design Requirements and Principles**

Sec. 5-1. Unsuitable locations.
Sec. 5-2. Conformity to comprehensive plan.
Sec. 5-3. Lots.
Sec. 5-4. Public spaces.
Sec. 5-5. Preservation of existing topography.

**Section 6. Streets and Private Service Roads**

Sec. 6-1. Conformity with comprehensive plan.
Sec. 6-2. Adjustment to land contours.
Sec. 6-3. Extension to tract boundaries.
Sec. 6-4. Private service roads.
Sec. 6-5. Width; culs-de-sac and dead-end streets.
Sec. 6-6. Grades.
Sec. 6-7. Vertical curves.
Sec. 6-8. Minimum radius of curvature on centerlines.
Sec. 6-9. Tangent between reversed curves.
Sec. 6-10. Intersections.
Sec. 6-11. Blocks.

**Section 7. Required Improvements**

Sec. 7-1. General standards; payment of costs.
Sec. 7-2. Survey monuments, stakes and benchmarks.
Sec. 7-3. Paving of streets; bike paths, curbs, gutters and drains.
Sec. 7-4. Water system.
Sec. 7-5. Sewers.
Sec. 7-6. Storm water runoff control.
Sec. 7-7. Street and traffic signs.
Sec. 7-8. Streetlights.
Sec. 7-9. Underground public utilities.
Sec. 7-10. Sidewalks.

Sec. 7-11. Trees.
Sec. 7-12. Soil stripping and mining operations.

**Section 8. Definitions**

Sec. 8-1. General.

## SECTION 1. GENERAL REQUIREMENTS

### Sec. 1-1. Policy.

It shall be the policy of the town to consider the subdivision of property, which is consistent with the comprehensive plan, for the orderly, planned, efficient, and economical development of the town. Property to be subdivided must be capable of being used safely for building purposes without danger to health or peril from fire, flood, or other menace. Property shall not be subdivided until available public facilities and improvements either exist, or provisions are made for their installation as a part of the development. The existing and/or proposed public improvements shall conform to the provisions of this ordinance, the zoning ordinance, the comprehensive plan, and the town infrastructure specifications.
(Ord. No. 2009-24, 12-8-2009)

### Sec. 1-2. Purposes.

These regulations are adopted to:

(a) protect and provide for the public health, safety, and general welfare of the town.

(b) guide the future development of the town in accordance with the comprehensive plan.

(c) provide for adequate light, air, and privacy, to secure safety from fire, flood, and other danger.

(d) prevent overcrowding of the land and excessive congestion of the population.

(e) protect the character and stability of the town.

(f) encourage the orderly and beneficial development of the town.

(g) protect and conserve the value of land, improvements, and buildings throughout the town.

(h) minimize conflicts among the uses of land and buildings.

(i) guide public and private policy and action in order to provide adequate and efficient transportation, water, sewage, schools, parks, recreation, and other necessary and desirable public requirements and facilities.

(j) provide coordination between the uses of land and buildings and the design, use, and capacity of the transportation facilities in order to minimize congestion and delay.

(k) encourage the use of alternative means of transportation such as mass transit, bicycle, pedestrian trails, etc.

(l) establish reasonable standards of design and procedures for subdivision of property, in order to insure proper legal descriptions and monumenting.

(m) provide available public facilities with sufficient capacity to serve the needs of the subdivision.

(n) prevent the pollution of air, ground, and surface water.

(o) provide adequate storm water drainage.

(p) encourage the wise use and management of natural resources.

(q) preserve the integrity, stability, topography, and beauty of the community and the value of the land.

(r) provide for open space by using the most efficient design of the developed portion of the development.

(Ord. No. 2009-24, 12-8-2009)

**Sec. 1-3. Authority.**

By authority of Ordinance No 2009-24, adopted by the Porter Town Council on December 8, 2009, adopted pursuant to the powers and jurisdiction vested through the provisions of IC 36-7-4-700 et seq., the plan commission does hereby exercise the power and authority to review, approve, and disapprove plats for subdivision or re-subdivision of land within the Town of Porter.

(Ord. No. 2009-24, 12-8-2009)

**Sec. 1-4. Approval time limit.**

Secondary subdivision approval shall lapse and the subdivision shall no longer exist if more than two (2) years passes from the date of recording to the application of the first building permit in the subdivision. The Plan Commission may upon request grant a maximum of two (2), one (1) year extensions to the secondary approval, when it finds that conditions beyond the control of the subdivider have prevented the pursuit of development of the subdivision, and conditions have not significantly changed which would require redesign. The request for extension must be requested in writing prior to expiration.

(Ord. No. 2009-24, 12-8-2009)

**Sec. 1-5. Jurisdiction.**

These subdivision regulations shall apply to all land subdivided within the corporate limits of the Town of Porter. No property shall be considered subdivided until primary and secondary approval is received, and the secondary plat is duly filed with the office of the county recorder. No building permit or certificate of occupancy shall be issued for any property, which has not been properly subdivided. No excavation of land or installation of public improvements shall take place unless in accordance with the provisions in this ordinance. Applications for subdivisions, which are dated prior to the adoption of this ordinance, are not within the jurisdiction of this ordinance, but rather will be held to the requirements and provisions of the subdivision ordinance in effect at the time of approval.

(Ord. No. 2009-24, 12-8-2009)

**Sec. 1-6. Enactment.**

In order that land may be subdivided in accordance with these regulations, the provisions in the subdivision ordinance are hereby adopted.

(Ord. No. 2009-24, 12-8-2009)

**Sec. 1-7. Interpretation.**

The provisions of this ordinance shall be considered minimum requirements, which must be met or exceeded. Whenever these regulations require a different provision than another code, ordinance, or regulation, the provision which is more restrictive or imposes a higher standard shall control. The subdivision provisions are not intended to interfere with the validity of covenants, private agreements, or restrictions, so long as these private requirements are stricter than the minimum subdivision regulations. The town will not enforce covenants, private agreements, or restrictions.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 1-8. Separability.**

If any part or provision of these regulations, or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined to the part, provision, or application directly involved in said judgment. The validity of the remaining provisions shall be maintained, and the Town Council hereby declares that it would have enacted the remainder of these regulations even without the part, provision, or application held invalid.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 1-9. Repeal.**

Upon the adoption of these regulations according to law, all previously adopted subdivision regulations are hereby repealed, except as to such provisions expressly retained herein.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 1-10. Amendments.**

The Town Council may from time to time amend the provisions imposed by these subdivision regulations, after the Plan Commission has held a public hearing in accordance with law, and submitted a recommendation to the Town Council as to the amendment.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 1-11. Enforcement.**

The Building Commissioner shall be responsible for the enforcement of the subdivision ordinance.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 1-12. Development permitted only within approved subdivisions.**

No building or structure shall be erected or other development permitted on land not included within an approved subdivision.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 1-13. Approval of plats required prior to recording.**

No plat or re-plat of a subdivision of land located within the territorial jurisdiction of the town plan commission shall be recorded until it shall have been approved by the plan commission and such approval shall have been entered in writing on the plat by the president and secretary of the commission.
(Ord. No. 2009-24, 12-8-2009)

## SECTION 2. APPROVAL PROCEDURE

**Sec. 2-1. Application for certificate of approval.**

Whenever it is proposed to subdivide any parcel or tract of land, the subdivider or his agent shall make a written application to the town plan commission for a certificate of approval. The application shall be filed with the town clerk-treasurer at least ten days prior to the meeting at which the commission is to consider such application.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 2-2. Letter of intent.**

The application for the subdivision shall be accompanied by a statement letter of the intent of the subdivider. The letter of intent shall include satisfactory evidence that the proposed water supply and sewage disposal system meets the minimum state restrictions. If it is proposed that any restrictions are to be placed upon the lots in the subdivision, either by covenants in the deeds or by agreements among the lot owners, such proposed restrictions shall be set out in full. In addition to the other information, the subdivider shall state the date upon which the development is to be commenced and completed if the subdivision is approved. Public sidewalks and all other required improvements must be installed before occupancy of homes, and such shall be stated in the letter of intent. The LOI should include certification that: 1) the required Storm Water Pollution Prevention Plan (SWPPP) has been submitted to IDEM, if required; and 2) erosion control measure per Porter Ordinance 2024-11 and IDEM shall be met. Failure to provide such erosion control measures shall be means to stop work until such measures are implemented.
(Ord. No. 2009-24, 12-8-2009; Ord. No. 2024-11, § 3, 9-24-2024)

**Sec. 2-3. Fees.**

To cover the cost of checking and verifying the proposed plat and application, the subdivider, at the time of filing his application, shall accompany the application with a certified check or money order payable to the town clerk-treasurer in the amount specified by the town. State law references: Plan commission to establish fees for checking and verifying plats, IC 36-7-4-704.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 2-4. Minor subdivisions.**

(a) In this section, the term "minor subdivision" means the subdivision of land for single-family residential purposes which:

(1) Involves no more than three (3) lots;

(2) Does not involve the installation of any public improvement and

(3) Complies with this article and the zoning ordinance in all other respects.

(b) A proposed minor subdivision shall be referred to the Plan Commission for a combined primary and secondary approval with a public hearing.

(c) The Plan Commission shall establish rules and procedures for examining and granting combined primary and secondary approval for minor subdivisions.

(d) A subdivision which does not satisfy the conditions above will be considered a major subdivision which will be subject to all provisions of this ordinance.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 2-5. Payment of costs of special studies.**

Responsibility for costs of special studies or special meetings as may be required by the plan commission shall be borne by the developer.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 2-6. Payment of costs of special studies.**

Responsibility for costs of special studies as may be required by the plan commission shall be borne by the developer.

**[Sec. 2-7.] Technical advisory committee.**

Prior to submission to the Plan Commission, a sketch plat shall be reviewed by the Technical Advisory Committee of the Town of Porter. The Technical Advisory Committee shall consist of the following members:

(1) Street Commissioner (or his designee);

(2) Fire Chief (or his designee);

(3) Police Chief (or his designee);

(4) Building Commissioner;

(5) Town Planner;

(6) Town Engineer;

(7) Town Attorney;

(8) One member of the Plan Commission.

The Technical Advisory Committee shall submit a written report to the Plan Commission containing the comments of each of the Committee Members concerning issues pertaining to the plat approval process. The completed report shall be submitted to each Plan Commission Member prior to the Plan Commission's consideration of the sketch plat.

Notice of all Technical Advisory Committee meetings shall be given to the public consistent with the Indiana Open Door law and all Technical Advisory Committee meetings shall be open to the public. In addition, the Technical Advisory Committee shall keep minutes of its meetings. At the discretion of the Technical Advisory Committee, the public may comment as to items discussed during the meeting. (Ord. No. 94-11, 5-10-1994; Ord. No. 2008-12, 8-12-2008)

## SECTION 3. PRIMARY PLAT*

### Sec. 3-1. Required; submission.

The application for a subdivision required by this division shall contain ten (10) copies of the primary plat or drawing of such subdivision.
(Ord. No. 2009-24, 12-8-2009)

### Sec. 3-2. General standards; scale.

The primary plat, which shall accompany the application for approval, shall be prepared in accordance with these subdivision requirements. Such plat shall be drawn at a scale of 100 feet to one inch on one or more sheets.
(Ord. No. 2009-24, 12-8-2009)

### Sec. 3-3. Vicinity key map; topographical survey.

(a) The primary plat of a subdivision shall include a vicinity key map at an appropriate scale showing the layout of the proposed subdivision and existing subdivisions, streets and tracts of acreage immediately adjoining the proposed subdivision, and also those subdivisions or tracts which are between the proposed subdivision and the nearest existing thoroughfares. It shall also show how streets and private service roads in the proposed subdivision will connect with the existing and proposed streets and private service roads in the neighboring subdivision or undeveloped property so as to produce the most advantageous development of the entire neighboring area.

(b) In addition to the primary plat of subdivision and vicinity key map, an application for subdivision shall be accompanied by a topographical survey showing the elevations of all land located within 200 feet of the proposed subdivision. No subdivision shall be approved which does not provide for adequate drainage, or which will have a substantially adverse effect on the drainage of surrounding land.
(Ord. No. 2009-24, 12-8-2009)

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***State law reference—**Primary plat approval, IC 36-7-4-702 et seq.

**Sec. 3-4. Basic information.**

The primary plat of a subdivision shall contain the following information:

(1) The proposed name of the subdivision.

(2) The location by section, township and range or by other legal description.

(3) The name and address of the subdivider.

(4) The name, address and seal of the registered professional engineer or land surveyor preparing the plat.

(5) The scale of the plat or re-plat, including the graphic scale, north point and date.

(Ord. No. 2009-24, 12-8-2009)

**Sec. 3-5. Existing conditions.**

The primary plat of a subdivision, in regard to existing conditions, shall show:

(1) The boundary line of the proposed subdivision, which shall be indicated by a solid heavy line.

(2) The location, width and names of all existing and prior platted streets or other public ways, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings or structures, and section and municipal corporation lines, within or adjacent to the tract.

(3) In the case of a re-plat, all descriptive lines of the original plat being vacated, shown by dotted lines in their proper position in relation to the new arrangement of the plat, the new plat being clearly shown in solid lines so as to avoid ambiguity or confusion.

(4) Existing sewers, water mains, culverts or other underground facilities within the tract, indicating pipe sizes, grades and exact locations as obtained from public records.

(5) The boundary lines of adjacent unsubdivided and subdivided land showing the owners' names and/or the subdivisions complete name.

(6) The existing zoning of the proposed subdivision and adjacent tracts in zoned areas.

(7) Contours based on the USGS datum, at not more than one-foot intervals.

(8) An indication as to whether the property is in the floodplain. If part is in the floodplain, the line separating the floodplain shall be shown.

(Ord. No. 2009-24, 12-8-2009)

**Sec. 3-6. Proposed conditions.**

The primary plat of a subdivision, in regard to proposed conditions, shall indicate:

(1) The layout of streets, and their names and widths, and also the widths of private service roads if selected, and crosswalks and easements. The names of the streets shall conform insofar as is practicable to the names of corresponding or connecting streets existing in the vicinity of the subdivision. The name of a new street, which is not, an extension or a correspondent of an existing street, shall not duplicate that of any existing street in the town or area served by the postal system.

(2) The layout, dimensions, subdivision lot numbers and post office street address numbers.

(3) The parcels of land to be dedicated or reserved for public use or set aside for use of property owners in the subdivision.

(4) Building setback lines, showing dimensions.

(5) Any development of 1.0 acre or more shall be provided with a SWPPP as part of the Primary Plat Drawings. The SWPPP shall indicate the Basin overflow route, and other required information as outlined in the Stormwater Management Ordinance.

(Ord. No. 2009-24, 12-8-2009)

**Sec. 3-7. Public hearing.**

(a) The plan commission shall consider the application for a subdivision and primary plat not later than the second regular monthly meeting following its proper submission. If the commission is satisfied that the subdivider has satisfactorily met all conditions, it shall set a date for a public hearing on the proposed plat, giving a written notification to the subdivider. The applicant for subdivision approval shall then publish a notice of the hearing at least ten days prior to the date set for the hearing. The cost of publishing such notice of the hearing shall be paid by the subdivider to the publisher at the time of inserting the notice.

(b) The applicant for subdivision approval shall provide notice of the public hearing on subdivision approval to all property owners who own property contiguous to the proposed subdivision at least ten days prior to the hearing.

(c) The applicant shall cause a notice of the public hearing on the subdivision to be posted prominently on the property for at least ten days prior to the public hearing using a form and sign provided by the town for this purpose.

(Ord. No. 2009-24, 12-8-2009)

**State law reference—**Notice of hearing, IC 36-7-4-706.

**Sec. 3-8. Action by plan commission.**

After the public hearing provided for in section 3-7, the commission may, if it finds the primary plat meets all the requirements, take the following action:

(1) Grant primary approval as to the general acceptability of the layout as submitted.

(2) Introduce such changes or revisions as are deemed necessary to the interests and needs of the community.

(Ord. No. 2009-24, 12-8-2009)

**Sec. 3-9. Effective period of approval.**

If primary approval is given to the primary plat pursuant to section 3-8, it shall be effective for a maximum period of one (1) year, unless, upon application of the subdivider, the commission grants an extension. If the secondary plat has not been recorded with the county auditor within this time, the primary plat must again be submitted to the commission for approval as required by this subdivision.

(Ord. No. 2009-24, 12-8-2009)

**State law reference—**Approval of plat, IC 36-7-4-707.

**Sec. 3-10. Findings of fact by plan commission.**

The plan commission shall adopt written findings of fact setting forth its reasons for approval or denial of the primary plat, and provide such findings to the applicant.

(Ord. No. 2009-24, 12-8-2009)

**Sec. 3-11. Construction schedule.**

(a) At the public hearing on primary approval, the applicant shall be required to submit to the plan commission a proposed construction schedule listing all major elements of subdivision construction. The plan commission shall consider the construction schedule and may approve the schedule, modify the schedule, or require the applicant to prepare and submit a revised schedule. After a construction schedule is approved, the developer shall adhere to the construction schedule and the priority of construction set out therein.

(b) Reasonable extensions may be granted by the town engineer for various items included on the construction schedule. Any substantial delay in construction, and any alteration of the priority of the construction items, shall not be permitted unless approved by the plan commission.

(Ord. No. 2009-24, 12-8-2009)

## SECTION 4. SECONDARY PLAT

**Sec. 4-1. Required; submission.**

After approval of the primary plat of a subdivision and the fulfillment of the requirements of this section, a minimum of three (3) permanently printed mylar plats shall be submitted to

the commission. Upon the secondary approval of the plat, all three (3) secondary plats shall be recorded with the county auditor. One copy shall be returned and become the property of the commission, one copy shall become the property of the county auditor, and one copy shall become the property of the subdivider.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 4-2. Contents.**

The secondary plat shall be prepared at the same scale as the primary plat and shall show:

(1) The name of the subdivision.

(2) The location by section, township, range or other legal description.

(3) The name and certification of the registered professional engineer and/or land surveyor.

(4) The scale shown graphically, the date and the north point.

(5) The boundary of the plat based upon an accurate traverse with angular and linear dimensions.

(6) The exact location, right-of-way width and the name of all streets within and adjoining the plat, and the exact location and right-of-way width of all private service roads.

(7) The true courses and distances to the nearest established street lines or official monuments which shall accurately describe the location of the plat.

(8) The city, town, township, county or section lines accurately tied to the lines of the subdivision by distances and courses.

(9) The radii, internal angles, central angles, points of curvature and tangency, lengths of tangents and lengths of all arcs.

(10) All easements for rights-of-way provided for installation and maintenance of public service needs, utilities and drainage systems.

(11) All subdivision lot and block numbers and post office numbers. Blocks in numbered additions to subdivisions bearing the same name may be numbered consecutively through the several additions.

(12) The dimensions and lines of all streets, with accurate dimensions in feet and hundredths, and angles to streets, service roads and lot lines.

(13) The accurate location of all survey monuments.

(14) The accurate outlines and legal descriptions of any areas to be dedicated or reserved for public use, with the purposes indicated thereon and in the dedication, and any areas to be reserved by deed covenant for common use of all property owners.

(15) Building setback lines accurately shown with dimensions. Corner lots shall have side yard setbacks identified for the side abutting the side street. If the rear of corner lots abuts the side yard of adjoining lots, side yard requirements on the side street shall also conform to section 26-406(3).

(16) Existing and proposed grade elevations at each corner of each lot and curb elevations at the center of each lot, additional elevations as necessary to define and maintain a coordinated storm water runoff system for the subdivision, and location of catch basins if necessary as part of the runoff system.

(17) A description of the property platted, which shall be the same as that recorded in the preceding transfer of the property or that portion of the transfer covered by the plat.

(18) Restrictive covenants of all types, which run with the land.

(19) Water retention areas and elevations.

(20) Flood control area limits.

(21) Certificates for approval by the commission.

(Ord. No. 2009-24, 12-8-2009)

**Sec. 4-3. Completion of improvements; guarantee of improvements.**

(a) Verification of completion of improvements. When the secondary plat is submitted to the plan commission for approval, it shall be accompanied by written advice from the town engineer stating that all improvements and installations to the subdivision for its approval have been made or completed in accordance with ordinances and specifications, in which event the commission may approve the plat.

(b) Financial security in lieu of completion of improvements. If the improvements and installations are not completed as required by the ordinances and specifications, the commission may approve the plat if the applicant provides a financial security which:

(1) Is in an amount determined by the engineer and commission to be sufficient to complete the improvements and installations in compliance with the ordinances and specifications.

(2) Runs to the town council and town plan commission.

(3) Is with surety satisfactory to the town council and town plan commission, which may include:

a. A surety company entered and licensed to do business in the state;

b. An unqualified irrevocable standby letter of credit issued by a national bank, an Indiana state bank or other financial institution acceptable to the council and the commission; or

c. A deposit of money to a special account controlled by the town.

(4) Specifies the time for completion of the improvements and installations.

(c) Guarantee of improvements. In addition, the subdivider shall agree in writing to warrant and guarantee all of the improvements and installations to the subdivision against any defects or imperfections, at his own expense and cost, for a period of two years following acceptance thereof by the town council. The subdivider shall covenant and agree that any defects or imperfections either in workmanship, materials or equipment which may exist, develop or become apparent within the two-year period will be repaired or replaced as may be necessary to the satisfaction of the town, without any expense to the town, and shall accompany the written agreement with a financial security which shall:

(1) Run to the town council.

(2) Be in an amount determined by the town engineer to equal 15 percent of the cost of all improvements and installations to the subdivision.

(3) Be with surety satisfactory to the town council and plan commission, which may include:

a. A surety company entered and licensed to do business in the state;

b. An unqualified irrevocable standby letter of credit issued by a national bank, an Indiana state bank or other financial institution acceptable to the town council and the commission; or

c. A deposit of money to a special account controlled by the town.

(4) Be conditioned upon the satisfaction of the warranty and guaranty by the subdivider of all the improvements and installations to the subdivision for a period of two years following acceptance thereof by the town council in accordance with requirements of town ordinances. Acceptance shall be conditioned upon an accurate set of as-built engineering drawings being submitted and approved. The drawings shall contain the exact location of all underground utilities, including sewer and water taps, manhole and catch basin invert elevations, and the location and elevations of elevation benchmarks required as identified in section 4-2(d). The as-builts shall be submitted in hard copy and digital format acceptable to the town engineer.

(Ord. No. 2009-24, 12-8-2009)

**Sec. 4-4. Action by plan commission.**

Within a reasonable time after application for secondary approval of the plat, the commission shall approve or disapprove the plat. If the commission approves the plat, it shall date it and affix the commission's seal upon the plat, together with the certifying signatures of its president and secretary. If the commission disapproves the plat, it shall set forth the reasons therefor in its records and provide the applicant with a copy of such findings. Recording of the plat with the county auditor is required prior to the town accepting the secondary plat as a legally executed plat.

(Ord. No. 2009-24, 12-8-2009)

## SECTION 5. DESIGN REQUIREMENTS AND PRINCIPLES*

### Sec. 5-1. Unsuitable locations.

No land shall be subdivided for any proposed use if such land is unsuitable for such use by reason of flooding or improper drainage, objectionable topography, the creation of a traffic hazard, or any other feature harmful to the health and safety of the community as a whole, as determined by the town engineer or designee, the town building inspector and/or the town engineer.
(Ord. No. 2009-24, 12-8-2009)

### Sec. 5-2. Conformity to comprehensive plan.

All proposed subdivisions shall in general conform to all of the parts of the comprehensive plans and zoning ordinance. Due consideration shall also be given by the subdivider and owners of adjoining property for the provision of school sites, park sites, rights-of-way for public utility lines, sites for business centers, industrial locations and other features conducive to sustainable and workable planning.
(Ord. No. 2009-24, 12-8-2009)

### Sec. 5-3. Lots.

(a) Minimum width and area. In any subdivision or part of a subdivision proposed for residential uses, the minimum width and area for lots shall conform to the requirements of the zoning ordinance of the town (article VI of this chapter).

(b) Depth-to-width ratio. The depth-to-width ratio of the usable area of a lot shall be a maximum of 3.5 to 1.0, except no lot shall be more than 300 feet deep.

(c) Building setback lines. Building setback lines shall be provided by the subdivider and shall conform to those established by the zoning ordinance (article VI of this chapter).

(d) Angle of sidelines. Whenever possible, sidelines of lots shall be at right angles or radial to street lines.

(e) Street abutment. Every lot shall have one entire side or one entire end, or both sides and one end, abutting on a street.

(f) Through lots. Through lots having building orientation on two parallel or approximately parallel streets shall not be permitted.

(g) Reversed frontage. Reversed frontage shall not be permitted in blocks exclusively residential.

(h) Utility and storm water runoff easements. Each lot shall have an easement for utility lines along the rear lot line and along side lot lines where necessary. When the terrain requires it, easements for sanitary sewers other than along rear lot lines shall be provided. No easement shall be less than 7½ feet wide on each lot, making an overall minimum easement

*__State law reference—__Required standards, IC 36-7-4-702.

width of 15 feet. Easements shall be laid out so that a proper continuity will be provided for utilities from block to block. For subdivision approval, the applicant shall submit a coordinated storm water control plan in accordance with town specifications. Whenever any stream or important surface drainage course is located in an area that is being subdivided, the subdivider shall provide an adequate easement, including a 20-foot-wide access, as determined by the town engineer, along each bank or side of the stream for the purpose of widening, deepening, sloping, improving, enclosing, maintaining or protecting the stream. Any fences, trees, shrubs, flowers, grass or other vegetation planted, grown or maintained within the boundaries of the utility easement shown upon the subdivision plat required by this article shall be placed at the risk of the property owner and subject to removal at the owner's expense in the event of any interference with the use of the easement or the storm water runoff of other lots in the subdivision.

(i) Little Calumet River creek and ditch easements.

(1) Little Calumet River access easements shall include areas from the centerline of the river, or the north property line, whichever is furthest north, to the base of the dike on the side away from the river, unless the easement line is set even further from the river by another government body. If there is no dike, the easement shall be set at 75 feet from the centerline of the river.

(2) Creek and ditch easements shall be established from the centerline of the waterway for a minimum distance of 75 feet from the centerline of the waterway.

(3) Areas of easements established in subsections (i)(1) and (2) of this section relating to waterways shall not be counted toward meeting minimum lot area requirements, except that if a portion of the easement is used for a utility easement, then this portion, not exceeding ten feet, can be used for meeting lot area requirements, unless a greater easement is specified by the town.

(j) Elevation. All lots shall be provided with adequate rear and side yard drainage coordinated with adjacent properties, as outlined in the subdivision storm water control plan. No lot shall be elevated by filling in or lowered by removal of soil to any extent that does not conform to the elevation and/or contour of adjacent properties or streets. The finished grade as established by the developer and approved by the plan commission shall be maintained in all lots contained in the subdivision plat required by subdivision III of division 2 of this article, and no lot shall be filled or obstructed by any means so as to interfere with the drainage of other lots in the subdivision or the use of catch basins installed in the subdivision. Any fill placed upon any lot in violation of this restriction shall be subject to removal at the cost of the owner of the lot, and shall be removed by the owner upon notice by the town or its representative, and the grade level as established by the developer and approved by the plan commission restored. In order to encourage compliance with approved subdivision grades, the plot plan submitted with an application for a building permit must contain the approved finish grades as "proposed" at each property corner and at least two (2) locations where the structure foundation wall meets the finished grade. These proposed grades must comply with the overall approved subdivision grading plan previously approved. After construction, but prior to the

issuance of a certificate of occupancy, a second "actual" elevation plat shall be submitted, showing actual grades at the same locations. The "actual" must be found to be in substantial compliance with "proposed".

(k) Off-street parking. Provisions shall be made in all subdivision designs and restrictions for off-street parking as required by the zoning ordinance of the town. Where parking lots on adjacent properties abut, provision shall be made for the free passage of emergency vehicles between the parking lots.
(Ord. No. 2009-24, 12-8-2009)

### Sec. 5-4. Public spaces.

Whenever parks, recreation areas, school sites or other open spaces shown on the comprehensive plan are located in whole or in part in the proposed subdivision, the commission shall require the reservation of those spaces for future public use.
(Ord. No. 2009-24, 12-8-2009)

### Sec. 5-5. Preservation of existing topography.

(a) In all proposed subdivision plans, the applicant shall minimize alteration of existing topography.

(b) No reduction of grade in excess of one foot shall be permitted unless the plan commission has reviewed the reduction of grade and finds as follows:

(1) The alteration is necessary for proper drainage.

(2) The property cannot be developed for use within its present zoning classification without the proposed alteration.

(3) The proposed alteration will not significantly injure the property values of surrounding property.

(4) The proposed alteration will not significantly injure the aesthetic qualities of the neighborhood, or the community at large.

(Ord. No. 2009-24, 12-8-2009)

## SECTION 6. STREETS AND PRIVATE SERVICE ROADS*

### Sec. 6-1. Conformity with comprehensive plan.

The street and private service road layout shall conform in general to the comprehensive plan adopted by the town plan commission for the development of the neighborhood in which the proposed subdivision is located.
(Ord. No. 2009-24, 12-8-2009)

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***Cross reference—**Streets, sidewalks and other public places, ch. 58.

**Sec. 6-2. Adjustment to land contours.**

Proposed streets shall be adjusted to the contour of the land so as to produce usable lots and streets of reasonable gradients.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 6-3. Extension to tract boundaries.**

Existing or proposed streets shall be extended to the boundary line of the subdivided tract so as to provide for normal circulation of traffic within the vicinity.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 6-4. Private service roads.**

(a) Any part of a proposed subdivision, which contains commercial, multiple-family developments or industrial districts, may be platted so as to provide suitable private service roads in such districts.

(b) No public alleys are to be platted.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 6-5. Width; culs-de-sac and dead-end streets.**

(a) Provision of remaining width for streets adjacent to subdivision. Whenever there exists a dedicated or platted portion of a street or private service road adjacent to the tract proposed to be subdivided, the remaining portion of the street or private service road shall also be platted so as to bring such street or private service road to the prescribed width.

(b) Width of major-access and business streets. A major-access or business street shall have a right-of-way width of not less than 100 feet.

(c) Width of residential streets. A residential street other than one described in subsection (b) of this section shall have a right-of-way width of not less than 60 feet.

(d) Culs-de-sac and dead-end streets.

(1) A cul-de-sac shall not exceed 600 feet in length and shall have a turnaround not less than 125 feet in diameter of right-of-way and an outside curb diameter of 100 feet at the closed end.

(2) In a case in which a turnaround circle may be a hardship, the plan commission may specify and approve a form of terminus instead of and in place of the turnaround circle which is determined by it to be equally safe and convenient to the public.

(3) No dead-end streets are allowed. However, temporary dead-end streets will be allowed for those streets, which shall be extended at a later date as part of the comprehensive plan of the town. The temporary dead-end streets shall be provided with a turnaround as approved by the town.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 6-6. Grades.**

(a) Major-access or business streets. Major-access or business streets shall have grades not greater than six percent.

(b) Other streets. Streets and private service roads other than those described in subsection (a) of this section shall have grades not greater than eight percent.

(c) Gutters. The minimum grade of any street gutter shall not be less than one-half of one percent.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 6-7. Vertical curves.**

(a) Sight distance for major-access or business streets. Major-access or business streets shall have a minimum sight distance of 600 feet measured between points five feet above the centerline of the roadway.

(b) Sight distance for other streets. Streets other than those described in subsection (a) of this section shall have a minimum sight distance of 300 feet measured between points five feet above the centerline of the roadway.

(c) Vertical alignments. Vertical alignments shall be in accordance with policies of the American Association of State Highway and Transportation Officials (AASHTO) as they exist on the adoption date of this code. Two copies of such policies are on file in the office of the clerk-treasurer for public inspection.
(Ord. No. 2009-24, 12-8-2009)

**State law reference—**Adoption by reference, IC 36-1-5-4.

**Sec. 6-8. Minimum radius of curvature on centerlines.**

When a deflection angle of more than ten degrees shall occur in the alignment of a street, a curve shall be introduced and such curve shall conform to the following provisions:

(1) Major-access or business streets shall have a minimum radius of 500 feet, and much greater wherever possible.

(2) Secondary streets shall have a minimum radius of 200 feet, and much greater wherever possible.

(3) Residential streets shall have no minimum radius.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 6-9. Tangent between reversed curves.**

Between reversed curves, there shall be not less than a minimum tangent of:

(1) Two hundred feet for major-access or business streets.

(2) One hundred feet for secondary streets.

(3) No minimum for residential streets.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 6-10. Intersections.**

(a) At street intersections, property line corners shall be rounded by an arc of at least 20 feet in radius.

(b) At private service road intersections, property line corners shall be rounded by an arc of at least ten feet in radius.

(c) All streets intersecting a major street shall do so at right angles, or as nearly as possible. Angles of less than 60 degrees shall not be allowed.

(d) No curb cut shall be permitted within 200 feet of an arterial intersection designated on the town thoroughfare plan.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 6-11. Blocks.**

(a) The width of blocks shall be sufficient to allow two tiers of lots as described in section 26-313(a) and (b).

(b) Blocks shall not exceed 1,320 feet in length except to conform to accepted streets.
(Ord. No. 2009-24, 12-8-2009)

## SECTION 7. REQUIRED IMPROVEMENTS

**Sec. 7-1. General standards; payment of costs.**

(a) The construction of all of the improvements required by this division shall be in accordance with the town construction specifications, as revised from time to time.

(b) The costs of the improvements within and adjacent to the proposed plat, including all legal fees, engineering fees, expenses and publication costs, shall be paid by the subdivider, developer or lot owners directly benefited.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 7-2. Survey monuments, stakes and benchmarks.**

(a) All exterior boundaries of subdivisions shall be identified for horizontal control by permanent monuments set at all points of deflection of external boundaries. Monuments shall consist of steel rods at least five-eighths inch in diameter and at least 36 inches long. The upper 12 inches of the rod shall be encased in place with a minimum of a six-inch-diameter concrete cast. A two-inch-square brass plate shall be embedded in the top of the concrete with a marked point coinciding with the boundary line. The plate shall be identified by a stamped identification. Where location of monuments is impractical because of physical limitations, offsets approved by the town engineer or designee shall be employed.

(b) If sufficient monuments exist, the town engineer or designee may waive the requirement for additional monuments.

(c) Individual lot corners shall be marked by iron or steel bars or pipes at least 36 inches in length and not less than five-eighths inch in diameter with the top of the marker set level with the adjoining grade.

(d) Elevation benchmarks shall be established on fire hydrants, not to exceed 1,200 feet apart. A benchmark map locating and identifying elevation benchmarks shall be supplied and transmitted by letter to the clerk-treasurer, with copies supplied to the building inspector and town engineer or designee.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 7-3. Paving of streets; bike paths, curbs, gutters and drains.**

(a) Every street right-of-way within or adjacent to the proposed plat shall be improved for its entire width as shown on plans approved by the town engineer, and in accordance with the town construction specifications.

(b) A pavement at least 27 feet wide on a street, excluding curbs, and at least 20 feet wide on service roads, shall be constructed in accordance with any of the alternates set forth in the town construction specifications, depending upon the intensity of land use, intensity of vehicular traffic and soil conditions as determined by the plan commission, the town engineer and a soils engineer.

(c) Curbs, gutters, bike paths, drains and storm water sewers shall be constructed in accordance with the town construction specifications.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 7-4. Water system.**

(a) The subdivision shall be provided with a complete water main system, with fire hydrants at proper locations. This work shall be done in accordance with the town construction specifications and approved by the town engineer. All engineering work shall be prepared and submitted by the developer.

(b) Water mains and hydrants shall meet the following minimum requirements:

(1) Eight-inch mains are required in residential areas.

(2) Eight-inch mains are required in business areas.

(3) Twelve-inch mains are required leading to and in industrial areas, or larger if required by the town engineer.

(4) Water mains shall be a ductile iron.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 7-5. Sewers.**

(a) Wherever there is, within a reasonable distance, a sanitary sewer outlet and a connection is feasible, the subdivision shall be provided with a complete public sewer system, which shall connect with such outlet. This work shall be done in accordance with plans and profiles prepared in compliance with the town construction specifications by the subdivider and approved by the town engineer. In the absence of such sanitary sewer mains, all lots shall be 10,000 square feet or more in area.

(b) In the absence of a sanitary sewer main as described in subsection (a) of this section in a subdivision with public water supply only, proper provision shall be made for the disposal of sanitary sewage according to town ordinances and the requirements of the state board of health by means of septic tanks or other approved methods of disposal. All areas within the municipal limits or areas added thereto by annexation shall be required to connect to a public sewer system when such system is or becomes available, unless a private septic system is specifically allowed.

(c) In a subdivision not served by both sanitary sewers and public water supply, all lots shall be 20,000 square feet or greater in area and shall conform to the provisions of section 26-313.

(d) A sanitary system impact statement must be obtained from the Chesterton Utility. The results of the impact statement must be considered as a part of planning for the project. All problems must be resolved before the project can proceed.

(e) Proper provision shall be made for the disposal of sanitary sewage in accordance with all applicable state requirements.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 7-6. Storm water runoff control.**

(a) The subdivider shall provide the subdivision with an adequate storm water control system in compliance with the town storm water control regulations, (and by reference the Porter County Storm Water Manual, adopted as Resolution 08-05, on March 12, 2008). Drainage along streets and alleys shall be in covered or closed pipe. Drainage of side and rear yards shall include installation of adequate swales directing runoff to a catchment area on the lot, then conveying it in covered or closed pipe to prevent runoff onto surrounding property. Easements shall be provided for the drainage system. The subdivider shall provide for storm water retention on-site for a resulting maximum runoff equivalent to that of the undeveloped site, subject to approval by the town engineer.

(b) A drainage structure with a minimum diameter of 24 inches shall be installed along the rear line or in the corner of every other lot, at a minimum. The size of the proposed sewers shall be subject to approval by the town engineer, with a minimum size of six inches in diameter. When the cumulative total diameter of storm sewers tributary to a structure is 24 inches or

greater, a 48-inch-diameter structure shall be used. The developer shall also furnish a grading plan with the limits of the ponded areas indicated in the event of the failure of the drainage system.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 7-7. Street and traffic signs.**

Subdividers shall provide the subdivision with standard town street and traffic signs, in accordance with town sign specifications, and with plans approved by the town engineer.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 7-8. Streetlights.**

The subdivider shall provide the subdivision with adequate street lighting, as approved by the town engineer.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 7-9. Underground public utilities.**

All newly constructed utility distribution lines and service lines therefrom for telephone, gas and electric service, shall be placed underground. Such distribution lines shall be within easements or dedicated streets and public ways. The installation of such facilities shall be made in compliance with applicable orders, rules and regulations of the public service commission of the state, and owners or subdividers of any property to be served from such underground installations shall be responsible for compliance with the rules and regulations effective and filed with such commission by any public utility whose service will be required with respect to the provision of such underground facilities. Placement of underground utilities shall not conflict with placement, maintenance or replacement of town utilities.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 7-10. Sidewalks.**

Sidewalks shall be provided in all new subdivisions. The location is to be at the outer boundary of land dedicated for streets, unless a special problem exists. Sidewalks are to be re-routed around trees deemed healthy by the town engineer or designee.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 7-11. Trees.**

Trees meeting town specifications (refer to chapter 62, article II) are to be planted in the parkway areas (between the sidewalk and the street) of all new subdivisions. These are to be on a minimum of 30-foot intervals. A planting plan in accordance with the town comprehensive plan for trees must accompany a subdivision plan for subdivision approval to be granted.
(Ord. No. 2009-24, 12-8-2009)

**Sec. 7-12. Soil stripping and mining operations.**

Soil stripping and/or mining operations and changes in grade of more than twelve inches on proposed lots are prohibited.
(Ord. No. 2009-24, 12-8-2009)

## SECTION 8. DEFINITIONS

**Sec. 8-1. General.**

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:

*Alley*—a permanent service way providing a secondary means of access to abutting lands.

*Applicant*—the owner of property proposed to be subdivided; or a representative of the owner with written permission by the owner to act on his behalf.

*Arterial Street*—a street intended to move traffic from collector and local streets to destinations both in and beyond the town, such as central shopping areas, employment locations, schools, etc.

*Block*—a tract of land bounded by streets, or by a combination of streets and rail rights of way, private utility rights of way, or edge of waterways.

*Bond*—see "Financial Security".

*Building*—a structure built for the support, shelter, or enclosure of persons, animals, or movable property.

*Building Commissioner*—the person designated by the Town to enforce building, subdivision, and zoning laws.

*Building setback line*—the line nearest the front and across a lot establishing the front line of buildings and structures.

*Capital Improvement Program*—a proposed schedule of public improvements listed in priority order, including a proposed funding source.

*Central Water System*—a private water system installed by developers on behalf of the company who owns the system.

*Central Sewer System*—a public sanitary sewer system, including collection, transmission, and treatment, installed by developers on behalf of the utility who owns the system.

*Collector Street*—a street intended to move traffic from local streets from a neighborhood or large subdivision to arterials, on which no residential properties should front.

*Commission*—the town plan commission.

*Comprehensive plan*—the complete plan, or any of its parts, for the development of the town, prepared by the town council and the town plan commission and adopted in accordance with

law. Parts of the comprehensive plan include but are not limited to current ordinances and policies affecting zoning, flood zones, water lines and service, sewer lines and service, parks, signage, trees, appearance plans, land use, surface waterways, schools, utilities, storm water control and street lighting.

*Cul-de-sac (court of dead-end street)*—a short street having one end open to traffic and being permanently terminated at the opposite end by a vehicle turnaround.

*Developer*—see "Owner".

*Easement*—a grant by the property owner for the use of land, or a part of that land, by the public, a corporation or persons for specified purposes.

*Financial Security*—a bond or letter of credit, which provides financial assurance to the town that required public improvements, identified during the subdivision of property, will be installed even if the subdivider is financially unable to complete the development.

*Frontage*—that portion of the lot abutting a street.

*Grade*—the slope of a road, street, or other public way, specified in terms of % rise to run ratio.

*Highway, Limited Access*—a highway provided for high speed travel through the town, on which owners of property adjacent to said highway have no legal right to direct access to the highway, except as permitted by the public agency having jurisdiction over the highway.

*Individual Sewage Disposal System*—a septic tank, seepage tile sewage disposal system, or any other approved sewage treatment system.

*Local Street*—a street intended to provide access to other streets from individual properties, and to provide right of way for the location of sanitary and storm sewers, water mains, and other utilities.

*Lot*—a portion of a subdivision or other parcel of land intended as a unit for transfer of ownership or for development.

*Minor subdivision*—a subdivision of land, containing not more than three (3) lots, that does not involve the opening of a new public street or installation of public improvements, and which complies in all other respects with this ordinance, the comprehensive plan and the zoning ordinance of the town.

*Owner*—any person, group of persons, firm, or firms, corporation, or any other legal entity having legal title to, or sufficient proprietary interest in the property sought to be subdivided under these regulations.

*Plat*—a map, chart or drawing indicating the subdivision or re-subdivision of land and sealed by a registered land surveyor.

*Primary Plat*—drawings and plans describing the engineering detail of the proposed subdivision.

*Private service road*—platted service roads internal to a subdivision.

*Public Improvements*—any drainage ditch, street, parkway, sidewalk, pedestrian or bicycle way, tree, lawn, off-street parking area, lot improvement, or other facility, for which the town may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which the town responsibility is established.

*Registered Engineer*—an engineer properly licensed and registered to conduct business in the State of Indiana.

*Registered Surveyor*—a surveyor properly licensed and registered to conduct business in the State of Indiana.

*Right-of-Way*—a strip of land occupied or intended to be occupied by a street, sidewalk, storm or sanitary sewer, water main, trees, and other permissible uses consistent with the purposes of a right-of-way. Said right-of-way shall be shown on the subdivision plat as separate and distinct from the lots and parcels adjoining the right-of-way. Rights-of-way shall be dedicated to the town as a part of the secondary plat approval process.

*Screening*—the use of fencing, landscaping, mounding, or a combination of these items, to soften or hide the visual or audio impact of a development from neighboring property.

*Secondary Plat*—the plan submitted for secondary approval, showing lot lines, easements, legal description, and other requirements, which becomes a legal document after it is approved and recorded by the county recorder.

*Street*—a right-of-way dedicated to public use, which affords the principal means of access to abutting property or is used for vehicular travel.

*Street Classification*—a designation of local, collector, arterial, or highway for each existing or proposed street in town, based on the current and projected use and function of the street, as indicated in the town thoroughfare plan, (a part of the comprehensive plan). The street classification system identifies the level of required improvement of the streets in conjunction with the subdivision of property, which is the responsibility of the subdivider.

*Subdivider*—any person who, having an interest in property, causes it to be divided into lots and rights-of-way, for the purpose of selling, leasing, or developing said property.

*Subdivision*—a division of a lot, tract or parcel of land into two or more lots or other divisions of land for the purpose, immediate or future, of transfer of ownership or development, including all changes in streets or lot lines. Divisions of land for agricultural purposes into parcels of ten or more acres not involving any new street or easement of access shall not be interpreted as a subdivision.

*Territorial jurisdiction*—the incorporated town.

*Thoroughfare plan*—a plan, which sets forth the location and alignment of existing and proposed public streets, highways and other thoroughfares.
(Ord. No. 2009-24, 12-8-2009)

## CODE COMPARATIVE TABLE

### 1968 CODE

This table gives the location within the Code of those sections of the 1968 Code which are included in the Code.

| 1968 Code Section | Section this Code |
|---|---|
| 1-1, 1-2 | 1-1, 1-2 |
| 2-11 | 2-276 |
| 2-12 | 2-85 |
| | 2-277 |
| 2-18—2-20 | 2-279—2-281 |
| 2-22—2-25 | 2-282—2-285 |
| 2-27, 2-28 | 2-286, 2-287 |
| 2-51—2-53 | 2-291—2-293 |
| 2-55, 2-56 | 2-295, 2-296 |
| 2-672 | 2-85 |
| 3-21—3-23 | 26-52 |
| 4-1—4-4 | 66-24—66-27 |
| 4-15, 4-16 | 66-28, 66-29 |
| 4-22—4-24 | 66-30—66-32 |
| 5-1 | 14-139 |
| 6-1 | 14-166 |
| 8-14—8-17 | 2-61 |
| 8-130—8-145 | 58-133—58-148 |
| 9-12 | 14-140 |
| 9-13 | 18-5 |
| 9-21 | 2-155 |
| 14-12 | 14-252 |
| 14-18 | 14-253 |
| 14-21 | 14-254 |
| 14-25 | 14-255 |
| 15-1—15-3 | 26-49—26-51 |
| 15-14 | 58-207 |
| 17-1, 17-2 | 42-20, 42-21 |
| 17-4—17-7 | 42-22—42-25 |
| 17-9 | 42-26 |
| 17-21—17-25 | 22-19—22-23 |
| 18-31 | 2-122 |
| 18-31, 18-32 | 46-21, 46-22 |
| 18-32 | 46-23 |
| 18-34—18-36 | 46-24—46-26 |
| 23-11—23-17 | 58-180—58-186 |
| 23-19, 23-20 | 58-188, 58-189 |
| 23-28 | 58-187 |
| 24-1 | 42-27 |
| 25-1 | 58-2 |
| 25-12, 25-13 | 58-206, 58-207 |
| 25-15 | 58-207 |
| 25-44—25-51 | 58-221—58-228 |
| 28-1—28-5 | 66-55—66-59 |
| 28-16—28-18 | 66-85—66-87 |
| 28-24—28-27 | 66-60—66-63 |
| 28-34 | 66-355 |
| 28-36 | 66-356 |
| 28-38 | 66-357 |
| 28-44 | 66-173 |
| 28-45, 28-46 | 66-175, 66-176 |
| 28-46 | 66-177 |
| 28-49, 28-50 | 66-178, 66-179 |
| 28-83, 28-84 | 66-384 |
| 28-89 | 66-147 |
| 28-90 | 66-149 |

## CODE COMPARATIVE TABLE

### 1991 CODE

This table gives the location within the Code of those sections of the 1991 Code, which Code was current through November 28, 1989, which are included in the Code.

| 1991 Code Section | Section this Code | 1991 Code Section | Section this Code |
|---|---|---|---|
| 1-1 | 1-1 | 6-42 | 54-52 |
| 1-2 | 1-3 | 6-43 | 26-84 |
| 1-3 | 1-2 | 6-51—6-53 | 26-49—26-51 |
| 1-4 | 1-4 | 6-55(a) | 14-362 |
| 1-6—1-9 | 1-5—1-8 | 6-55(b), (c) | 14-363 |
| 1-10 | 1-17 | 6-71, 6-72 | 42-20, 42-21 |
| 2-1—2-4 | 2-25—2-28 | 6-74—6-77 | 42-22—42-25 |
| 2-12—2-14 | 2-60—2-62 | 6-79—6-81 | 42-26—42-28 |
| 2-21—2-24 | 2-83—2-86 | 6-82 | 58-2 |
| 2-26 | 2-87 | 6-90—6-94 | 22-19—22-23 |
| 2-30—2-34 | 2-120—2-124 | 6-97 | 2-4 |
| 2-35, 2-36 | 2-126, 2-127 | 6-98 | 58-59—58-69 |
| 2-40—2-44 | 2-155—2-159 | 7-2—7-5 | 14-77—14-80 |
| 3-1 | 2-271 | 7-7, 7-8 | 14-81, 14-82 |
| 3-2—3-17 | 2-273—2-288 | 7-10—7-12 | 14-83—14-85 |
| 3-19—3-26 | 2-290—2-297 | 7-16—7-19 | 14-116—14-119 |
| 4-1—4-6 | 18-1—18-6 | 7-25—7-28 | 14-137—14-140 |
| 4-11 | 18-41 | 7-32—7-36 | 58-97—58-101 |
| 4-16 | 38-77 | 7-51 | 14-166 |
| 4-17 | 38-3 | 7-57 | 14-186 |
| 4-18 | 66-295 | 7-58—7-64 | 14-187 |
| 4-27—4-54 | 62-20—62-47 | 7-65—7-70 | 14-188—14-193 |
| 4-56 | 62-48 | 7-72—7-74 | 14-194—14-196 |
| 4-58, 4-59 | 62-49, 62-50 | 7-76, 7-77 | 14-197, 14-198 |
| 4-61 | 62-51 | 7-91—7-106 | 58-133—58-148 |
| 4-65(a), (b) | 62-80 | 7-110—7-114 | 14-251—14-255 |
| 4-65(c) | 62-81 | 7-123—7-132 | 58-180—58-189 |
| 4-71 | 18-123 | 7-136, 7-137 | 58-206, 58-207 |
| 5-1 | 46-1 | 7-138 | 58-207 |
| 5-5—5-10 | 46-21—46-26 | 7-161—7-168 | 58-221—58-228 |
| 5-15—5-23 | 46-56—46-64 | 7-175—7-184 | 58-245—58-254 |
| 5-26 | 46-65 | 8-1—8-10 | 66-23—66-32 |
| 6-1 | 26-1 | 8-15—8-23 | 66-55—66-63 |
| 6-2 | 38-1 | 8-31—8-33 | 66-85—66-87 |
| 6-3 | 26-2 | 8-39 | 66-116 |
| 6-4 | 58-1 | | 66-119 |
| 6-5 | 10-1 | 8-40, 8-41 | 66-117, 66-118 |
| 6-17 | 26-52 | 8-43—8-47 | 66-120—66-124 |
| 6-25—6-33 | 34-40—34-48 | 8-53 | 66-147 |
| 6-36—6-39 | 54-48—54-51 | 8-54—8-58 | 66-149—66-153 |
| 6-40, 6-41 | 26-82, 26-83 | 8-63 | 66-173 |

| 1991 Code Section | Section this Code |
|---|---|
| 8-64(b), (c) | 66-175 |
| 8-65—8-73 | 66-176—66-184 |
| 8-73 | 66-185 |
| 8-81, 8-82 | 66-354, 66-355 |
| 8-84—8-89 | 66-356—66-361 |
| 8-92—8-95 | 66-381—66-384 |
| 8-96 | 66-384 |
| 9-1 | 70-1 |
| 9-5, 9-6 | 70-19, 70-20 |
| 9-8—9-20 | 70-35—70-47 |
| 9-22, 9-23 | 70-48, 70-49 |
| 9-30—9-32 | 70-65—70-67 |
| 9-36—9-39 | 70-85—70-88 |
| 9-40 | 70-21 |
| 9-45—9-48 | 70-105—70-108 |
| 9-55, 9-56 | 70-130, 70-131 |
| 9-58 | 70-132 |
| 9-90—9-98 | 70-195—70-203 |
| 10-1 | 50-1 |
| 10-5 | 50-2 |
| 10-20 | 30-1 |

## CODE COMPARATIVE TABLE

## ORDINANCES

This table gives the location within this Code of those ordinances that are included herein.

| Ordinance Number | Date | Section | Section this Code |
|---|---|---|---|
| 2 | 4-28-1908 | | 2-283 |
| | | 1 | 2-277 |
| | | 3, 4 | 2-284, 2-285 |
| | | 6 | 2-284 |
| | | 8 | 2-286 |
| | | 9 | 2-276 |
| | | 10, 11 | 2-287, 2-288 |
| 4 | | | 42-20 |
| 8 | 7-14-1908 | 1, 2 | 26-49 |
| | | 2 | 26-50, 26-51 |
| 16 | 4-27-1909 | | 58-138 |
| 31 | | 4 | 26-52 |
| 54 | | 1, 2 | 58-206, 58-207 |
| 99 | 7-27-1920 | | 58-228 |
| 102 | | 2 | 66-179 |
| 104 | 6-14-1923 | 4 | 58-133 |
| | | 5 | 58-137 |
| | | 6, 7 | 58-134, 58-135 |
| | | 8 | 58-141 |
| | | 9 | 58-135 |
| | | 9—11 | 58-142—58-144 |
| | | 12 | 58-147, 58-148 |
| | | 13 | 58-140 |
| | | 15 | 58-145 |
| | | 16 | 58-136 |
| | | | 58-139 |
| 115 | | 4 | 42-21 |
| | | 6 | 42-21 |
| 166 | | 1 | 2-279 |
| | | 2 | 2-281 |
| | | 3 | 2-280 |
| 186 | | 1 | 14-253 |
| | | 2 | 14-252 |
| | | 4, 5 | 14-254, 14-255 |
| 232 | | 2 | 66-175 |
| 244 | 5- 3-1932 | | 58-2 |
| 272 | 4- 2-1935 | | 14-140 |
| | | 1 | 2-85 |
| | | 3 | 18-5 |

| Ordinance Number | Date | Section | Section this Code |
|---|---|---|---|
| | | 7 | 2-85 |
| 315 | | 1 | 2-291 |
| | | 2 | 2-293 |
| | | 3 | 2-295, 2-296 |
| 318 | | 6 | 14-166 |
| 351 | 9- 8-1953 | 1—3 | 66-56—66-58 |
| | | 4 | 66-59 |
| | | 8 | 66-63 |
| | | 10 | 66-355 |
| | | 12 | 66-85, 66-86 |
| | | | 66-87 |
| | | 13 | 66-176 |
| | | 14 | 66-60—66-62 |
| | | 15 | 66-24—66-32 |
| | | 16 | 58-207 |
| 374 | 3-26-1957 | 1B | 66-55 |
| 375 | | 1, 2 | 58-221, 58-222 |
| | | 3—5 | 58-225—58-227 |
| 380 | 8-25-1957 | 1 | 58-222—58-224 |
| 406 | | 8—10 | 2-61 |
| 419 | | 1 | 42-27 |
| 424 | 4- 7-1964 | 2 | 66-176 |
| 431 | | 1 | 2-155 |
| 442 | | 1 | 66-147 |
| 458 | 1-23-1968 | 1 | 2-279 |
| 472 | 7-23-1968 | 1—3 | 26-52 |
| 484 | 6-10-1969 | 1 | 58-180 |
| | | 1(a), 1(b) | 58-181, 58-182 |
| | | 2—7 | 58-183—58-188 |
| 498 | 3-24-1970 | 1, 2 | 66-149 |
| 499 | 5-12-1970 | 2 | 26-52 |
| | | | 58-189 |
| | | | 66-149 |
| 501 | 10-13-1970 | 1—3 | 42-23—42-25 |
| | | 5 | 42-26 |
| | | 6(B) | 22-19, 22-20 |
| | | 6(C)—6(E) | 22-21—22-23 |
| | | 7 | 42-28 |
| 513 | 9-14-1971 | 1 | 42-22 |
| 535 | 4-10-1973 | 1 | 2-122 |
| | | 1—6 | 46-21—46-26 |
| 541 | 6-12-1973(Res.) | | 14-139 |
| 554 | 3-26-1974 | 1—8 | 46-56—46-63 |
| | | 8 | 46-64 |
| 555 | 3-26-1974 | 1—4 | 66-150—66-153 |
| 557 | 4-23-1974 | 1—5 | 58-97—58-101 |
| 559 | 5-28-1974 | 1 | 66-173 |

| Ordinance Number | Date | Section | Section this Code |
|---|---|---|---|
| | | 2 | 66-384 |
| 586 | 1-13-1976 | 2 | 46-23 |
| 591 | 5-25-1976 | 2 | 66-356 |
| | | 3 | 66-358 |
| | | 5 | 66-173 |
| | | | 66-384 |
| 592 | 7-27-1976 | 1—5 | 2-120 |
| 597-A | 3- 8-1977 | 1—4 | 66-116—66-119 |
| | | 4 | 66-120 |
| | | 6—8 | 66-121—66-123 |
| 602 | 7-12-1977 | | 2-275 |
| 608 | 1-10-1978 | 1 | 66-173 |
| 610 | 3-21-1978 | 3 | 70-65—70-67 |
| | | 4 | 70-19 |
| | | 6 | 70-85, 70-86 |
| | | 7, 8 | 70-87, 70-88 |
| 611 | - -1978 | 1—3 | 70-105—70-107 |
| 615 | 4-11-1978 | 1—4 | 58-59—58-69 |
| | | 4 | 66-124 |
| | | | 66-173 |
| | | | 66-354 |
| | | | 66-383, 66-384 |
| | | 14 | 66-180 |
| 620 | 9-12-1978 | 1—4 | 54-48—54-51 |
| | | 5, 6 | 26-82, 26-83 |
| | | 7 | 54-52 |
| | | 8 | 26-84 |
| 624 | 9-26-1978 | 1 | 54-49 |
| 625 | 9-26-1978 | 1—7 | 58-59—58-69 |
| 78-11 | 9-26-1978(Res.) | | 2-86 |
| 627 | 10-24-1978 | preface | 14-77 |
| | | 1—5 | 14-78—14-82 |
| | | 7—9 | 14-83—14-85 |
| 628 | 10-24-1978 | 1—4 | 14-116—14-119 |
| 631 | 11-28-1978 | 1 | 58-59—58-69 |
| 634 | 2-28-1979 | 1, 2 | 2-4 |
| 635 | 4-10-1979 | 2 | 14-186 |
| | | 3—9 | 14-187 |
| | | 10 | 14-188 |
| | | 12—15 | 14-190—14-193 |
| | | 17—19 | 14-194—14-196 |
| | | 21, 22 | 14-197, 14-198 |
| 637 | 4-10-1979 | 2 | 70-21 |
| 638 | 4-10-1979 | 1(c) | 70-106 |
| | | 2 | 70-108 |
| 639 | 4-24-1979 | 1—3 | 66-181—66-183 |
| | | 5 | 66-185 |

| Ordinance Number | Date | Section | Section this Code |
|---|---|---|---|
| 642 | 7-10-1979 | 1 | 14-117 |
| 652 | 4-15-1980 | 1—3 | 66-175 |
| 663 | 9-30-1980 | 2—29 | 62-20—62-47 |
| | | 31 | 62-48 |
| | | 33, 34 | 62-49, 62-50 |
| | | 36 | 62-51 |
| 666 | 12- 9-1980 | 1 | 14-138 |
| | | 3 | 14-138 |
| 668 | 3-24-1981 | 1—3 | 70-130—70-132 |
| 673 | 9- 8-1981 | 2 | 2-158 |
| | | | 38-77 |
| 674 | 9-29-1981 | 2—10 | 34-40—34-48 |
| 683 | 4-27-1982 | 1 | 66-175 |
| 684 | 4-27-1982 | | 2-86 |
| 691 | 12-30-1982 | 1 | 2-273 |
| 694 | 3-29-1983 | 1 | 70-35 |
| 697 | 10-11-1983 | 1—7 | 2-121 |
| 710 | 3-26-1985 | 1 | 70-195 |
| | | 2, para. 1—7 | 70-196 |
| | | 3, para. 1—3 | 70-197 |
| | | 4, para. 1, 2 | 70-198 |
| | | 5, para. 1—3 | 70-199 |
| | | 6, para. 1—5 | 70-200 |
| | | 7 | 70-201 |
| | | 8, para. A—F | 70-202 |
| | | 8, para. G | 70-203 |
| 711 | - -1985 | 1 | 70-197 |
| 721 | 10- 8-1985 | 1.1—1.3 | 58-245 |
| | | 1.4, 1.5 | 58-246, 58-247 |
| | | 2—8 | 58-248—58-254 |
| 728 | 7- 8-1986 | 2 | 66-175 |
| 731 | 8-27-1986 | 1 | 66-147 |
| 738 | 4-14-1987 | 1 | 38-3 |
| 743 | 12-29-1987 | 1 | 2-87 |
| 745 | 4-12-1988 | | 66-295 |
| 750 | 6-14-1988 | 1(a)—(k) | 70-19 |
| | | 2 | 70-20 |
| | | 3, 4 | 70-35, 70-36 |
| | | 4(a)—4(f) | 70-37—70-42 |
| | | 5—9 | 70-43—70-47 |
| | | 11, 12 | 70-48, 70-49 |
| 763 | 6-13-1989 | 1—3 | 2-124 |
| 767 | 11-28-1989 | 1 | 2-159 |
| 770 | 12-26-1989 | 1 | 14-80 |
| 784 | 12-11-1990 | 1—3 | 2-125 |
| 792 | 5- 1-1991 | 1—3 | 14-117 |
| 793 | 5-28-1991 | 1 | 14-295 |

| Ordinance Number | Date | Section | Section this Code |
|---|---|---|---|
| 92-03-810 | 7-28-1992 | 1 | 1-18 |
| 92-06-813 | 8-25-1992 | 1, 2 | 78-22 |
| 92-08-816 | 9-22-1992 | 1 | 66-186 |
| 92-09-816 | 9-22-1992 | 1 | 66-186 |
| 92-12-819 | 11-10-1992 | 1 | 54-19—54-22 |
| 92-15-822 | 12-31-1992 | 1 | 2-273 |
| 93-02 | 1-12-1993 | 1—19 | 14-40—14-58 |
| 93-03 | 1-12-1993 | I | 66-354 |
| | | III | 66-356 |
| | | IV, V | 66-358, 66-359 |
| 93-08 | 5-11-1993 | 1 | 78-19 |
| 93-09 | 5-11-1993 | 1 | 78-20 |
| 93-07 | 5-23-1993 | 1 | 2-282 |
| 93-11 | 5-25-1993 | 1 | 78-19 |
| 93-14 | 5-25-1993 | 1 | 78-21 |
| 93-15 | 7-13-1993 | 1 | 66-385 |
| 93-18 | 7-27-1993 | 1 | 1-18 |
| 93-17 | 9-14-1993 | 1 | 66-385 |
| 94-6 | 2- 8-1994 | 1 | 66-175 |
| 94-03 | 2-22-1994 | 1 | 2-276 |
| 94-04 | 2-22-1994 | 1 | 2-87 |
| 94-05 | 2-22-1994 | 1 | 66-188 |
| 97-01 | 4-12-1994 | | 2-86 |
| 94-08 | 4-12-1994 | 1 | 42-20 |
| 94-11 | 5-10-1994 | | App. B, § 2-7 |
| 94-15 | 6-14-1994 | 1 | 66-386 |
| 94-17 | 7-26-1994 | 1 | 14-80 |
| 94-18 | 8-29-1994 | 2—4 | 54-53 |
| 94-19 | 9-13-1994 | 1—4 | 2-160 |
| 95-02 | 1-24-1995 | 1—7 | 38-27—38-33 |
| 95-03 | 1-24-1995 | 1 | 54-53 |
| 95-06 | 6-27-1995 | 1 | 38-4 |
| 95-07 | 7-11-1995 | 1 | 66-356 |
| 95-08 | 7-11-1995 | 1 | 66-384 |
| 95-05 | 8-22-1995 | 1 | 66-187 |
| 95-13 | 9-26-1995 | 1 | 62-26 |
| | | 2 | 62-28 |
| | | 3 | 62-33 |
| | | 4 | 62-35 |
| | | 5 | 62-40 |
| 95-17 | 10-10-1995 | 1 | 58-102 |
| 96-02 | 2-27-1996 | 1 | 66-384 |
| 96-03 | 2-27-1996 | 1 | 66-356 |
| 96-07 | 6-25-1996 | 1 | 14-86 |
| 96-08 | 6-25-1996 | 1—5 | 2-128 |
| 96-09 | 7- 9-1996 | 1 | 2-246 |
| 96-10 | 8-13-1996 | 1 | 70-42 |

| Ordinance Number | Date | Section | Section this Code |
|---|---|---|---|
| 96-12 | 11-12-1996 | 3 | 14-84 |
| 96-14 | 12-17-1996 | 1 | 70-35 |
| 96-15 | 12-17-1996 | 1 | 66-384 |
| 96-16 | 12-17-1996 | 1 | 66-356 |
| 97-04 | 8-12-1997 | 2 | 26-85—26-88 |
| | | 4 | 1-18 |
| 97-08 | 4-28-1998 | 1 | 66-187 |
| 98-07 | 12-15-1998 | 1—19 | 14-40—14-58 |
| 99-03 | 4-27-1999 | 1, 2 | 14-44, 14-45 |
| 99-04 | 4-27-1999 | 1 | 14-117 |
| 2000-04 | 4-11-2000 | | 2-1 |
| 2000-10 | 11-14-2000 | 1 | 2-127 |
| 2001-01 | 1-23-2001 | | 2-282 |
| 2001-07 | 4-10-2001 | | 54-52 |
| 2001-10 | 7-10-2001 | 1 | 14-117 |
| 2002-03 | 9-24-2002 | 1—11 | 14-326—14-336 |
| | | 11.5 | 14-337 |
| | | 12—18 | 14-338—14-344 |
| 2003-04 | 6-10-2003 | 1 | 66-384 |
| 2003-05 | 6-10-2003 | 1, 2 | 66-384 |
| 2004-01 | 1- 1-2004 | 1 | 2-282 |
| 2004-04 | 2-24-2004 | 1 | 66-175 |
| 2004-05 | 6- 8-2004 | | 58-15—58-19 |
| | | | 58-28—58-35 |
| 2004-06 | 6-28-2004 | 1—5 | 38-55—38-59 |
| 2004-07 | 6-29-2004 | | 6-19—6-25 |
| 2004-11 | 8-10-2004 | | 2-1 |
| 2004-16 | 10-26-2004 | | 1-18 |
| 2004-21 | 11-11-2004 | | App. A, § 7 |
| | | | App. A, § 179 |
| | | 1 | App. A, § 27 |
| | | 2 | App. A, § 258 |
| 2004-18 | 11-22-2004 | | 38-27—38-33 |
| 2004-20 | 1-11-2005 | 1 | 70-35 |
| 2005-05 | 5-24-2005 | | 54-52 |
| 2005-06 | 7-26-2005 | 1 | 70-35 |
| 2005-10 | 11-22-2005 | 1—6 | 2-2 |
| 2005-11 | 11-22-2005 | | 66-148 |
| 2006-01 | 2-28-2006 | | 26-171—26-177 |
| 2006-02 | 2-28-2006 | I, II | 26-265, 26-266 |
| | | III—VII | 26-296—26-300 |
| | | VIII(A), VIII(B) | 26-319, 26-320 |
| 2006-03 | 2-28-2006 | I—IV | 26-344—26-347 |
| | | VI | 26-348 |
| | | VII(A), VII(B) | 26-367, 26-368 |
| | | VII(B) | 26-369 |
| | | VIII(A), VIII(B) | 26-384, 26-385 |

| Ordinance Number | Date | Section | Section this Code |
|---|---|---|---|
| | | IX | 26-349 |
| | | X(A), X(B) | 26-414, 26-415 |
| | | XI—XIII | 26-350—26-352 |
| | | XIV—XXI | 26-444—26-451 |
| 2006-06 | 4-25-2006 | 1(02)—1(24) | 10-22—10-44 |
| | | 1(25) | 10-2 |
| | | 1(26) | 10-45 |
| | | 1(27) | 10-2 |
| 2006-07 | 5- 9-2006 | | 1-18 |
| 2006-09 | 5- 9-2006 | 1-2—1-4 | 66-216—66-218 |
| | | 2-1, 2-2 | 66-245, 66-246 |
| | | 3-1, 3-2 | 66-271, 66-272 |
| | | 4-1, 4-2 | 66-293, 66-294 |
| | | 5-1, 5-2 | 66-324, 66-325 |
| 2006-11 | 6-13-2006 | | 38-27 |
| 2006-12 | 6-13-2006 | 1, 2 | 66-173 |
| 2006-13 | 7-25-2006 | | 38-77 |
| 2006-14 | 9-26-2006 | | 2-161 |
| 2006-16 | 9-26-2006 | 1—3 | 70-163 |
| 2006-17 | 10-24-2006 | 1—3 | 70-35 |
| 2006-22 | 11-28-2006 | 1—3 | 26-212—26-214 |
| | | 4 | 26-210 |
| | | 5—15 | 26-215—26-225 |
| | | 16 | 26-211 |
| 2006-23 | 11-28-2006 | | 1-18 |
| 2006-19 | 12-26-2006 | 1—6 | 14-385—14-390 |
| 2006-21 | 12-26-2006 | | 2-3 |
| 2006-24 | 12-26-2006 | 1—4 | 2-162 |
| 2007-01 | 3-13-2007 | 1—13 | 18-85—18-97 |
| 2007-04 | 5- 9-2007 | 1 | 54-53 |
| 2007-05 | 6-12-2007 | 1—13 | 18-51—18-63 |
| 2007-07 | 6-26-2007 | | App. A, § 7 |
| | | | App. A, § 75 |
| | | | App. A, § 84, |
| | | | App. A, § 85 |
| | | | App. A, § 163 |
| | | | App. A, § 188, |
| | | | App. A, § 189 |
| 2007-09 | 6-26-2007 | art. 1 | 26-120 |
| | | art. 2 | 26-121 |
| | | art. 3—art. 6 | 26-122—26-125 |
| 2007-10 | 6-26-2007 | 1—4 | 2-223—2-226 |
| 2007-11 | 6-26-2007 | 1—4 | 42-60—42-63 |
| | | 6 | 42-64 |
| 2007-13 | 7-24-2007 | | 66-174 |
| 2007-17 | 12-27-2007 | 1—4 | 42-1 |
| | | 6, 7 | 42-1 |

| Ordinance Number | Date | Section | | Section this Code |
|---|---|---|---|---|
| 2008-4 | 2-12-2008 | | | 26-267 |
| 2008-06 | 2-26-2008 | | | 2-163 |
| 2008-07 | 3-11-2008 | | | 66-175 |
| 2008-11 | 7-22-2008 | 2 | | 70-42 |
| 2008-12 | 8-12-2008 | | | App. B, § 2-6 |
| 2008-13 | 8-12-2008 | 1—12 | | 18-18—18-29 |
| 2008-14 | 8-26-2008 | | | 66-147(a) |
| 2008-15 | 8-26-2008 | 1 | | 70-35(1) |
| 2008-17 | 10-28-2008 | | | Adopt. ord., pg. xi |
| 2008-18 | 11-25-2008 | 1 | | 66-295(b) |
| 2008-20 | 12-30-2008 | 1, 2 | | 54-53(a) |
| 2009-01 | 2-24-2009 | | | 2-224(9) |
| 2009-02 | 2-24-2009 | 1 | | 38-4 |
| 2009-10 | 6-23-2009 | 1 | | 1-18 |
| 2009-22 | 12- 8-2009 | | | App. A, § 246(b) |
| | | | | App. A, § 247(a) |
| 2009-23 | 12- 8-2009 | | | 70-21 |
| 2009-24 | 12- 8-2009 | | | App. B §§ 1-1—1-13 |
| | | | | App. B §§ 2-1—2-5 |
| | | | | App. B §§ 3-1—3-11 |
| | | | | App. B §§ 4-1—4-4 |
| | | | | App. B §§ 5-1—5-5 |
| | | | | App. B §§ 6-1—6-11 |
| | | | | App. B §§ 7-1—7-12 |
| | | | | App. B § 8-1 |
| 2009-25 | 12- 8-2009 | | | App. A, § 257—262 |
| 2010-04 | 5-25-2010 | 1 | | 1-18 |
| 2010-07 | 7-13-2010 | 1 | | 58-281—58-289 |
| 2010-08 | 8-24-2010 | 1 | | 70-35 1.a.2 |
| 2010-09 | 10-12-2010 | | | 38-5 |
| 2010-12 | 11- 9-2010 | | Added | App. A, Art. XXV |
| 2011-03 | 3-22-2011 | | | 2-86(b) |
| | | | | 2-124(c) |
| | | | Dltd | 2-127(b) |
| | | | | 2-128(d) |
| | | | | 2-274(a) |
| | | | Dltd | 2-288 |
| | | | | 2-291 |

| Ordinance Number | Date | Section | | Section this Code |
|---|---|---|---|---|
| 2011-04 | 3-22-2011 | 1 | | 54-53(c) |
| 2011-07 | 6-14-2011 | 1—13 | | 18-51—18-63 |
| 2012-03 | 5-10-2012 | 1 | Added | 14-400—14-406 |
| 2012-04 | 6-26-2012 | 1 | | 18-52 |
| 2012-06 | 6-26-2012 | 1 | Added | 2-310—2-315 |
| 2012-07 | 7-10-2012 | 1 | Added | 70-50 |
| 2012-08 | 7-24-2012 | 1 | | 14-117 |
| 2012-11 | 12-11-2012 | 1a., 1b. | | 54-53(a) |
| 2012-12 | 12-11-2012 | 1 | Added | 2-5 |
| 2012-13 | 12-11-2012 | 1 | | 2-273(1)—(5) |
| 2013-02 | 2-26-2013 | 1 | | 66-295(b) |
| | | 2 | Added | 66-295(d) |
| 2013-03 | 3-12-2013 | 1 | | 66-358 |
| | | 2 | | 66-359 |
| 2013-04 | 4-23-2013 | 1 | Added | 42-29 |
| 2013-05 | 5-14-2013 | 1 | Added | 70-40 |
| | | 2 | | 70-47 |
| 2013-07 | 6-25-2013 | 1 | | 2-3 |
| 2013-08 | 6-25-2013 | 1 | Rpld | 58-102 |
| 2013-10 | 7-23-2013 | 1 | Added | 2-1(a)(17) |
| | | 2 | | 2-1(c) |
| 2013-11 | 9- 5-2013 | 1 | | 66-173 |
| 2013-13 | 10-22-2013 | 1 | Rpld | 46-21—46-26, 46-58(a), 46-59(a), 46-61(d) |
| | | 2 | Added | 46-21—46-25, 46-58(a), 46-59(a), 46-61(d) |
| 2013-14 | 10-22-2013 | 1 | | 2-273 |
| 2013-16 | 11-12-2013 | 1 | | 70-35(1)b |
| 2013-20 | 1-14-2014 | 1 | Added | 1-19 |
| 2014-01 | 4- 8-2014 | 1 | | 70-42(a) |
| | | 2 | | 70-44(1) |
| 2014-03 | 6-10-2014 | | Added | 2-164 |
| 2014-04 | 9- 9-2014 | 1 | | 38-3(b), (c) |
| 2014-06 | 9-23-2014 | 1 | Added | 2-165 |
| 2014-08 | 11-10-2014 | 1 | | 2-273(1)—(5) |
| 2015-01 | 1-27-2015 | 1 | Added | App. A, §§ 265—267 |
| 2015-05 | 8-11-2015 | | | 78-21 |
| 2015-06 | 8-11-2015 | 1 | | 30-1 |
| 2015-08 | 9-22-2015 | 1 | | App. A, § 144 |
| | | 2 | Added | App. A, § 148 |
| 2015-10 | 11-10-2015 | 1 | Added | 58-209, 58-210 |
| 2015-13 | 12- 8-2015 | 1 | Added | 2-85(d) |

| Ordinance Number | Date | Section | | Section this Code |
|---|---|---|---|---|
| 2015-14 | 12-29-2015 | 1 | Added | 38-6 |
| Policy of | 1-26-2016 | | Added | 42-2 |
| 2016-01 | 2-23-2016 | 1 | | Ch. 14, Art. VII, (tit.) |
| | | 2—6 | | 14-385—14-389 |
| 2016-02 | 2-23-2016 | 1 | | 1-18 |
| 2016-03 | 3- 8-2016 | 1 | | 66-295(b) |
| | | 2 | | 66-295(d) |
| 2016-05 | 4-12-2016 | 1 | | 70-35(1)b. |
| 2016-06 (Res.) | 4-26-2016 | | Added | 46-66 |
| 2016-07 | 5-10-2016 | 1 | Added | 38-6(a)(6), (7) |
| 2016-08 | 5-24-2016 | | Added | 2-166 |
| 2016-13 | 12-13-2016 | 1 | | 2-2(a)—(c) |
| 2016-14 | 12-13-2016 | 1 | | 54-53(a) |
| 2017-01 | 2-14-2017 | 1 | | 66-295(b) |
| 2018-01 | 1-23-2018 | 1 | | 66-295(b) |
| 2018-03 | 5-22-2018 | 1 | | 58-30(b) |
| 2018-04 | 5-22-2018 | 1 | | 18-57(a) |
| | | 2 | Added | 18-58(a)(5) |
| 2018-05 | 5-22-2018 | 1 | | 2-86(b) |
| 2018-07 | 8-14-2018 | 1 | Added | 2-6 |
| 2018-14 | 10- 9-2018 | 1 | Added | 66-387 |
| 2019-02 | 2-12-2019 | 1—3 | | 66-295 |
| 2019-05 | 4-19-2019 | 1 | | 2-3 |
| 2019-09 | 8-13-2019 | 1 | | App. A, § 27 |
| | | 2 | | App. A, § 29 |
| | | 3 | | App. A, § 41 |
| | | 4 | | App. A, § 52 |
| | | 5 | | App. A, § 85 |
| | | 6 | | App. A, § 205 |
| 2019-10 | 8-27-2019 | 1 | Added | 14-141 |
| 2019-12 | 11-12-2019 | 1 | | 54-53 |
| 2020-03 | 2-11-2020 | 1 | | App. A, § 10 |
| | | 2 | Rpld | App. A, § 11 |
| | | 3 | | App. A, § 23 |
| | | 4 | Rpld | App. A, § 25 |
| | | 5 | | App. A, § 37 |
| | | 6 | Rpld | App. A, § 39 |
| | | 7 | | App. A, § 49 |
| | | 8 | Rpld | App. A, § 50 |
| | | 9 | | App. A, § 61 |
| | | 10 | Rpld | App. A, § 62 |
| | | 11 | | App. A, § 63 |
| | | 12 | | App. A, § 75 |
| | | 13 | Rpld | App. A, § 76 |
| | | 14 | | App. A, § 85 |
| | | 15 | Rpld | App. A, § 86 |

| Ordinance Number | Date | Section | | Section this Code |
|---|---|---|---|---|
| | | 16 | | App. A, § 93 |
| | | 17 | Rpld | App. A, § 94 |
| | | 18 | | App. A, § 105 |
| | | 19 | Rpld | App. A, § 106 |
| | | 20 | | App. A, § 122 |
| | | 21 | Rpld | App. A, § 123 |
| | | 22 | | App. A, § 141 |
| | | 23 | Rpld | App. A, § 142 |
| | | 24 | | App. A, § 211 |
| 2020-04 | 3-24-2020 | 1 | Added | 2-88 |
| 2020-04(Res.) | 7-14-2020 | | Added | 2-7 |
| 2020-07 | 6- 9-2020 | 1 | | 66-173 |
| | | 2 | | 66-185 |
| 2020-12 | 10-27-2020 | 1 | Added | 2-8 |
| 2021-02 | 5-25-2021 | 1—3 | | App. A, § 7 |
| | | 4 | | App. A, § 184 |
| | | 5 | | App. A, § 190 |
| 2021-03 | 2-23-2021 | 1—3 | | 66-295 |
| 2021-10 | 6-22-2021 | 1—3 | | 18-21 |
| | | 4 | | 18-26 |
| | | 5 | | 18-28 |
| | | 6 | | 18-29 |
| | | 7 | | 18-41 |
| 2021-11 | 6-22-2021 | 1 | | 66-174 |
| | | 2 | | 66-186 |
| | | 3, 4 | | 66-187 |
| | | 5 | | 66-245 |
| | | 6 | Rpld | 66-246 |
| | | 7 | | 66-272 |
| | | 8 | | 66-325 |
| 2021-12 | 6-22-2021 | 1 | | 74-20 |
| | | 2 | | 74-26 |
| | | 3 | | 74-28 |
| 2021-13 | 6-22-2021 | 1 | | 1-18 |
| 2021-21 | 12-14-2021 | 1 | | 14-55 |
| | | 2 | | 14-79 |
| | | 3 | | 14-80 |
| 2022-02 | 2-22-2022 | 1 | | 70-35(1) |
| | | 2 | | 70-35(2) |
| 2022-04 | 5-24-2022 | 3 | | 66-356 |
| 2022-05 | 6-28-2022 | 1 | | App. A, § 162 |
| | | 2 | | App. A, § 163 |
| 2022-06 | 7-26-2022 | 1 | | 66-295(d) |
| 2022-07 | 8- 9-2022 | 2 | | 30-1 |
| 2022-08 | 9-27-2022 | 1 | | App. A, § 23(c)(1) |
| 2023-04 | 6-27-2023 | 1 | Added | 66-175 |

| Ordinance Number | Date | Section | | Section this Code |
|---|---|---|---|---|
| | | 2 | | 66-185 |
| | | 3 | | 66-187 |
| | | 4 | Added | 66-189 |
| | | 5 | Added | 66-190 |
| 2023-05 | 6-27-2023 | 1 | | 1-18 |
| 2023-08 | 7-25-2023 | 1 | | 14-138 |
| 2023-10 | 9-26-2023 | 1 | Added | 2-129 |
| 2023-12 | 11-28-2023 | 1 | | 10-2 |
| | | 2 | | 10-22 |
| | | 3 | | 10-28 |
| | | 4 | | 10-29 |
| | | 5 | | 10-30 |
| | | 6 | | 10-32 |
| | | 7 | | 10-36 |
| | | 8 | | 10-37 |
| | | 9 | | 10-40 |
| | | 10 | | 10-41 |
| | | 11 | Rpld | 10-44 |
| | | 12 | Added | 10-46 |
| | | 13 | Added | 10-47 |
| 2024-06 | 6-25-2024 | 1 | | 26-49 |
| | | 2 | Added | 26-53 |
| | | 3 | Added | 26-54 |
| | | 4 | Added | 26-55 |
| | | 5 | Added | 26-56 |
| | | 6 | Added | 26-57 |
| | | 7 | Added | 26-58 |
| | | 8 | Added | 26-59 |
| | | 9 | Added | 26-60 |
| | | 10 | Added | 26-61 |
| | | 11 | | 26-86 |
| | | 12 | | 26-87 |
| 2024-08 | 7- 9-2024 | 1 | Added | App. A, § 86 |
| | | 2 | Added | App. A, § 94 |
| 2024-07 | 12-10-2024 | 1 | | 14-186 |
| | | 2 | | 14-190 |
| | | 3 | | 14-191 |
| | | 4 | | 14-192 |
| | | 5 | | 14-193 |
| 2024-11 | 9-24-2024 | 1(Exh. A) | Rpld | 26-265—26-267, 26-296—26-300, 26-319, 26-320, 26-344—26-352, 26-367—26-369, 26-384, 26-385, 26-414, 26-415, 26-444—26-451 |

| Ordinance Number | Date | Section | | Section this Code |
|---|---|---|---|---|
| | | | Added | 26-244—26-252, 26-263—26-269, 26-280—26-286, 26-297—26-300, 26-311—26-315, 26-326—26-335, 26-346—26-349, 26-360, 26-361 |
| | | 2 | Rpld | 14-86 |
| | | 3 | | App. B, § 2-2 |
| 2024-13 | 10- 8-2024 | 1, 2 | | 66-175 |
| | | 3 | | 66-187 |
| 2024-14 | 10-22-2024 | 1 | | 14-117 |
| | | 2 | | 14-118 |
| | | 3 | | 14-119 |
| 2024-15 | 11-12-2024 | 1 | | 66-188 |
| 2024-16 | 11-26-2024 | 1 | | 54-53 |
| 2024-17 | 1-14-2025 | 1 | Rpld | 70-35—70-50 |
| | | | Added | 70-35—70-51 |
| | | 2 | Rpld | 70-85—70-88 |
| | | 3 | Rpld | 70-105—70-108 |
| | | | Added | 70-105—70-107 |
| 2025-02 | 3-25-2025 | 1 | | 66-293 |
| | | 2 | | 66-295(d) |
| 2025-05 | 5-27-2025 | 1 | | 66-173 |
| | | 2 | Rpld | 66-180 |
| 2025-09 | 8-26-2025 | 1 | | 38-6(a) |
| 2026-01 | 1-27-2026 | 1 | | 14-46 |
| | | 2 | | 14-78—14-82 14-84 |
| | | 3 | | 14-118, 14-119 |
| | | 4 | | 58-100 |
| | | 5 | | 58-184 |
| | | 6 | | 58-224 |

## STATE LAW REFERENCE TABLE

This table shows the location within the Code, either in the text or notes following the text, of references to Indiana Code.

| IC | Section this Code |
|---|---|
| 4-21.5-3-7 | 14-56 |
| 4-22-2 | 14-328 |
| 5-2-1-9(f) | 38-56 |
| 5-2-8-2 | 2-157, 2-158 |
| — | 38-77 |
| 5-3-1 | 2-294 |
| — | 14-330 |
| — | 14-341 |
| — | App. A, Art. XIX, § 221 |
| 5-3-1-0.4 et seq. | Ch. 26, Art. V |
| 5-3-1-2 | 2-294 |
| 5-4-1-18 | 2-85 |
| 5-11-1-27 | 42-2 |
| 5-14-1.5 | 2-129 |
| 5-14-1.5-1 et seq. | 2-279 |
| 5-14-1.5-5 | 2-280 |
| 5-14-1.5-7 | 2-281 |
| 5-14-1.5-7 et seq. | 2-281 |
| 5-14-3-8 | 2-224 |
| 5-22 | 2-313 |
| 6-1.1-6.5-2 | Ch. 74, Art. II |
| 6-1.1-12.1-1—6-1.1-12.1-5 | 18-123 |
| 6-3-7-5 | 14-190 |
| 7.1-1-3-5 | Ch. 78, Art. II |
| — | 78-20 |
| 8-1-2-103(d) | 2-5 |
| 8-1.5-5 | 2-128 |
| 8-1.5-5-1 et seq. | 2-2 |
| — | 2-128 |
| 8-14-1-5 | 2-156 |
| 8-14-14-1 et seq. | 2-161 |
| 9-4-1-120 | 66-60 |
| 9-4-1-121 | 66-61 |
| 9-13-2-1 | Ch. 26, Art. V |
| — | 26-213 |
| 9-13-2-14 | 66-23 |
| 9-13-2-69.7 | 58-282 |
| 9-13-2-94 | Ch. 66, Art. VIII |
| 9-14-5-1 | 66-186 |
| 9-14-5-1 et seq. | 66-186 |
| 9-17 | 26-210 |
| 9-18-12 | 26-216 |
| 9-18-18-1 | 66-186 |
| 9-18-18-1 et seq. | 66-186 |
| 9-18-22-1 | 66-186 |
| 9-18-22-1 et seq. | 66-186 |
| 9-20-1-3 | 66-150 |
| 9-20-7-2 | 66-147—66-149 |
| 9-21-1-1 et seq. | Ch. 66 (note) |
| 9-21-1-2 | Ch. 66, Art. VIII |
| 9-21-1-3 | 66-356 |
| — | 66-358—66-361 |
| 9-21-1-3.3 | 58-281 |
| 9-21-1-3.5 | 66-1 |
| 9-21-2-1 et seq. | Ch. 66 (note) |
| 9-21-4-1 | 66-381 |
| 9-21-4-3 | Ch. 66, Art. VIII |
| 9-21-4-7 | 66-2 |
| 9-21-4-17 | 66-384 |
| 9-21-5 | 66-2 |
| 9-21-5-6 | 66-355 |
| — | 66-384, 66-385 |
| 9-21-9 | 58-287 |
| 9-21-9-4 | 58-287 |
| 9-21-11-1 et seq. | Ch. 66, Art. II |
| 9-21-17-1 et seq. | Ch. 66, Art. IV |
| 9-22-1-1 et seq. | Ch. 26, Art. V |
| — | 26-213 |
| 9-22-1-21 | 26-221 |
| 9-24 | 58-286 |
| — | 58-288 |
| 9-29-11-1 | 2-157 |
| 10-14-3-1 et seq. | Ch. 22, Art. II |
| 13-17-9-1 et seq. | Ch. 26, Art. III |
| 13-18-27 | 26-327 |
| 13-21-3-12(4) | 26-347 |
| 14-8-2-169 | Ch. 78, Art. II |
| — | 78-19 |
| 14-32 | 26-361 |
| 14-34 | 26-297 |
| — | 26-311 |
| 15-2.1-2-15 | Ch. 10 (note) |

| IC | Section this Code |
|---|---|
| 15-2.1-6-1—15-2.1-6-13 | 10-33 |
| 15-2.1-6-1 et seq. | Ch. 10 (note) |
| 15-5-12-5 | Ch. 10 (note) |
| 15-5-12-6 | Ch. 10 (note) |
| 15-17-2-26 | 10-22 |
| 22-3-2—22-3-6 | 38-58 |
| 22-3-6-1(b)(7) | 14-190 |
| 22-3-6-22 | 14-190 |
| 22-3-7 | 38-58 |
| 22-11-3.1-2 | 14-190 |
| 22-11-14 et seq. | 26-120 |
| 22-11-14-1 | 26-124 |
| 22-11-14-2 | 26-121 |
| 22-11-14-3.5 | 26-121 |
| 22-13-2-7 | 14-56 |
| 22-13-2-7(b) | 14-42 |
| 22-15-3-1 | 14-45 |
| 25-37-1-1 et seq. | 18-63 |
| 27-1-29-1 et seq. | 2-159 |
| 27-2-15 | 14-336 |
| 31-37-3-2 et seq. | Ch. 42, Art. III |
| 31-37-19-27 | 42-63 |
| 32-30-6-1 et seq. | Ch. 26, Art. II |
| — | Ch. 74, Art. II |
| 32-30-6-6 | 26-49 |
| 33-36-2-3 | 1-18 |
| 34-6-2-13 | 26-347 |
| 34-6-2-86(1)(B) | 26-347 |
| 34-6-2-110 | 2-159 |
| 34-28-5-1(b) | 26-347—26-349 |
| 35-43-2-2 | 42-22 |
| 35-44-1-3 | 2-276 |
| — | 2-313 |
| 35-44-3-3 | 42-26 |
| 35-45-1-1 | 42-24 |
| 35-45-1-1 et seq. | 46-57 |
| 35-45-1-3 | 42-23 |
| — | 42-25 |
| 35-46-3-1 | Ch. 10 (note) |
| 35-46-3-6 | Ch. 10 (note) |
| 35-47-2-1 et seq. | 38-77 |
| 35-47-2-3 | 2-158 |
| 36-1-2-1—36-1-2-24 | 1-2 |
| 36-1-3-1 et seq. | 2-129 |
| — | 2-278 |
| 36-1-3-2 | 2-160 |
| 36-1-3-4 | 18-18 |
| 36-1-3-8 | 1-8 |
| 36-1-3-8(5) | 18-1 |
| 36-1-3-11 | App. A, Art. XVI, § 190 |
| 36-1-5 | 2-294 |
| 36-1-5-1—36-1-5-6 | 1-1 |
| 36-1-5-1 et seq. | 2-294 |
| 36-1-5-3 | (note) |
| 36-1-5-4 | 1-16 |
| — | 2-315 |
| — | 14-44 |
| — | App. B, § 6-7 |
| 36-1-5-6 | (note) |
| — | 1-9 |
| 36-1-6-2 | 1-8 |
| — | 26-59 |
| — | Ch. 74, Art. II |
| 36-1-6-4 | 1-8 |
| 36-1-6-9 | 1-19 |
| — | 14-195 |
| 36-1-6-9(e) | 26-349 |
| 36-1-6-9(f) | 26-349 |
| 36-1-8-5 | 2-162 |
| 36-1-8-5.1 | 2-162 |
| 36-1-11-1 et seq. | Ch. 26, Art. V |
| 36-1-12 | 2-313 |
| 36-1-20.2 | 2-314, 2-315 |
| 36-1-21 | 2-314, 2-315 |
| 36-2-4-8 | 38-5 |
| 36-2-7-10 | 14-342 |
| 36-4-6-7 | 2-280 |
| 36-5-1-9.4 | 2-277 |
| 36-5-2-2 | 2-271 |
| — | 2-274 |
| 36-5-2-3 | 2-271 |
| 36-5-2-4.1 | 2-272, 2-273 |
| 36-5-2-5 | 2-273 |
| 36-5-2-7 | 2-274 |
| 36-5-2-8 | 2-26 |
| 36-5-2-9 | 2-278 |
| 36-5-2-9.2 | 2-277 |
| 36-5-2-9.6 | 2-277 |
| 36-5-2-9.8 | 2-277 |
| 36-5-2-10 | 1-3 |
| — | 2-294 |
| 36-5-3-2 | 2-27 |
| — | 2-84 |
| — | 2-297 |
| 36-5-4-11 | 18-6 |
| 36-5-5-1—36-5-5-9 | 2-83 |

| IC | Section this Code |
|---|---|
| 36-5-6-2 | 2-26 |
| 36-5-6-3 | 2-25 |
| 36-5-6-4 | 2-25 |
| 36-5-6-5 | 2-26 |
| 36-5-6-6 | 2-26 |
| 36-5-6-6(8) | 18-6 |
| 36-5-6-7 | 2-28 |
| 36-5-7-5 | 2-83 |
| 36-7 | 2-294 |
| 36-7-4 | App. A, Art. XXI, § 240 |
| 36-7-4-100 et seq. | 50-1 |
| 36-7-4-201 et seq. | 2-127 |
| 36-7-4-602 et seq. | App. B (note) |
| 36-7-4-700 et seq. | App. B (note) |
| — | App. B, § 1-3 |
| 36-7-4-701(b) | App. B (note) |
| 36-7-4-702 | App. B |
| 36-7-4-702 et seq. | App. B |
| 36-7-4-704 | App. B, § 2-3 |
| 36-7-4-706 | App. B, § 3-7 |
| 36-7-4-707 | App. B, § 3-9 |
| 36-7-4-900 | App. A, Art. XXI, § 235 |
| 36-7-4-901 et seq. | 2-126 |
| 36-7-4-916 | App. A, Art. XXI, § 242 |
| 36-7-4-918.4 | App. A, Art. XXI, § 246 |
| 36-7-4-918.5 | App. A, Art. XXI, § 247 |
| 36-7-4-921 | App. A, Art. XXI, § 246 |
| 36-7-4-1001—36-7-4-1020 | App. A, Art. XXI, § 248 |
| 36-7-4-1003 | App. A, Art. XXI, § 248 |
| 36-7-9-1 et seq. | Ch. 14, Art. V |
| — | 14-295 |
| 36-7-9-2 | 1-2 |
| 36-7-9-3 | 14-295 |
| 36-7-9-5(d)1 | 14-328 |
| 36-7-9-8 | 14-333 |
| 36-7-9-9 | 14-332 |
| 36-7-9-13 | 14-336 |
| 36-7-9-13(c) | 14-336 |
| 36-7-9-13(d) | 14-336 |
| 36-7-9-13.5 | 14-337 |
| 36-7-9-13.5(d) | 14-337 |
| 36-7-9-16 | 14-339 |
| 36-7-9-17 et seq. | 14-340 |
| 36-7-9-20 | 14-338 |
| 36-7-9-28 | 14-344 |
| 36-7-10.1-1 et seq. | Ch. 74, Art. II |
| 36-7-12-1—36-7-12-39 | 2-120 |
| 36-7-12-1 et seq. | 2-120 |
| 36-7-12-6 | 2-120 |
| 36-7-14 | 2-124 |
| — | 2-163 |
| 36-7-14-1 et seq. | 2-124 |
| 36-7-14.5-1 et seq. | 2-125 |
| 36-8-2-2 | 38-1 |
| 36-8-2-4 | 26-1 |
| 36-8-2-6 | Ch. 10 (note) |
| 36-8-2-8 | 26-2 |
| — | Ch. 26, Art. III |
| 36-8-2-9 | 46-61 |
| — | 58-1 |
| 36-8-2-10 | 18-1 |
| — | 18-18 |
| 36-8-3-4 | 38-31 |
| 36-8-3-4—36-8-3-4.1 | Ch. 38, Art. II |
| 36-8-3-4.1 | 38-31 |
| 36-8-3-10 | 18-4 |
| 36-8-3-20 | Ch. 38, Art. III |
| 36-8-9-1 et seq. | Ch. 38, Art. II |
| 36-8-9-3.1(f) | 38-27 |
| 36-9-2-4 | Ch. 18, Art. III, Div. 3 |
| 36-9-2-14 | Ch. 70 (note) |
| 36-9-2-15 | Ch. 70 (note) |
| 36-9-2-16 | Ch. 54, Art. III |
| — | Ch. 70 (note) |
| 36-9-2-17 | Ch. 70 (note) |
| 36-9-15.5 | 2-164 |
| 36-9-16-1—36-9-16-6 | 2-155 |
| 36-9-23-31 | 54-53 |
| 36-9-23-33 | 54-53 |
| — | 70-43 |
| 36-10-2-2 et seq. | 46-1 |
| 36-10-3-1 et seq. | 2-122 |
| — | Ch. 46, Art. II |

# CODE INDEX


Section

## A

ABANDONMENT
- Abandoned and junk vehicles ..... 26-210 et seq.
  - See: JUNK AND JUNK YARDS

ABATEMENTS
- Nuisances
  - Abatement by town..... 26-58
  - Notice to abate..... 26-55
- Stormwater management
  - Cost of abatement of the violation ..... 26-348
- Tax abatement procedures
  - Tax abatement or tax reassessment procedures..... 18-123
- Unsanitary buildings or premises ..... 26-86 et seq.
  - See: NUISANCES
- Weeds and rank vegetation..... 74-26
- Zoning regulations. See: ZONING (Appendix A)

ACCESS
- CATV franchise code
  - Public, educational and municipal access ..... 62-37
- Public access to documents; books; public records..... 2-223
- Subdivision regulations. See: SUBDIVISIONS (Appendix B)
- Zoning regulations. See: ZONING (Appendix A)

ACCIDENTS
- Motor vehicle accidents involving animals ..... 10-25
- Traffic accident and case reports ..... 38-2

ACCOUNTING
- Continuing education fund ..... 2-158(d)
- Traffic accident report account..... 2-157(d)

ACTIONS
- Alcoholic beverage use on town property
  - Official action on the permit..... 6-23
- Code of Ordinances ..... 1-3
- Nuisances
  - Civil action ..... 26-60
- Unsafe buildings and premises..... 14-330 et seq.
  - See: BUILDINGS AND BUILDING REGULATIONS

ADMINISTRATION
- Alcohol and drug testing
  - Omnibus Transportation Employee Testing Act adopted 2-246
- Boards, commissions, and departments..... 2-120 et seq.
  - See: BOARDS, COMMISSIONS, AND DEPARTMENTS
- Buildings and building regulations..... 14-1 et seq.
  - See: BUILDINGS AND BUILDING REGULATIONS
- CATV franchise code..... 62-47

Section

ADMINISTRATION (Cont'd.)
Charges and fees for copying of documents, books and any public records ..... 2-223 et seq.
See: COPIES
Fair housing ..... 34-46
Fee for unpaid or dishonored check, draft, etc. ..... 2-3
Funds ..... 2-155 et seq.
See: FUNDS
Inspectors and town staff ..... 2-60 et seq.
See: OFFICERS AND EMPLOYEES
Policy concerning nepotism and contracting with the town 2-310 et seq.
See: CONTRACTS AND AGREEMENTS
Preapproved payment of claims ..... 2-1
Promotion of economic development and tourism ..... 2-6
Recovery of fire protection costs ..... 2-5
Registration to vote required ..... 2-4
Stormwater management user fee ..... 2-2
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Town clerk-treasurer ..... 2-25 et seq.
See: TOWN CLERK-TREASURER
Town council ..... 2-271 et seq.
See: TOWN COUNCIL
Town officers and employee benefits ..... 2-83 et seq.
See: OFFICERS AND EMPLOYEES
Zoning regulations. See: ZONING (Appendix A)

ADOPTED
Building code ..... 14-44
House numbering system adopted ..... 58-59
Poles and wires
Adoption of new devices and safeguards ..... 58-148
Property maintenance code ..... 14-362
Sewage and sewer use regulations
Town of Chesterton sanitary sewer use ordinance adopted by reference ..... 70-163
Traffic and vehicle regulations ..... 66-1
Unsafe building law ..... 14-295

ADVERTISING
Park rules and regulations ..... 46-62

AFFIRMATIONS
Town board of metropolitan police commissioners ..... 38-28

AGENDA
Town council ..... 2-282

AGREEMENTS. See: CONTRACTS AND AGREEMENTS

AIR POLLUTION
Burning regulations ..... 26-149
Certain conditions apply ..... 26-151

| | Section |
|---|---|
| AIR POLLUTION (Cont'd.) | |
| Circumstances where no permit or authorization required | 26-150 |
| Zoning regulations. See: ZONING (Appendix A) | |
| ALCOHOL AND ALCOHOLIC BEVERAGES | |
| Alcohol and drug testing | |
| Omnibus Transportation Employee Testing Act adopted | 2-246 |
| Alcoholic beverage use on town property | |
| Appeal process | 6-24 |
| Definitions | 6-20 |
| Official action on the permit | 6-23 |
| Permit procedure | 6-22 |
| Purpose | 6-19 |
| Restrictions | 6-21 |
| Violation and penalty | 6-25 |
| Emergency preparedness | |
| Emergency powers | 22-23(1) |
| Use, consumption or possession of alcoholic beverage on town lakefront beach | 78-20 |
| ALLEYS | |
| Depositing unwholesome substances prohibited | 26-50 |
| Noise regulations | 26-171 et seq. |
| See: NOISE | |
| Zoning regulations. See: ZONING (Appendix A) | |
| ALTERATIONS | |
| Cable television system | |
| Unlawful acts | 62-49 |
| Code of Ordinances, unauthorized alterations or tampering with | 1-15 |
| AMBULANCES AND EMERGENCY VEHICLES | |
| Noise regulation exemptions | 26-172 |
| Traffic regulations | 66-59 et seq. |
| See: TRAFFIC AND VEHICLES | |
| AMENDMENTS | |
| Code of Ordinances | 1-12 |
| Subdivision regulations. See: SUBDIVISIONS (Appendix B) | |
| Zoning regulations. See: ZONING (Appendix A) | |
| AMMUNITION | |
| Emergency preparedness | |
| Imposition of additional restrictions | 22-22 |
| AMPLIFIERS | |
| Noise regulation exemptions | 26-172 |
| ANIMALS | |
| Acreage requirements for certain domestic animals; prohibition of swine | 10-30 |
| Animal bites | 10-33 |

Section

ANIMALS (Cont'd.)
Animal control
Acreage requirements for certain domestic animals; prohibition of swine ... 10-30
Animal bites ... 10-33
Animals in motor vehicles ... 10-26
Chickens ... 10-47
Dangerous animals prohibited ... 10-37
Definitions ... 10-22
Exclusion of service dog prohibited ... 10-36
General animal care requirements ... 10-23
Honey bee restrictions ... 10-46
Impoundment procedures ... 10-38
Inspections ... 10-43
Interference with humane officers prohibited ... 10-35
Investigations and inspections ... 10-45
Keeping certain animals prohibited ... 10-40
Keeping wild animals ... 10-41
Leash regulations ... 10-32
Mandatory vaccinations of dogs and cats ... 10-34
Maximum numbers of domestic animals ... 10-29
Motor vehicle accidents involving animals ... 10-25
Owners or agents responsible for removing animal waste and dead animals ... 10-31
Poisoning of animals ... 10-27
Protected animals ... 10-39
Sale of animals as novelties or use as prize prohibited ... 10-24
Serious injuries or death ... 10-42
Trapping of animals restricted ... 10-28
Animals in motor vehicles ... 10-26
Beach regulations
Domesticated animals and pets prohibited on town lakefront beach ... 78-21
Horses prohibited on town beaches; penalty ... 78-22
Cats. See within this title: Dogs and Cats
Chickens ... 10-47
Control over animals ... 10-1
Dangerous animals prohibited ... 10-37
Definitions ... 10-22
Dogs and cats
Acreage requirements for certain domestic animals; prohibition of swine ... 10-30
Animal bites ... 10-33
Animals in motor vehicles ... 10-26
Dangerous animals prohibited ... 10-37
Definitions ... 10-22
Exclusion of service dog prohibited ... 10-36
General animal care requirements ... 10-23
Impoundment procedures ... 10-38
Leash regulations ... 10-32

| | Section |
|---|---|
| ANIMALS (Cont'd.) | |
| Mandatory vaccinations of dogs and cats | 10-34 |
| Maximum numbers of domestic animals | 10-29 |
| Motor vehicle accidents involving animals | 10-25 |
| Owners or agents responsible for removing animal waste and dead animals | 10-31 |
| Sale of animals as novelties or use as prize prohibited | 10-24 |
| Serious injuries or death | 10-42 |
| When dogs are declared a nuisance | 26-52 |
| Domesticated animals and pets prohibited on town lakefront beach | 78-21 |
| Exclusion of service dog prohibited | 10-36 |
| General animal care requirements | 10-23 |
| Honey bee restrictions | 10-46 |
| Horses prohibited on town beaches; penalty | 78-22 |
| Impoundment procedures | 10-38 |
| Inspections | 10-43 |
| Interference with humane officers prohibited | 10-35 |
| Investigations and inspections | 10-45 |
| Keeping certain animals prohibited | 10-40 |
| Keeping wild animals | 10-41 |
| Leash regulations | 10-32 |
| Mandatory vaccinations of dogs and cats | 10-34 |
| Maximum numbers of domestic animals | 10-29 |
| Motor vehicle accidents involving animals | 10-25 |
| Owners or agents responsible for removing animal waste and dead animals | 10-31 |
| Park regulations | 46-61 |
| Poisoning of animals | 10-27 |
| Protected animals | 10-39 |
| Sale of animals as novelties or use as prize prohibited | 10-24 |
| Serious injuries or death | 10-42 |
| Slaughtering poultry or animals restricted | 26-51 |
| Trapping of animals restricted | 10-28 |
| Violations; penalties; enforcement | 10-2 |
| Citations | 10-2(b) |
| Fines | 10-2(c) |
| Violations; enforcement | 10-2(d) |
| Warning notices for pet registration and permits | 10-2(a) |
| When dogs are declared a nuisance | 26-52 |
| Zoning regulations. See: ZONING (Appendix A) | |
| ANTENNAS | |
| Zoning regulations. See: ZONING (Appendix A) | |
| APARTMENTS | |
| Subdivision regulations. See: SUBDIVISIONS (Appendix B) | |
| Zoning regulations. See: ZONING (Appendix A) | |

| | Section |
|---|---|
| APPEALS | |
| Alcoholic beverage use on town property | 6-24 |
| Stormwater management | 26-349 |
| Unsafe buildings and premises | 14-331 |
| Zoning regulations. See: ZONING (Appendix A) | |
| APPOINTMENTS | |
| Electrical inspector | 2-61(a) |
| Police reserve unit | 38-56 |
| Town officers and employee | 2-83 |
| APPROPRIATIONS | |
| Rainy day fund | 2-162(d) |
| ARMS | |
| Police reserve unit | 38-59 |
| ARTISTIC PERFORMANCES | |
| Noise regulation exemptions | 26-172 |
| ASHES | |
| Parks, prohibited acts | 46-57 |
| Unsanitary buildings or premises | |
| Dumping prohibited | 26-83 |
| ASSAULT | |
| Parks, prohibited acts | 46-57 |
| ASSEMBLAGES. See: PARADES, ASSEMBLAGES AND PICKETS | |
| ASSEMBLIES | |
| Congregating in public places | 42-24 |
| ASSESSMENTS | |
| Unsafe buildings and premises | |
| Unpaid costs for unsafe premises repairs; notice; certification as special assessment collection as delinquent taxes; disposition of collections | 14-337 |
| ATHLETIC EVENTS | |
| Noise regulation exemptions | 26-172 |
| **B** | |
| B-1 NEIGHBORHOOD BUSINESS DISTRICT | |
| Zoning regulations. See: ZONING (Appendix A) | |
| B-2 CENTRAL BUSINESS DISTRICT | |
| Zoning regulations. See: ZONING (Appendix A) | |
| B-3 GENERAL BUSINESS DISTRICTS | |
| Zoning regulations. See: ZONING (Appendix A) | |
| BACKFILLING | |
| Streets and sidewalks excavations | 58-226 |

Section

BAD CHECKS. See: CHECKS

BANK DRAFTS
Fee for unpaid or dishonored check, draft, etc. ..... 2-3

BATHING
Parks, prohibited acts ..... 46-57

BATTERY
Parks, prohibited acts ..... 46-57

BAYS
Parks, prohibited acts ..... 46-57

BEACHES
Domesticated animals and pets prohibited on town lakefront beach ..... 78-21
Horses prohibited on town beaches; penalty ..... 78-22
Motorboats and jet skis prohibited ..... 78-19
Parking ..... 66-216 et seq.
See: TRAFFIC AND VEHICLES
Use, consumption or possession of alcoholic beverage on town lakefront beach ..... 78-20

BENCHES
Parks, prohibited acts ..... 46-57

BENCHMARKS
Subdivision regulations. See: SUBDIVISIONS (Appendix B)

BENEFITS
Police Reserve Unit ..... 38-58

BICYCLES
Applicability of provisions ..... 66-24
Compliance with state law ..... 66-25
Definitions ..... 66-23
Operations subject to state law ..... 66-30
Penalty ..... 66-27
Riding on permanent seat; passengers ..... 66-31
Riding on sidewalks ..... 66-32

BIDS AND BIDDING
Unsafe buildings and premises ..... 14-334

BIKE PATHS
Subdivision regulations. See: SUBDIVISIONS (Appendix B)

BILLBOARDS. See: SIGNS AND BILLBOARDS

BILLS
Posting prohibited ..... 42-27

| | Section |
|---|---|
| BLOCKS | |
| Subdivision regulations. See: SUBDIVISIONS (Appendix B) | |
| Zoning regulations. See: ZONING (Appendix A) | |
| BOARD OF ZONING APPEALS | |
| Unsafe buildings and premises | |
| Recording of orders, statements of rescission, statements of public bids and records of actions taken by board of zoning appeals | 14-342 |
| Zoning regulations. See: ZONING (Appendix A) | |
| BOARDS, COMMISSIONS, AND DEPARTMENTS | |
| Board of zoning appeals | 2-126 |
| CATV Franchise Code | |
| Program planning committee | 62-41 |
| Defined | 1-2 |
| Department of parks and recreation | |
| Administration | 2-122 |
| Creation of committees | 46-24 |
| Establishment; composition | 46-21 |
| Establishment of rules and regulations | 46-25 |
| Establishment, operation and maintenance of public parks and programs | 46-22 |
| Powers and duties concerning public parks and programs | 46-23 |
| Department of public works | 2-123 |
| Department of redevelopment | 2-124 |
| Department of stormwater management | 2-128 |
| Economic development task force | 2-121 |
| Establishment | 2-121(a) |
| Meetings | 2-121(d) |
| Membership | 2-121(c) |
| Officers | 2-121(e) |
| Purpose | 2-121(b) |
| Reporting | 2-121(g) |
| Vacancies | 2-121(f) |
| Environmental sustainability commission | 2-129 |
| Plan commission | 2-127 |
| Redevelopment authority | 2-125 |
| Town board of metropolitan police commissioners | 38-27 et seq. |
| See: TOWN BOARD OF METROPOLITAN POLICE COMMISSIONERS | |
| Town department of development and town economic development commission | 2-120 |
| Creation | 2-120(b) |
| Meetings | 2-120(e) |
| Membership | 2-120(c) |
| Notice | 2-120(d) |
| Powers | 2-120(f) |
| Purpose | 2-120(a) |
| Zoning regulations. See: ZONING (Appendix A) | |

Section

BONDS
Building permit and securing bond regulations..... 14-137 et seq.
See: BUILDINGS AND BUILDING REGULATIONS
Business security bonds..... 18-5
Contractors ..... 14-190
New street construction..... 58-253
Principal and interest payments
Preapproved payment of claims ..... 2-1(a)(9)
Sand, soil, and earth removal ..... 58-185 et seq.
See: SAND, SOIL, AND EARTH REMOVAL
Sewer connection and repair standards..... 70-198
Street and sidewalk excavations ..... 58-222
Town board of metropolitan police commissioners..... 38-29
Town officers and employee benefits
Official surety bonds ..... 2-85
Unsafe buildings and premises..... 14-330

BOOKS
Charges and fees for copying of documents, books and any public records..... 2-223 et seq.
See: COPIES

BOTTLES
Parks, prohibited acts ..... 46-57

BOXES
Parks, prohibited acts ..... 46-57

BRIDGES
Parks, prohibited acts ..... 46-57

BROKERAGE SERVICES
Discrimination prohibited in the provision of brokerage services ..... 34-44

BRUSH. See: VEGETATION

BUILDING CODE
Adoption by reference ..... 14-44
Application for permits..... 14-45
Authority..... 14-42
Certificate of occupancy ..... 14-53
Entry ..... 14-51
Inspection assistance ..... 14-50
Inspections..... 14-49
Other ordinances..... 14-47
Penalties ..... 14-58
Permit required ..... 14-46
Purpose..... 14-41
Remedies ..... 14-57
Review of application..... 14-48
Right of appeal ..... 14-56
Scope..... 14-43

| | Section |
|---|---|
| BUILDING CODE (Cont'd.) | |
| Stop work order | 14-52 |
| Title | 14-40 |
| Violations | 14-55 |
| Workmanship | 14-54 |
| BUILDINGS AND BUILDING REGULATIONS | |
| Building code | 14-40 et seq. |
| See: BUILDING CODE | |
| CATV franchise code | 62-34 et seq. |
| See: TELECOMMUNICATIONS | |
| Code of Ordinances | 1-1 et seq. |
| See: CODE OF ORDINANCES | |
| Contractors, licensing of | 14-186 et seq. |
| See: CONTRACTORS | |
| Fence and wall restrictions | App. A, § 265 et seq. |
| See: ZONING (Appendix A) | |
| Gas | 14-251 et seq. |
| See: GAS AND GASOLINE | |
| Licensing of contractors | 14-186 et seq. |
| See: CONTRACTORS | |
| Major moves construction fund | 2-161 |
| Manufactured building materials | |
| Application | 14-401 |
| Definitions | 14-400 |
| Disclosure on permit application | 14-403 |
| Identification required | 14-402 |
| Inspection | 14-405 |
| Penalty | 14-406 |
| Tags | 14-404 |
| Noise regulations | 26-171 et seq. |
| See: NOISE | |
| Numbering required of all structures designed for human habitation | |
| Administration and enforcement | 58-61 |
| Apartment structures must be numbered | 58-63 |
| Duty to comply | |
| Apartment owners | 58-65 |
| Existing house owners | 58-67 |
| New house owners | 58-66 |
| Structures of public accommodation | 58-68 |
| House numbering system adopted | 58-59 |
| Numbering alterations and name changes | 58-62 |
| Official copy | 58-60 |
| Separate apartment; separate number | 58-64 |
| Violations; penalties; separate offenses | 58-69 |
| Plumbing and building inspector | 2-60 |
| Property maintenance code | 14-362 et seq. |
| See: PROPERTY MAINTENANCE CODE | |

| | Section |
|---|---|
| BUILDINGS AND BUILDING REGULATIONS (Cont'd.) | |
| Rules and regulations governing construction and alteration of buildings | |
| Application and permit fees | |
| Application fee | 14-117 |
| Mandatory requirements | 14-116 |
| Permit fees | 14-118 |
| Permits issued | 14-119 |
| Building code | 14-40 et seq. |
| See: BUILDING CODE | |
| Building permit and securing bond regulations | |
| Application for building permit (form) | 14-137 |
| Building commissioner to review building permit and subdivision applications; flood damage | 14-139 |
| Commencement and completion duties of construction under a building permit/fees | 14-138 |
| Conflict of interest; appointment of temporary building official | 14-141 |
| Performance bonds and town contracts | 14-140 |
| Construction, alteration, and remodeling regulations | |
| Additional inspection fee | 14-84 |
| Electrical, mechanical and plumbing, two inspections | 14-84(c) |
| First inspection | 14-84(c)(1) |
| Second inspection | 14-84(c)(2) |
| Fee amount | 14-84(a) |
| Normal building inspections | 14-84(b) |
| First inspection | 14-84(b)(1) |
| Fourth inspection | 14-84(b)(4) |
| Second inspection | 14-84(b)(2) |
| Third inspection | 14-84(b)(3) |
| Permit holder shall contact the following | 14-84(d) |
| Building permit fees | 14-80 |
| Electrical permit fees | 14-82 |
| Fees mandatory | 14-85 |
| Occupancy permit fee | 14-79 |
| Permit required for construction, alteration, or remodeling | 14-78 |
| Plumbing permit fees | 14-81 |
| Public improvement permit | 14-83 |
| Purpose of permit fees | 14-77 |
| Smoke and carbon monoxide detectors | |
| Certificates of compliance | 14-389 |
| Definitions | 14-385 |
| Enforcement | 14-390 |
| Installation | 14-386 |
| Maintenance | 14-387 |
| Responsibility | 14-388 |
| Subdivision regulations. See: SUBDIVISIONS (Appendix B) | |

| | Section |
|---|---|
| BUILDINGS AND BUILDING REGULATIONS (Cont'd.) | |
| Telecommunications | 62-20 et seq. |
| See: TELECOMMUNICATIONS | |
| Unsafe building law | |
| Adoption of statute | 14-295 |
| Unsafe buildings and premises | |
| Action to enforce orders | 14-333 |
| Appeals | 14-331 |
| Civil actions regarding unsafe premises | 14-340 |
| Definitions | 14-326 |
| Emergency action; recovery of costs; challenge of determination of emergency | 14-332 |
| Hearing; extension of time limits; performance bonds; records; record of findings and action; penalties | 14-330 |
| Inspection warrants | 14-339 |
| Liability for costs for performance of work required by orders | 14-335 |
| Manner authorized for performance of work under order of enforcement authority; bids; notification to persons having substantial property interest; service by publication | 14-334 |
| Manner of serving notice | 14-341 |
| Modification or rescission of orders | 14-329 |
| Notice of unpaid costs; filing with clerk of court; hearing; judgment lien | 14-336 |
| Orders; contents; notice; expiration | 14-328 |
| Recording of orders, statements of rescission, statements of public bids and records of actions taken by board of zoning appeals | 14-342 |
| Transfers of property by persons not complying with orders | 14-343 |
| Unpaid costs for unsafe premises repairs; notice; certification as special assessment collection as delinquent taxes; disposition of collections | 14-337 |
| Unsafe building fund; deposits and expenditures | 14-338 |
| Unsafe buildings and unsafe premises described | 14-327 |
| Violations; penalties | 14-344 |
| Unsanitary buildings or premises | 26-82 et seq. |
| See: NUISANCES | |
| Zoning regulations. See: ZONING (Appendix A) | |
| BULK ITEMS | |
| Pickup of large bulk items and brush regulated | 54-52 |
| BURGLAR ALARMS | |
| Noise regulation exemptions | 26-172 |
| BURNING | |
| Air pollution | 26-149 |
| BUSINESSES | |
| Application and fee | 18-2 |

Section

BUSINESSES (Cont'd.)
Approval of town council ..... 18-3
Authority to license ..... 18-1
Duration of license, display required ..... 18-4
Issuance, revocation or suspension ..... 18-6
Licenses, permits and miscellaneous business regulations
Business registration permit required and application ... 18-21
Change of location ..... 18-27
Definitions ..... 18-19
Display of permit ..... 18-22
Exemptions ..... 18-25
Expiration ..... 18-28
Filing required ..... 18-23
Inspection of business ..... 18-26
Penalties ..... 18-29
Prima facie evidence of doing business ..... 18-20
Purpose, authority and balance of interests ..... 18-18
Records ..... 18-24
Noise regulation exemptions ..... 26-172
Security bonds ..... 18-5
Specific licensing or permit regulations
Chart of fees ..... 18-41
Taxicabs and taxi drivers ..... 18-85 et seq.
See: TAXICABS AND TAXI DRIVERS
Transient or itinerant merchants, commercial solicitors, peddlers and hawkers ..... 18-51 et seq.
See: TRANSIENT OR ITINERANT MERCHANTS, COMMERCIAL SOLICITORS, PEDDLERS AND HAWKERS
Speeding and no passing regulations ..... 66-357
Tax abatement procedures
Tax abatement or tax reassessment procedures ..... 18-123
Zoning regulations. See: ZONING (Appendix A)

**C**

CABLE TELEVISION
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Telecommunications ..... 62-20 et seq.
See: TELECOMMUNICATIONS
Zoning regulations. See: ZONING (Appendix A)

CANS
Parks, prohibited acts ..... 46-57

CARCASSES
Owners or agents responsible for removing animal waste and dead animals ..... 10-31

CARNIVALS
Noise regulation exemptions ..... 26-172

Section

CASSETTE PLAYERS
Noise regulations..... 26-171 et seq.
See: NOISE

CATCHLINES
Code of Ordinances ..... 1-11

CD PLAYERS
Noise regulations..... 26-171 et seq.
See: NOISE

CELEBRATIONS
Noise regulation exemptions ..... 26-172

CELLARS
Depositing unwholesome substances prohibited ..... 26-50

CELLULAR ANTENNA TOWERS AND CELLULAR TELECOMMUNICATION SERVICES, REGULATIONS FOR
Zoning regulations. See: ZONING (Appendix A)

CERTIFICATE OF OCCUPANCY
Building Code ..... 14-53

CERTIFICATES OF COMPLIANCE
Smoke and carbon monoxide detectors..... 14-389

CHECKS
Fee for unpaid or dishonored check, draft, etc..... 2-3

CHILDREN. See: MINORS

CHURCH
Disturbing place of worship or meeting..... 42-25

CITATIONS
Animal violations ..... 10-2(b)
Code of Ordinances ..... 1-1
Noise citations..... 26-176

CIVIL ACTIONS
Unsafe premises, civil actions regarding..... 14-340

CIVIL EMERGENCIES
Emergency preparedness
Definitions..... 22-19
Emergency powers..... 22-23
Alcoholic beverages ..... 22-23(1)
Incendiary missiles ..... 22-23(3)
Restricted area ..... 22-23(4)
Weapons..... 22-23(2)
Imposition of additional restrictions ..... 22-22
Imposition of curfew ..... 22-21
Proclamation by council president ..... 22-20

| | Section |
|---|---|
| CLAIMS | |
| Preapproved payment of claims | 2-1 |
| Snow removal, emergency, repair regulations | |
| Settling claims | 66-123 |
| CLERK. See: TOWN CLERK-TREASURER | |
| CLERK-TREASURER | |
| Defined | 1-2 |
| CLUBS | |
| Emergency preparedness | |
| Imposition of additional restrictions | 22-22 |
| CODE OF ORDINANCES* | |
| Amendments to Code | 1-12 |
| Catchlines and other headings | 1-11 |
| Code application | 1-4 |
| Construction and severability of Code | 1-7 |
| Definitions and rules of construction | 1-2 |
| Designation and citation of Code | 1-1 |
| Editor's notes and references | 1-10 |
| Effect of history note | 1-9 |
| Effective date of ordinances | 1-6 |
| Enforcement of ordinances through administrative proceedings | 1-19 |
| General penalties | 1-8 |
| Incorporation of material into Code | 1-16 |
| Miscellaneous actions, ordinances and resolutions not affected by Code | 1-3 |
| Recordation and publication of ordinances | 1-14 |
| Repeal shall not revive ordinances | 1-5 |
| Schedule of fines for first offense Code violations | 1-18 |
| Supplementation of Code | 1-13 |
| Town seal | 1-17 |
| Unauthorized alterations or tampering with Code | 1-15 |
| CODES | |
| Building code | 14-40 et seq. |
| See: BUILDING CODE | |
| CATV franchise code | 62-20 et seq. |
| See: TELECOMMUNICATIONS | |
| Defined | 1-2 |
| Property maintenance code | 14-362 et seq. |
| See: PROPERTY MAINTENANCE CODE | |
| COMBUSTIBLE PRODUCTS | |
| Emergency preparedness | |
| Imposition of additional restrictions | 22-22 |


*__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.

Section

COMMERCIAL PROPERTY
Sewage works
Commercial and industrial installations ..... 70-66 et seq.
See: WATER AND SEWERS

COMMERCIAL SOLICITORS. See: TRANSIENT OR ITINERANT MERCHANTS, COMMERCIAL SOLICITORS, PEDDLERS AND HAWKERS

COMMISSIONS. See: BOARDS, COMMISSIONS, AND DEPARTMENTS

COMMITTEES. See: BOARDS, COMMISSIONS, AND DEPARTMENTS

COMPENSATION
Town clerk-treasurer ..... 2-27
Town council ..... 2-297
Town officers and employees ..... 2-84

COMPUTATION OF TIME
Defined ..... 1-2

CONCERTS
Noise regulation exemptions ..... 26-172

CONFLICT OF INTEREST
Town council ..... 2-276

CONGREGATING
Congregating in public places ..... 42-24

CONJUNCTIONS
Defined ..... 1-2

CONSTRUCTION
Buildings and building regulations ..... 14-1 et seq.
See: BUILDINGS AND BUILDING REGULATIONS
CATV franchise code
System construction and description ..... 62-27
Code of Ordinances ..... 1-7
Major moves construction fund ..... 2-161
New street construction ..... 58-245 et seq.
See: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES
Sewer connection and repair standards ..... 70-200
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Zoning regulations. See: ZONING (Appendix A)

CONTAINERS
Recycling containers, cost and content ..... 54-19 et seq.
See: SOLID WASTE

CONTINUING EDUCATION FUND
Accounting and expenditure rules ..... 2-158(d)

| | Section |
|---|---|
| CONTINUING EDUCATION FUND (Cont'd.) | |
| Established | 2-158(a) |
| Purpose | 2-158(c) |
| Source of funds | 2-158(b) |
| CONTRACTORS | |
| Buildings and building regulations | 14-1 et seq. |
| See: BUILDINGS AND BUILDING REGULATIONS | |
| Licensing of contractors | |
| Licensing | |
| Age requirement for license | 14-189 |
| Application fee | 14-191 |
| Bond and insurance requirements | 14-190 |
| Definitions | 14-187 |
| Disability or death of license holder | 14-196 |
| Expiration of license | 14-193 |
| Homeowner exception | 14-188 |
| License renewal; renewal fee | 14-192 |
| License required of contractor | 14-186 |
| Revocation hearing | 14-195 |
| Suspension or revocation of contractor's license | 14-194 |
| Temporary license | 14-197 |
| Stop work orders | 14-166 |
| Subdivision regulations. See: SUBDIVISIONS (Appendix B) | |
| Zoning regulations. See: ZONING (Appendix A) | |
| CONTRACTS AND AGREEMENTS | |
| Abandoned and junk vehicles | |
| Towing contracts | 26-224 |
| Building permit and securing bond regulations | |
| Town contracts | 14-140 |
| New street construction | |
| Construction agreement | 58-252 |
| Other franchise agreements | 62-80 et seq. |
| See: TELECOMMUNICATIONS | |
| Policy concerning nepotism and contracting with the town | |
| Certification requirement | 2-314 |
| Contracting with relatives of current elected officials | 2-313 |
| Definitions | 2-310 |
| Employment of relatives | 2-311 |
| Exclusions from section 2-311 | 2-312 |
| Incorporation by reference | 2-315 |
| Preapproved payment of claims | |
| Lease agreements or rental agreements | 2-1(a)(8) |
| Maintenance agreements or service agreement | 2-1(a)(7) |
| Sewage works usage rates and charges | |
| Special rate contracts | 70-48 |

Section

COPIES
Charges and fees for copying of documents, books and any public records
Compliance with state law ..... 2-226
Fees..... 2-224
Public access to documents; books; public records ..... 2-223
Town officials exempt ..... 2-225
Property maintenance code
Copies on file..... 14-363

COUNCIL. See: TOWN COUNCIL

COUNTY
Buildings and building regulations..... 14-1 et seq.
See: BUILDINGS AND BUILDING REGULATIONS
Code of Ordinances ..... 1-1 et seq.
See: CODE OF ORDINANCES
Defined ..... 1-2
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Zoning regulations. See: ZONING (Appendix A)

COURTS
Unsafe buildings and premises
Notice of unpaid costs; filing with clerk of court; hearing; judgment lien ..... 14-336

CRIMINAL TRESPASS
Prohibited..... 42-22

CROSSWALKS
Traffic signs ..... 66-382

CULVERTS
Regulations governing drive entrance culverts ..... 58-97 et seq.
See: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

CUMULATIVE CAPITAL IMPROVEMENT FUND
Definitions ..... 2-155(c)
Established ..... 2-155(a)
Purpose..... 2-155(b)
Restriction on monies ..... 2-155(e)
Use of funds ..... 2-155(d)

CURBS
Subdivision regulations. See: SUBDIVISIONS (Appendix B)

CURFEW
Emergency preparedness
Imposition of curfew ..... 22-21

Section

CURFEW (Cont'd.)
Minors, curfew for ..... 42-60 et seq.
See: OFFENSES AND MISCELLANEOUS PROVISIONS

**D**

DAMAGES
Abandoned and junk vehicles
Liability for loss or damage to vehicle or vehicle parts... 26-225
Cable television system
Unlawful acts ..... 62-49
Fireworks, liability for fire and other damage ..... 26-124

DEBRIS. See: SOLID WASTE

DEFACE
Parks, prohibited acts ..... 46-57

DEMONSTRATIONS
Congregating in public places ..... 42-24

DEPARTMENTS. See: BOARDS, COMMISSIONS, AND DEPARTMENTS

DEPOSITS
Unsafe building fund ..... 14-338

DESCRIPTIONS
CATV franchise code
System construction and description..... 62-27
Unsafe buildings and unsafe premises described..... 14-327

DESIGNATION
Code of Ordinances ..... 1-1

DEVELOPMENT. See: PLANNING AND DEVELOPMENT

DIRT
Parks, prohibited acts ..... 46-57

DISABILITIES
Contractors
Disability or death of license holder ..... 14-196

DISABLED PERSONS
Parking spaces ..... 66-186

DISCHARGES
Firearms and other missiles, discharge prohibited; exceptions ..... 42-1
Stormwater management ..... 26-244 et seq.
See: STORMWATER MANAGEMENT

DISCRIMINATION
CATV franchise code..... 62-34 et seq.
See: TELECOMMUNICATIONS

Section

DISCRIMINATION (Cont'd.)
Fair housing ..... 34-40 et seq.
See: FAIR HOUSING

DISFIGURE
Parks, prohibited acts ..... 46-57

DISORDERLY CONDUCT
Prohibited ..... 42-23

DISPLACE
Parks, prohibited acts ..... 46-57

DISTURBING THE PEACE
Disturbing place of worship or meeting ..... 42-25
Prohibited ..... 42-20

DITCHES
Blockage prohibited ..... 58-98

DOCUMENTS
Charges and fees for copying of documents, books and any public records ..... 2-223 et seq.
See: COPIES
Offenses
Policy regarding erroneous or irregular variances, losses, shortages and thefts
Maintenance of documentation ..... 42-2(d)

DRAINAGE
Stormwater management ..... 26-244 et seq.
See: STORMWATER MANAGEMENT
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Zoning regulations. See: ZONING (Appendix A)

DRIVEWAYS
Regulations governing drive entrance culverts ..... 58-97 et seq.
See: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Zoning regulations. See: ZONING (Appendix A)

DRUGS
Alcohol and drug testing
Omnibus Transportation Employee Testing Act adopted 2-246
Law enforcement
Prohibiting the purchase, possession, sale and offering for sale of substances containing synthetic cannabinoid ..... 38-5

DUMPING
Unsanitary buildings or premises
Dumping prohibited ..... 26-83

Section

DUTIES. See: POWERS AND DUTIES

**E**

EAST WASHINGTON STREET
Traffic and vehicles
Weight restrictions for ..... 66-148

ECONOMIC DEVELOPMENT TASK FORCE
Establishment ..... 2-121(a)
Meetings ..... 2-121(d)
Membership ..... 2-121(c)
Officers ..... 2-121(e)
Purpose ..... 2-121(b)
Reporting ..... 2-121(g)
Vacancies ..... 2-121(f)

EDUCATION
CATV franchise code
Public, educational and municipal access ..... 62-37
Continuing education fund ..... 2-158

ELECTIONS
Town council
Election districts ..... 2-272

ELECTRICITY
Electrical inspector ..... 2-61
Electrical permit fees ..... 14-82
Poles and wires ..... 58-133 et seq.
See: POLES AND WIRES

EMERGENCIES
CATV franchise code
Emergency use of facilities ..... 62-39
Emergency preparedness ..... 22-19 et seq.
See: CIVIL EMERGENCIES
Noise regulation exemptions ..... 26-172
Preapproved payment of claims ..... 2-1(a)(12)
Snow removal, emergency, repair regulations ..... 66-116 et seq.
See: SNOW AND ICE
Unsafe buildings and premises
Emergency action; recovery of costs; challenge of determination of emergency ..... 14-332

EMPLOYEES. See: OFFICERS AND EMPLOYEES

ENVIRONMENT
Abandoned and junk vehicles ..... 26-210 et seq.
See: JUNK AND JUNK YARDS
Air pollution ..... 26-149 et seq.
See: AIR POLLUTION
Authority to regulate air and sound ..... 26-2
Environmental sustainability commission ..... 2-129

Section

ENVIRONMENT (Cont'd.)
Fireworks ..... 26-120 et seq.
See: FIREWORKS
Noise ..... 26-171 et seq.
See: NOISE
Nuisances ..... 26-49 et seq.
See: NUISANCES
Stormwater management ..... 26-244 et seq.
See: STORMWATER MANAGEMENT
Town's authority to regulate conduct, use or possession of property ..... 26-1
Unsanitary buildings or premises ..... 26-82 et seq.
See: NUISANCES
Zoning regulations. See: ZONING (Appendix A)

EQUIPMENT
Noise regulations ..... 26-171 et seq.
See: NOISE
Police reserve unit ..... 38-59

EROSION
Stormwater management ..... 26-244 et seq.
See: STORMWATER MANAGEMENT

ESTABLISHMENT
Continuing education fund ..... 2-158(a)
Cumulative capital improvement fund ..... 2-155(a)
Economic development task force ..... 2-121(a)
Major moves construction fund ..... 2-161(a)
Motor vehicle highway fund (MVHF) ..... 2-156(a)
Police reserve unit ..... 38-55
Redevelopment fund ..... 2-163(a)
Water and sewage utilities ..... 70-1

ET SEQ.
Defined ..... 1-2

EVENTS
Noise regulation exemptions ..... 26-172

EXCAVATIONS
Streets and sidewalks ..... 58-221 et seq.
See: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Zoning regulations. See: ZONING (Appendix A)

EXCREMENT
Depositing unwholesome substances prohibited ..... 26-50

EXPENDITURES
Continuing education fund
Accounting and expenditure rules ..... 2-158(d)

| | Section |
|---|---|
| EXPENDITURES (Cont'd.) | |
| Traffic accident report account | 2-157(c) |
| Accounting and expenditure rules | 2-157(d) |
| Unsafe building fund | 14-338 |
| EXPENSES | |
| Emergency circumstances | |
| Preapproved payment of claims | 2-1(a)(12) |

**F**

| | |
|---|---|
| F-1 FLOOD PLAIN DISTRICTS | |
| Zoning regulations. See: ZONING (Appendix A) | |
| FACILITIES | |
| CATV franchise code | |
| Emergency use of facilities | 62-39 |
| Parks, prohibited acts | 46-57 |
| FAIR HOUSING | |
| Administration | 34-46 |
| Definitions | 34-41 |
| Discrimination prohibited in the financing of housing | 34-43 |
| Discrimination prohibited in the provision of brokerage services | 34-44 |
| Discrimination prohibited in the sale or rental of housing | 34-42 |
| Enforcement | 34-47 |
| Exemptions | 34-45 |
| Policy | 34-40 |
| Referral procedures | 34-48 |
| FAIRS | |
| Noise regulation exemptions | 26-172 |
| FECES | |
| Owners or agents responsible for removing animal waste and dead animals | 10-31 |
| FEDERAL GRANT PROGRAMS | |
| Preapproved payment of claims | 2-1(a)(5) |
| FEES | |
| Building permit and securing bond regulations | |
| Construction, alteration, and remodeling regulations permit fees | 14-77 et seq. |
| See: BUILDINGS AND BUILDING REGULATIONS | |
| Building permit fees | 14-116 et seq. |
| See: BUILDINGS AND BUILDING REGULATIONS | |
| Business licenses specific licensing or permit regulations | |
| Chart of fees | 18-41 |
| Contractors licensing application fee | 14-191 |
| Fee for unpaid or dishonored check, draft, etc. | 2-3 |
| New street construction | 58-254 |

| | Section |
|---|---|
| FEES (Cont'd.) | |
| Parking | |
| Impoundment fee | 66-188 |
| Preapproved payment of claims | 2-1 |
| Sand, soil, and earth removal permit fees | 58-184 |
| Sewer connection and repair standards | 70-197 |
| Stormwater management user fee | 2-2 |
| Street and sidewalk excavations | 58-224 |
| Taxicabs and taxi drivers | |
| Licensing fee | 18-88 |
| FESTIVALS | |
| Noise regulation exemptions | 26-172 |
| FIGHTING | |
| Parks, prohibited acts | 46-57 |
| FINANCES | |
| Beach parking permits | |
| Payments and collections | 66-245 et seq. |
| See: TRAFFIC AND VEHICLES | |
| CATV franchise code | 62-20 et seq. |
| See: TELECOMMUNICATIONS | |
| Connection charges to sewage works within the town | 70-105 et seq. |
| See: WATER AND SEWERS | |
| Continuing education fund | 2-158 |
| Cumulative capital development fund | 2-164 |
| Cumulative capital improvement fund | 2-155 |
| Fire fund | 2-160 |
| Golf carts | |
| Financial responsibility, proof of | 58-285 |
| Health insurance fund | 2-165 |
| Housing, discrimination prohibited in the financing of | 34-43 |
| Major moves construction fund | 2-161 |
| Motor vehicle highway fund (MVHF) | 2-156 |
| Rainy day fund | 2-162 |
| Recovery of fire protection costs | 2-5 |
| Recycling containers, cost and content | 54-19 et seq. |
| See: SOLID WASTE | |
| Redevelopment fund | 2-163 |
| Sewage works | 70-105 et seq. |
| See: WATER AND SEWERS | |
| Solid waste | |
| Charges for refuse, garbage collection and recycling collection and disposal | 54-53 |
| State political subdivision risk management fund | 2-159 |
| Traffic accident report account | 2-157 |
| Unsafe building fund | 14-338 |
| FIRE | |
| Fireworks, liability for fire and other damage | 26-124 |
| Parking near fires | 66-60 |

Section

FIRE AND EXPLOSIVE HAZARDS
Zoning regulations. See: ZONING (Appendix A)

FIRE FUND
General provisions re ..... 2-160

FIRE HOSES
Driving over ..... 66-61

FIRE PREVENTION AND PROTECTION
Fire Fund ..... 2-160
Fireworks ..... 26-120 et seq.
See: FIREWORKS
Recovery of fire protection costs ..... 2-5
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Traffic regulations
Authority of policemen and firemen ..... 66-56
Following fire apparatus; parking near fires ..... 66-60

FIREARMS AND WEAPONS
Emergency preparedness
Emergency powers ..... 22-23
Imposition of additional restrictions ..... 22-22
Firearms and other missiles, discharge prohibited; exceptions ..... 42-1
Licensing of handguns
License application fees ..... 38-77
Qualified or unlimited licenses ..... 38-78

FIREPLACES
Parks, prohibited acts ..... 46-57

FIREWORKS
Definitions ..... 26-120
Discharge prohibited; exception ..... 26-121
Liability for fire and other damage ..... 26-124
Noise regulation exemptions ..... 26-172
Nuisance; unsafe use ..... 26-122
Parental responsibility ..... 26-123
Penalties ..... 26-125

FLAMMABLE PRODUCTS
Emergency preparedness
Imposition of additional restrictions ..... 22-22

FLOODS
Floodplain regulations incorporated by reference ..... 30-1
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Zoning regulations. See: ZONING (Appendix A)

FORFEITURES
CATV franchise code ..... 62-45

| | Section |
|---|---|
| FOUNTAINS | |
| Parks, prohibited acts | 46-57 |
| FRANCHISES | |
| CATV franchise code | 62-20 et seq. |
| See: TELECOMMUNICATIONS | |
| FRONT YARDS | |
| Zoning regulations. See: ZONING (Appendix A) | |
| FUNDS | |
| Abandoned vehicle fund | 26-211 |
| Continuing education fund | 2-158 |
| Accounting and expenditure rules | 2-158(d) |
| Established | 2-158(a) |
| Purpose | 2-158(c) |
| Source of funds | 2-158(b) |
| Cumulative capital development fund | 2-164 |
| Cumulative capital improvement fund | 2-155 |
| Definitions | 2-155(c) |
| Established | 2-155(a) |
| Purpose | 2-155(b) |
| Restriction on monies | 2-155(e) |
| Use of funds | 2-155(d) |
| Fire fund | 2-160 |
| Fund 257, LOIT Special Distribution Fund | 2-166 |
| Health insurance fund | 2-165 |
| Major moves construction fund | 2-161 |
| Established | 2-161(a) |
| Receipts | 2-161(b) |
| Motor vehicle highway fund (MVHF) | 2-156 |
| Additional allocations | 2-156(c) |
| Established | 2-156(a) |
| Purpose | 2-156(b) |
| Rainy day fund | 2-162 |
| Appropriations | 2-162(d) |
| Creation | 2-162(a) |
| Purpose | 2-162(b) |
| Transfers | 2-162(c) |
| Redevelopment fund | 2-163 |
| Duties of treasurer | 2-163(b) |
| Established | 2-163(a) |
| State political subdivision risk management fund | 2-159 |
| Traffic accident report account | 2-157 |
| Accounting and expenditure rules | 2-157(d) |
| Created | 2-157(a) |
| Expenditures | 2-157(c) |
| Source of funds | 2-157(b) |
| Unsafe building fund; deposits and expenditures | 14-338 |

Section

**G**

GAMES
Games or sports in public places ..... 42-21
Park regulations ..... 46-61

GARBAGE. See: SOLID WASTE

GAS AND GASOLINE
Emergency preparedness
Imposition of additional restrictions ..... 22-22
Gas regulations
Compliance with provisions ..... 14-251
Inspection required ..... 14-254
Inspection tests required ..... 14-255
License required ..... 14-252
Permit required ..... 14-253

GATHERINGS
Congregating in public places ..... 42-24

GENDER
Defined ..... 1-2

GLARE OR HEAT
Zoning regulations. See: ZONING (Appendix A)

GLASS
Parks, prohibited acts ..... 46-57

GOLF CARTS
Definitions ..... 58-282
Exemptions ..... 58-288
Financial responsibility, proof of ..... 58-285
License ..... 58-286
Local ordinance, authority ..... 58-281
Occupants ..... 58-284
Town streets and highways, use of golf carts on ..... 58-283
Traffic regulations ..... 58-287
Violations ..... 58-289

GOLF PRACTICE
Park regulations ..... 46-61

GRADES
Subdivision regulations. See: SUBDIVISIONS (Appendix B)

GUTTERS
Depositing unwholesome substances prohibited ..... 26-50
Subdivision regulations. See: SUBDIVISIONS (Appendix B)

Section

**H**

HANDBILLS
Posting prohibited..... 42-27

HANDICAPPED PERSONS. See: DISABLED PERSONS

HAWKERS. See: TRANSIENT OR ITINERANT MERCHANTS, COMMERCIAL SOLICITORS, PEDDLERS AND HAWKERS

HEADINGS
Code of Ordinances ..... 1-11

HEALTH AND SANITATION
Health insurance fund ..... 2-165
Sewer connection and repair standards
Separate stormwater and sanitary sewers required ..... 70-201
Unsanitary buildings or premises ..... 26-82 et seq.
See: NUISANCES
Zoning regulations. See: ZONING (Appendix A)

HEARINGS
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Unsafe buildings and premises..... 14-330 et seq.
See: BUILDINGS AND BUILDING REGULATIONS
Zoning regulations. See: ZONING (Appendix A)

HISTORY NOTES
Code of Ordinances ..... 1-9

HOURS OF OPERATION
Park rules and regulations ..... 46-58
Transient or itinerant merchants, commercial solicitors, peddlers and hawkers ..... 18-62

HOUSING
Fair housing ..... 34-40 et seq.
See: FAIR HOUSING
Parking of vehicles in residential districts ..... 66-187
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Zoning regulations. See: ZONING (Appendix A)

HUMAN RELATIONS
Discrimination
Fair housing..... 34-40 et seq.
See: FAIR HOUSING

**I**

I-1 LIGHT INDUSTRIAL DISTRICTS
Zoning regulations. See: ZONING (Appendix A)

Section

I-2 HEAVY INDUSTRIAL DISTRICTS
Zoning regulations. See: ZONING (Appendix A)

IC
Defined ..... 1-2

ICE. See: SNOW AND ICE

ICE SKATING
Park regulations ..... 46-61

IDENTIFICATION
Manufactured building materials
Identification required ..... 14-402
Taxicabs and taxi drivers ..... 18-93
Photo identification displayed at all times ..... 18-95

IMPOUNDMENT
Animals ..... 10-38
Parking
Impoundment fee ..... 66-188

IMPROVEMENTS. See: PUBLIC IMPROVEMENTS

INCORPORATION
Incorporation of material into Code of Ordinances ..... 1-16

INDEMNIFICATION
CATV franchise code ..... 62-28

INDUSTRIAL PROPERTY
Sewage works
Commercial and industrial installations ..... 70-66 et seq.
See: WATER AND SEWERS

INJURING
Animals, serious injuries or death ..... 10-42
Cable television system
Unlawful acts ..... 62-49
Parks, prohibited acts ..... 46-57

INSPECTIONS
Animals ..... 10-43 et seq.
See: ANIMALS
Building code ..... 14-49 et seq.
See: BUILDING CODE
Businesses, inspection of ..... 18-26
CATV franchise code ..... 62-47
Gas ..... 14-254 et seq.
See: GAS AND GASOLINE
Manufactured building materials ..... 14-405
Poles and wires ..... 58-141
Sewer connection and repair standards ..... 70-202(e)
Stormwater management ..... 26-269 et seq.
See: STORMWATER MANAGEMENT

| | Section |
|---|---|
| INSPECTIONS (Cont'd.) | |
| Subdivision regulations. See: SUBDIVISIONS (Appendix B) | |
| Unsafe buildings and premises | |
| Inspection warrants | 14-339 |
| Vehicle registration checks | 38-3 |
| Zoning regulations. See: ZONING (Appendix A) | |
| INSPECTORS | |
| Electrical inspector | 2-61 |
| Plumbing and building inspector | 2-60 |
| INSTALLATION | |
| Smoke and carbon monoxide detectors | 14-386 |
| INSURANCE | |
| Contractors | 14-190 |
| Health insurance fund | 2-165 |
| Insurance premiums | |
| Preapproved payment of claims | 2-1(a)(3) |
| New street construction | 58-253 |
| Sewer connection and repair standards | 70-198 |
| Taxicabs and taxi drivers | 18-94 |
| Town officers and employee benefits | 2-87 |
| INTERFERENCE | |
| Humane officers, interference with prohibited | 10-35 |
| Public officer, official | 42-26 |
| INTERPRETATION | |
| Defined | 1-2 |
| INTERSECTIONS | |
| Subdivision regulations. See: SUBDIVISIONS (Appendix B) | |
| Traffic signs | 66-381 et seq. |
| See: TRAFFIC AND VEHICLES | |
| INVESTIGATIONS | |
| Animals | 10-45 |
| ITINERANT MERCHANTS. See: TRANSIENT OR ITINERANT MERCHANTS, COMMERCIAL SOLICITORS, PEDDLERS AND HAWKERS | |
| **J** | |
| JET SKIS | |
| Prohibited on beaches | 78-19 |
| JOINT AUTHORITY | |
| Defined | 1-2 |

Section

JUDGMENTS
Unsafe buildings and premises
Notice of unpaid costs; filing with clerk of court; hearing; judgment lien ..... 14-336

JUNK AND JUNK YARDS
Abandoned and junk vehicles
Abandoned vehicle report; photographs; duties of tagging officer; tow and storage of vehicle or parts ..... 26-219
Abandoned vehicle report of public agency; request for name and address of owner of lienholder ..... 26-220
Abandoned vehicles and parts prohibited ..... 26-215
Application of article ..... 26-216
Compliance with state law ..... 26-213
Definitions ..... 26-210
Enforcement authority ..... 26-214
Liability for loss or damage to vehicle or vehicle parts ... 26-225
Means of vehicle identification not available; disposal without notice ..... 26-221
Penalty; abandoned vehicle fund ..... 26-211
Purpose ..... 26-212
Responsibility and liability of owner ..... 26-217
Sales of abandoned vehicles or parts ..... 26-222
Tagging abandoned vehicle or parts ..... 26-218
Towing charges ..... 26-223
Towing contracts ..... 26-224

JUVENILES. See: MINORS

**L**

LAKES
Alcoholic beverages; use, consumption or possession of on town lakefront beach ..... 78-20
Domesticated animals and pets prohibited on town lakefront beach ..... 78-21
Parks, prohibited acts ..... 46-57

LANES
Depositing unwholesome substances prohibited ..... 26-50

LAW ENFORCEMENT
Duneland Emergency Regional Dispatch Operations Center Management Board ..... 38-6
Licensing of handguns ..... 38-77 et seq.
See: FIREARMS AND WEAPONS
Police reserve unit ..... 38-55 et seq.
See: POLICE
Preservation of public peace and order ..... 38-1
Prohibiting the purchase, possession, sale and offering for sale of substances containing synthetic cannabinoid ... 38-5

Section

LAW ENFORCEMENT (Cont'd.)
Town board of metropolitan police commissioners..... 38-27 et seq.
See: TOWN BOARD OF METROPOLITAN POLICE COMMISSIONERS
Traffic accident and case reports ..... 38-2
Vehicle registration checks ..... 38-3

LAWN MOWERS
Noise regulations..... 26-171 et seq.
See: NOISE

LEASES. See: RENTALS AND LEASES

LEGAL PROCESSES. See: WARRANTS, WRITS, SUBPOENAS AND OTHER LEGAL PROCESSES

LIABILITIES
Abandoned and junk vehicles ..... 26-217 et seq.
See: JUNK AND JUNK YARDS
CATV franchise code..... 62-28
Fireworks
Liability for fire and other damage ..... 26-124
Stormwater management
Disclaimer of liability..... 26-252
Unsafe buildings and premises..... 14-335

LICENSES AND PERMITS
Alcoholic beverage use on town property ..... 6-22 et seq.
See: ALCOHOL AND ALCOHOLIC BEVERAGES
Beach parking permits ..... 66-293 et seq.
See: TRAFFIC AND VEHICLES
Building code ..... 14-45 et seq.
See: BUILDING CODE
Building permits ..... 14-116 et seq.
See: BUILDINGS AND BUILDING REGULATIONS
Business licenses..... 18-1 et seq.
See: BUSINESSES
Contractors ..... 14-186 et seq.
See: CONTRACTORS
Gas..... 14-252 et seq.
See: GAS AND GASOLINE
Golf carts..... 58-286
Handguns, licensing of ..... 38-77 et seq.
See: FIREARMS AND WEAPONS
Licenses and permit fees
Preapproved payment of claims ..... 2-1(a)(2)
Licensing of handguns..... 38-77 et seq.
See: FIREARMS AND WEAPONS
Manufactured building materials
Disclosure on permit application ..... 14-403
Parades, assemblages and pickets ..... 58-15 et seq.
See: PARADES, ASSEMBLAGES AND PICKETS

Section

LICENSES AND PERMITS (Cont'd.)
Poles and wires ..... 58-136
Sand, soil, and earth removal ..... 58-180 et seq.
See: SAND, SOIL, AND EARTH REMOVAL
Septic system repair or modification ..... 70-131
Sewer connection and repair standards
Permit for new connection or repair ..... 70-196
Stormwater management ..... 26-326 et seq.
See: STORMWATER MANAGEMENT
Street and sidewalk excavations ..... 58-221 et seq.
See: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Taxicabs and taxi drivers ..... 18-85 et seq.
See: TAXICABS AND TAXI DRIVERS
Transient or itinerant merchants, commercial solicitors, peddlers and hawkers ..... 18-51 et seq.
See: TRANSIENT OR ITINERANT MERCHANTS, COMMERCIAL SOLICITORS, PEDDLERS AND HAWKERS
Vehicle weight restrictions
Written permits ..... 66-151
Warning notices for pet registration and permits ..... 10-2(a)
Zoning regulations. See: ZONING (Appendix A)

LIENS
Unsafe buildings and premises
Notice of unpaid costs; filing with clerk of court; hearing; judgment lien ..... 14-336
Unsanitary buildings or premises
Abatement by town; lien ..... 26-87

LIGHTS AND LIGHTING
Subdivision regulations. See: SUBDIVISIONS (Appendix B)

LITTERING
Streets, sidewalks and other public places ..... 58-2

LOCATION
Businesses
Change of location ..... 18-27
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Zoning regulations. See: ZONING (Appendix A)

LOTS
Depositing unwholesome substances prohibited ..... 26-50
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Zoning regulations. See: ZONING (Appendix A)

Section

LOUDSPEAKERS
Noise regulations..... 26-171 et seq.
See: NOISE

**M**

MACHINERY
Noise regulations..... 26-171 et seq.
See: NOISE

MAINTENANCE
Buildings and building regulations..... 14-1 et seq.
See: BUILDINGS AND BUILDING REGULATIONS
Department of parks and recreation
Establishment, operation and maintenance of public parks and programs..... 46-22
Maintenance agreements
Preapproved payment of claims ..... 2-1(a)(7)
Offenses
Policy regarding erroneous or irregular variances, losses, shortages and thefts
Maintenance of documentation..... 42-2(d)
Property maintenance code..... 14-362 et seq.
See: PROPERTY MAINTENANCE CODE
Smoke and carbon monoxide detectors..... 14-387

MAJOR MOVES CONSTRUCTION FUND
Established ..... 2-161(a)
Receipts ..... 2-161(b)

MANUFACTURED BUILDING MATERIALS
Provisions re..... 14-400 et seq.
See: BUILDINGS AND BUILDING REGULATIONS

MANURE
Depositing unwholesome substances prohibited ..... 26-50

MAPS. See: SURVEYS, MAPS AND PLATS

MAY
Defined ..... 1-2

MEETINGS
Congregating in public places ..... 42-24
Disturbing place of worship or meeting..... 42-25
Economic development task force..... 2-121(d)
Offenses
Policy regarding erroneous or irregular variances, losses, shortages and thefts
Resolution of incidents not meeting the materiality threshold ..... 42-2(d)
Town council..... 2-271 et seq.
See: TOWN COUNCIL

| | Section |
|---|---|
| MEETINGS (Cont'd.) | |
| Town department of development and town economic development commission | 2-120(e) |
| MEMBERSHIP | |
| Economic development task force | 2-121(c) |
| Town board of metropolitan police commissioners | 38-27 |
| Town council | 2-271 |
| Town department of development and town economic development commission | 2-120(c) |
| MERCHANTS. See: TRANSIENT OR ITINERANT MERCHANTS, COMMERCIAL SOLICITORS, PEDDLERS AND HAWKERS | |
| MINORS | |
| Curfew for minors | 42-60 et seq. |
| See: OFFENSES AND MISCELLANEOUS PROVISIONS | |
| Fireworks | 26-123 |
| Noise | 26-175 |
| MINUTES | |
| Town council | |
| Call to order; reading and adopting minutes | 2-283 |
| MISSILES | |
| Emergency preparedness | |
| Emergency powers | |
| Incendiary missiles | 22-23(3) |
| Firearms and other missiles, discharge prohibited; exceptions | 42-1 |
| MOBILE HOMES AND MOBILE HOME PARKS | |
| Zoning regulations. See: ZONING (Appendix A) | |
| MODEL AIRPLANES | |
| Park regulations | 46-61 |
| MONTH | |
| Defined | 1-2 |
| MONUMENTS | |
| Parks, prohibited acts | 46-57 |
| Subdivision regulations. See: SUBDIVISIONS (Appendix B) | |
| MOTOR VEHICLE HIGHWAY FUND (MVHF) | |
| Additional allocations | 2-156(c) |
| Established | 2-156(a) |
| Purpose | 2-156(b) |
| MOTOR VEHICLES. See: TRAFFIC AND VEHICLES | |
| MOTORBOATS | |
| Prohibited on beaches | 78-19 |

Section

MUSICAL INSTRUMENTS
Noise regulations..... 26-171 et seq.
See: NOISE

MUST
Defined ..... 1-2

**N**

NEPOTISM
Policy concerning nepotism and contracting with the town 2-310 et seq.
See: CONTRACTS AND AGREEMENTS

NOISE
Consequences of not paying fines/assessments..... 26-174
Exemptions ..... 26-172
Fireworks ..... 26-122
Noise and sound emission regulations ..... 26-171
Parental responsibility ..... 26-175
Penalties ..... 26-173
Power to issue citations ..... 26-176
Rules and guidelines ..... 26-177
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Zoning regulations. See: ZONING (Appendix A)

NOTICES AND NOTIFICATIONS
Nuisances
Contents of notice ..... 26-56
Notice to abate..... 26-55
Service of notice ..... 26-57
Parks, prohibited acts ..... 46-57
Posting prohibited..... 42-27
Town department of development and town economic development commission..... 2-120(d)
Unsafe buildings and premises..... 14-328 et seq.
See: BUILDINGS AND BUILDING REGULATIONS
Unsanitary buildings or premises
Notice to abate..... 26-86
Warning notices for pet registration and permits..... 10-2(a)
Weeds and rank vegetation ..... 74-22

NOVELTIES
Sale of animals as novelties or use as prize prohibited ..... 10-24

NOXIOUS VEGETATION
Prohibited..... 74-19

NUISANCES
Abandoned and junk vehicles ..... 26-210 et seq.
See: JUNK AND JUNK YARDS
Abatement by town ..... 26-58

Section

NUISANCES (Cont'd.)
Air pollution ..... 26-149 et seq.
See: AIR POLLUTION
Animals ..... 10-1 et seq.
See: ANIMALS
Civil action ..... 26-60
Contents of notice ..... 26-56
Depositing unwholesome substances prohibited ..... 26-50
Division to be supplemental ..... 26-61
Fine ..... 26-54
Fireworks ..... 26-120 et seq.
See: FIREWORKS
Illicit discharges ..... 26-449
Illustrative enumeration ..... 26-53
Noise ..... 26-171 et seq.
See: NOISE
Notice to abate ..... 26-55
Public nuisances prohibited ..... 26-49
Recovery of town's costs ..... 26-59
Service of notice ..... 26-57
Slaughtering poultry or animals restricted ..... 26-51
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Unsafe buildings and premises ..... 14-330 et seq.
See: BUILDINGS AND BUILDING REGULATIONS
Unsanitary buildings or premises
Abatement by town; lien ..... 26-87
Accumulation regulations ..... 26-82
Dumping prohibited ..... 26-83
Duties of owners and occupants ..... 26-84
Notice to abate ..... 26-86
Right of entry ..... 26-88
Unsanitary conditions prohibited ..... 26-85
When dogs are declared a nuisance ..... 26-52
Zoning regulations. See: ZONING (Appendix A)

NUMBERS AND NUMBERING
Defined ..... 1-2
Domestic animals, maximum numbers of ..... 10-29
Numbering required of all structures designed for human habitation ..... 58-59 et seq.
See: BUILDINGS AND BUILDING REGULATIONS

## O

OAK HILL ROAD
Parking vehicles on ..... 66-174

OATHS
Defined ..... 1-2
Town board of metropolitan police commissioners ..... 38-28

| | Section |
|---|---|
| OBSCENE LANGUAGE | |
| Parks, prohibited acts | 46-57 |
| OBSTRUCTION | |
| Obstruction of a mailbox prohibited | 66-190 |
| Parking as to obstruct traffic | 66-178 |
| Public nuisances prohibited | 26-49 |
| Streets and sidewalks | 58-206 |
| ODOROUS MATTER | |
| Zoning regulations. See: ZONING (Appendix A) | |
| OFFENSES AND MISCELLANEOUS PROVISIONS | |
| Code of Ordinances | |
| Schedule of fines for first offense Code violations | 1-18 |
| Curfew for minors | |
| Defense to violation | 42-63 |
| Detainment | 42-62 |
| Penalty | 42-64 |
| Restricted hours | |
| Ages 15, 16 or 17 | 42-60 |
| Under 15 years of age | 42-61 |
| Firearms and other missiles, discharge prohibited; exceptions | 42-1 |
| Policy regarding erroneous or irregular variances, losses, shortages and thefts | 42-2 |
| Knowledge of misappropriation | 42-2(c) |
| Maintenance of documentation | 42-2(d) |
| Materiality threshold | 42-2(b) |
| Purpose | 42-2(a) |
| Resolution of incidents not meeting the materiality threshold | 42-2(d) |
| Specific activities prohibited | |
| Congregating in public places | 42-24 |
| Criminal trespass | 42-22 |
| Disorderly conduct | 42-23 |
| Disturbing place of worship or meeting | 42-25 |
| Disturbing the peace | 42-20 |
| Funeral protests | 42-29 |
| Games or sports in public places | 42-21 |
| Interference with public officer, official | 42-26 |
| Penalties | 42-28 |
| Posting prohibited | 42-27 |
| OFFICERS AND EMPLOYEES | |
| Alcohol and drug testing | |
| Omnibus Transportation Employee Testing Act adopted | 2-246 |
| Boards, commissions, and departments | 2-120 et seq. |
| See: BOARDS, COMMISSIONS, AND DEPARTMENTS | |
| CATV franchise code | 62-34 et seq. |
| See: TELECOMMUNICATIONS | |
| Defined | 1-2 |

| | Section |
|---|---|
| OFFICERS AND EMPLOYEES (Cont'd.) | |
| Economic development task force | 2-121(e) |
| Health insurance fund | 2-165 |
| Inspectors and town staff | |
| Electrical inspector | 2-61 |
| Appointment | 2-61(a) |
| Duties | 2-61(c) |
| Right of entry | 2-61(d) |
| Supervision | 2-61(e) |
| Tenure of office; removal | 2-61(b) |
| Plumbing and building inspector | 2-60 |
| Town planner | 2-62 |
| Payroll | |
| Preapproved payment of claims | 2-1(a)(10) |
| Policy concerning nepotism and contracting with the town | 2-310 et seq. |
| See: CONTRACTS AND AGREEMENTS | |
| Town council | 2-271 et seq. |
| See: TOWN COUNCIL | |
| Town officers and employee benefits | |
| Compensation and salary | 2-84 |
| Insurance | 2-87 |
| Official surety bonds | 2-85 |
| Personnel manual adopted by reference | 2-86 |
| Stay home pay during a declared emergency | 2-88 |
| Town appointments | 2-83 |
| ORDINANCES AND RESOLUTIONS | |
| Building code | 14-47 |
| Code of Ordinances | 1-1 et seq. |
| See: CODE OF ORDINANCES | |
| Golf carts | |
| Local ordinance, authority | 58-281 |
| Offenses | |
| Policy regarding erroneous or irregular variances, losses, shortages and thefts | |
| Resolution of incidents not meeting the materiality threshold | 42-2(d) |
| Subdivision regulations. See: SUBDIVISIONS (Appendix B) | |
| Town council | 2-271 et seq. |
| See: TOWN COUNCIL | |
| Zoning regulations. See: ZONING (Appendix A) | |
| OS OPEN SPACE DISTRICTS | |
| Zoning regulations. See: ZONING (Appendix A) | |
| OWNER | |
| Defined | 1-2 |

Section

**P**

PARADES, ASSEMBLAGES AND PICKETS
- Compliance with permit, laws, etc., required ..... 58-16
- Definitions ..... 58-15
- Exceptions ..... 58-17
- Form of parade, assemblage, picket application ..... 58-18
- Form of parade, assemblage, picket permit ..... 58-19
- Noise regulation exemptions ..... 26-172
- Offenses and miscellaneous provisions
  - Specific activities prohibited
    - Funeral protests ..... 42-29
- Permit
  - Alternative ..... 58-32
  - Application ..... 58-29
  - Contents ..... 58-33
  - Notice of denial ..... 58-31
  - Possession ..... 58-35
  - Required ..... 58-28
  - Revocation ..... 58-34
  - Standards for issuance ..... 58-30

PARENTAL RESPONSIBILITY
- Fireworks ..... 26-123
- Noise ..... 26-175

PARKING
- Traffic regulations ..... 66-173 et seq.
  - See: TRAFFIC AND VEHICLES

PARKS AND RECREATION
- Authority to operate ..... 46-1
- Department of parks and recreation ..... 2-122
  - Creation of committees ..... 46-24
  - Establishment; composition ..... 46-21
  - Establishment of rules and regulations ..... 46-25
  - Establishment, operation and maintenance of public parks and programs ..... 46-22
  - Powers and duties concerning public parks and programs 46-23
- Park rules and regulations
  - Advertising prohibited ..... 46-62
  - Designated activities ..... 46-60
  - Geocache policy and guidelines ..... 46-66
  - Hours of operation ..... 46-58
  - Organization using the parks ..... 46-59
  - Parks department properties ..... 46-65
  - Penalties ..... 46-64
  - Prohibited acts ..... 46-57
  - Responsible persons ..... 46-56
  - Role of park superintendent and police department ..... 46-63
  - Specific regulations of activities ..... 46-61

Section

PARKS AND RECREATION (Cont'd.)
Preapproved payment of claims
Park cancellation refund ..... 2-1(a)(16)
Park deposit refund ..... 2-1(a)(15)

PAYMENTS. See: FINANCES

PB PROFESSIONAL BUSINESS DISTRICT
Zoning regulations. See: ZONING (Appendix A)

PEDDLERS. See: TRANSIENT OR ITINERANT MERCHANTS, COMMERCIAL SOLICITORS, PEDDLERS AND HAWKERS

PEDDLING
Park regulations ..... 46-61

PEDESTRIANS
Drivers yielding to pedestrians ..... 66-85
Walking along roadways ..... 66-87

PENALTIES
Code of Ordinances ..... 1-8

PERMITS. See: LICENSES AND PERMITS

PERSON
Defined ..... 1-2

PERSONAL PROPERTY
Defined ..... 1-2

PERSONNEL MANUAL
Town officers and employee benefits
Personnel manual adopted by reference..... 2-86

PETS. See: ANIMALS

PHONOGRAPHS
Noise regulations..... 26-171 et seq.
See: NOISE

PICKETS. See: PARADES, ASSEMBLAGES AND PICKETS

PICNICS
Park rules and regulations
Designated activities..... 46-60

PLACARDS
Parks, prohibited acts ..... 46-57

PLANNED UNIT DEVELOPMENTS DISTRICTS
Zoning regulations. See: ZONING (Appendix A)

PLANNING
Authority to regulate ..... 50-1
Planning regulations ..... 50-2

Section

PLANNING AND DEVELOPMENT
Department of redevelopment ..... 2-124
Plan commission ..... 2-127
Subdivision regulations. See: SUBDIVISIONS (Appendix B)

PLATS. See: SURVEYS, MAPS AND PLATS

PLAYHOUSES
Zoning regulations. See: ZONING (Appendix A)

PLUMBING
Plumbing and building inspector ..... 2-60
Plumbing permit fees ..... 14-81

POISONING
Animals ..... 10-27

POLES AND WIRES
Adoption of new devices and safeguards ..... 58-148
Application ..... 58-137
CATV franchise code
Use of existing pole line facilities ..... 62-22
Construction deemed agreement to comply with provisions 58-140
Duties of town electrician or his designee ..... 58-134
General requirements ..... 58-133
Inspections ..... 58-141
Issuance ..... 58-139
Maps and records ..... 58-135
Names of owners stenciled on poles ..... 58-144
No vested rights in streets; removal of poles and wires .... 58-145
Owners to furnish information upon request ..... 58-143
Permits required ..... 58-136
Placing wires underground ..... 58-147
Posting prohibited ..... 42-27
Records ..... 58-138
Scraps on streets ..... 58-142
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Town to be held harmless ..... 58-146
Zoning regulations. See: ZONING (Appendix A)

POLICE
Noise citations, power to issue ..... 26-176
Police reserve unit
Appointment and qualifications ..... 38-56
Benefits ..... 38-58
Established ..... 38-55
Rules and regulations ..... 38-57
Uniform, arms and equipment ..... 38-59
Role of park superintendent and police department ..... 46-63
Snow removal, emergency, repair regulations
Role of police department ..... 66-119

| | Section |
|---|---|
| POLICE (Cont'd.) | |
| Town board of metropolitan police commissioners | 38-27 et seq. |
| See: TOWN BOARD OF METROPOLITAN POLICE COMMISSIONERS | |
| Traffic regulations | |
| Authority of policemen and firemen | 66-56 |
| POLITICS AND POLITICAL OFFICES | |
| State political subdivision risk management fund | 2-159 |
| POLLUTION | |
| Air pollution | 26-149 et seq. |
| See: AIR POLLUTION | |
| Stormwater management | 26-244 et seq. |
| See: STORMWATER MANAGEMENT | |
| Zoning regulations. See: ZONING (Appendix A) | |
| PONDS | |
| Parks, prohibited acts | 46-57 |
| POSTS | |
| Parks, prohibited acts | 46-57 |
| POWERS AND DUTIES | |
| Department of parks and recreation | |
| Powers and duties concerning public parks and programs | 46-23 |
| Electrical inspector | 2-61(c) |
| Emergency preparedness | |
| Emergency powers | 22-23 |
| Poles and wires | |
| Duties of town electrician or his designee | 58-134 |
| Redevelopment Fund | |
| Duties of treasurer | 2-163(b) |
| Snow removal, emergency, repair regulations | |
| Public works/street commissioner's duties | 66-116 |
| Town board of metropolitan police commissioners | 38-31 |
| Town clerk-treasurer | 2-26 |
| Town council | 2-278 |
| Town council president | 2-275 |
| Town department of development and town economic development commission | 2-120(f) |
| Traffic and vehicle regulations | |
| Powers of local authorities | 66-2 |
| Zoning regulations. See: ZONING (Appendix A) | |
| PRECEDING | |
| Defined | 1-2 |
| PREMISES | |
| Subdivision regulations. See: SUBDIVISIONS (Appendix B) | |
| Unsafe buildings and premises | 14-326 et seq. |
| See: BUILDINGS AND BUILDING REGULATIONS | |

Section

PREMISES (Cont'd.)
Unsanitary buildings or premises ..... 26-82 et seq.
See: NUISANCES
Zoning regulations. See: ZONING (Appendix A)

PRIZES
Sale of animals as novelties or use as prize prohibited ..... 10-24

PROPERTY
Abandoned and junk vehicles ..... 26-210 et seq.
See: JUNK AND JUNK YARDS
Acreage requirements for certain domestic animals; prohibition of swine ..... 10-30
Alcoholic beverage use on town property ..... 6-19 et seq.
See: ALCOHOL AND ALCOHOLIC BEVERAGES
Buildings and building regulations ..... 14-1 et seq.
See: BUILDINGS AND BUILDING REGULATIONS
Defined ..... 1-2
Fireworks ..... 26-120 et seq.
See: FIREWORKS
Noise regulations ..... 26-171 et seq.
See: NOISE
Nuisances ..... 26-49 et seq.
See: NUISANCES
Parks department properties ..... 46-65
Property maintenance code ..... 14-362 et seq.
See: PROPERTY MAINTENANCE CODE
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Unsafe buildings and premises ..... 14-326 et seq.
See: BUILDINGS AND BUILDING REGULATIONS
Unsanitary buildings or premises ..... 26-82 et seq.
See: NUISANCES
Zoning regulations. See: ZONING (Appendix A)

PROPERTY MAINTENANCE CODE
Code adopted by reference ..... 14-362
Copies on file ..... 14-363

PUBLIC IMPROVEMENTS
Public improvement permit ..... 14-83
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Zoning regulations. See: ZONING (Appendix A)

PUBLIC PLACE. See: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

PUBLIC WORKS
Department of public works ..... 2-123
Snow removal, emergency, repair regulations
Public works/street commissioner's duties ..... 66-116

Section

PUBLIC WORKS (Cont'd.)
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Zoning regulations. See: ZONING (Appendix A)

PUBLICATION
CATV franchise code
Publication costs ..... 62-42
Code of Ordinances ..... 1-14
Unsafe buildings and premises, notice of order by publication ..... 14-334

PUSHCARTS
Traffic regulations ..... 66-58

**Q**

QUALIFICATIONS
Police reserve unit ..... 38-56

**R**

R-1 AND R-2 SINGLE-FAMILY RESIDENTIAL DISTRICTS
Zoning regulations. See: ZONING (Appendix A)

R-3 SINGLE TO FOUR-FAMILY RESIDENTIAL DISTRICTS
Zoning regulations. See: ZONING (Appendix A)

R-4 MULTIPLE-FAMILY RESIDENTIAL AND PUD DISTRICTS
Zoning regulations. See: ZONING (Appendix A)

RADIOS
Noise regulations ..... 26-171 et seq.
See: NOISE

RAILINGS
Parks, prohibited acts ..... 46-57

RAINY DAY FUND
Appropriations ..... 2-162(d)
Creation ..... 2-162(a)
Purpose ..... 2-162(b)
Transfers ..... 2-162(c)

REAL PROPERTY
Defined ..... 1-2

REASONABLE TIME
Defined ..... 1-2

RECORDATION
Code of Ordinances ..... 1-14

Section

RECORDS AND REPORTS
Abandoned and junk vehicles ..... 26-219 et seq.
See: JUNK AND JUNK YARDS
Businesses ..... 18-24
Charges and fees for copying of documents, books and any public records ..... 2-223 et seq.
See: COPIES
Economic development task force ..... 2-121(g)
Poles and wires ..... 58-135 et seq.
See: POLES AND WIRES
Stormwater management ..... 26-286 et seq.
See: STORMWATER MANAGEMENT
Taxicabs and taxi drivers ..... 18-87
Traffic accident and case reports ..... 38-2
Transient or itinerant merchants, commercial solicitors, peddlers and hawkers ..... 18-61
Unsafe buildings and premises ..... 14-330 et seq.
See: BUILDINGS AND BUILDING REGULATIONS

RECYCLING
Solid waste ..... 54-19 et seq.
See: SOLID WASTE

REDEVELOPMENT
Department of redevelopment ..... 2-124
Redevelopment authority ..... 2-125
Redevelopment fund ..... 2-163
Zoning regulations. See: ZONING (Appendix A)

REDEVELOPMENT FUND
Duties of treasurer ..... 2-163(b)
Established ..... 2-163(a)

REFERENCES
Code of Ordinances ..... 1-10

REFUNDS
Preapproved payment of claims ..... 2-1
Taxicabs and taxi drivers
Refunds on fees ..... 18-89

REFUSE. See: SOLID WASTE

REGISTRATION
Administration
Registration to vote required ..... 2-4
Vehicle registration checks ..... 38-3

REMEDIES
Building code ..... 14-57

REMOVALS
Cable television system
Unlawful acts ..... 62-49

| | Section |
|---|---|
| REMOVALS (Cont'd.) | |
| Electrical inspector | 2-61(b) |
| Parks, prohibited acts | 46-57 |
| Poles and wires | 58-145 |
| Recycling containers | |
| Unlawful removal | 54-22 |
| Snow removal, emergency, repair regulations | 66-116 et seq. |
| See: SNOW AND ICE | |
| RENTALS AND LEASES | |
| Discrimination prohibited in the sale or rental of housing | 34-42 |
| Lease agreements or rental agreements | |
| Preapproved payment of claims | 2-1(a)(8) |
| REPAIRS | |
| Septic system repair or modification | 70-13 et seq. |
| See: WATER AND SEWERS | |
| Sewer connection and repair standards | 70-195 et seq. |
| See: WATER AND SEWERS | |
| Snow removal, emergency, repair regulations | 66-116 et seq. |
| See: SNOW AND ICE | |
| Unsafe buildings and premises | |
| Unpaid costs for unsafe premises repairs; notice; certification as special assessment collection as delinquent taxes; disposition of collections | 14-337 |
| Zoning regulations. See: ZONING (Appendix A) | |
| REPEALS | |
| Code of Ordinances | |
| Repeal shall not revive ordinances | 1-5 |
| REPORTS. See: RECORDS AND REPORTS | |
| RESIDENCY REQUIREMENTS | |
| Town board of metropolitan police commissioners | 38-32 |
| RESOLUTIONS. See: ORDINANCES AND RESOLUTIONS | |
| RESPONSIBILITY | |
| Smoke and carbon monoxide detectors | 14-388 |
| Stormwater management | |
| Administration, responsibility for | 26-249 |
| RESTRICTIONS | |
| Alcoholic beverage use on town property | 6-21 |
| Subdivision regulations. See: SUBDIVISIONS (Appendix B) | |
| Zoning regulations. See: ZONING (Appendix A) | |
| RETAIL LIQUOR STORES | |
| Emergency preparedness | |
| Imposition of additional restrictions | 22-22 |
| RETURNED CHECKS. See: CHECKS | |

Section

RIGHT OF ENTRY
Electrical inspector ..... 2-61(d)
Unsanitary buildings or premises ..... 26-88
Weeds and rank vegetation ..... 74-28

RIGHTS-OF-WAY
Posting prohibited..... 42-27

RUBBISH. See: SOLID WASTE

RULES OF CONSTRUCTION
Code of Ordinances ..... 1-2

**S**

SAFETY
CATV franchise code..... 62-30

SAFETY ZONES
Traffic signs ..... 66-382

SALARIES
Town board of metropolitan police commissioners..... 38-30 et seq.
See: TOWN BOARD OF METROPOLITAN POLICE COMMISSIONERS
Town officers and employees ..... 2-84

SALES
Abandoned and junk vehicles
Sales of abandoned vehicles or parts ..... 26-222
Animals as novelties or use as prize prohibited ..... 10-24
Discrimination prohibited in the sale or rental of housing. 34-42
Law enforcement
Prohibiting the purchase, possession, sale and offering for sale of substances containing synthetic cannabinoid..... 38-5

SAND, SOIL, AND EARTH REMOVAL
Application for permit; effect upon adjoining public ways, properties to be determined ..... 58-183
Duty to prevent spilling and blowing..... 58-181
Indemnity bond to be furnished by applicant for permit ... 58-185
Issuance, scope of permit; duty to restore land ..... 58-186
Penalties ..... 58-189
Performance bond required when removal will be below grade or water level ..... 58-187
Permit fee ..... 58-184
Permit required ..... 58-180
Provisions inapplicable to work done pursuant to building permit ..... 58-188
Restrictions upon issuance of permits..... 58-182

SANITATION. See: HEALTH AND SANITATION

| | Section |
|---|---|
| SCHOOLS. See also: EDUCATION | |
| "Slow-school" signs | 66-383 |
| Speeding and no passing regulations | 66-357 |
| Zoning regulations. See: ZONING (Appendix A) | |
| SELLING | |
| Park regulations | 46-61 |
| SEPTIC SYSTEMS | |
| Septic system repair or modification | 70-13 et seq. |
| See: WATER AND SEWERS | |
| SERVICES | |
| Service agreements | |
| Preapproved payment of claims | 2-1(a)(7) |
| SEVERABILITY | |
| Code of Ordinances | 1-7 |
| SEWERS AND SEWAGE. See: WATER AND SEWERS | |
| SHEDS | |
| Zoning regulations. See: ZONING (Appendix A) | |
| SIDEWALK | |
| Defined | 1-2 |
| SIGNATURE OR SUBSCRIPTION | |
| Defined | 1-2 |
| SIGNS AND BILLBOARDS | |
| Parks, prohibited acts | 46-57 |
| Posting prohibited | 42-27 |
| Sign deposit refund | |
| Preapproved payment of claims | 2-1(a)(14) |
| Snow removal, emergency, repair regulations | |
| Parking prohibited signs | 66-117 |
| Subdivision regulations. See: SUBDIVISIONS (Appendix B) | |
| Traffic sign designations | 66-381 et seq. |
| See: TRAFFIC AND VEHICLES | |
| Vehicle weight restrictions | 66-152 |
| Zoning regulations. See: ZONING (Appendix A) | |
| SLOP | |
| Depositing unwholesome substances prohibited | 26-50 |
| SNOW AND ICE | |
| Snow removal, emergency, repair regulations | |
| Parking prohibited signs | 66-117 |
| Penalties | 66-121 |
| Prohibited parking after one inch of snowfall | 66-124 |
| Public works/street commissioner's duties | 66-116 |
| Responsible party | 66-120 |
| Role of police department | 66-119 |

| | Section |
|---|---|
| SNOW AND ICE (Cont'd.) | |
| Settling claims | 66-123 |
| Towing and storage costs | 66-122 |
| Towing of vehicles | 66-118 |
| SOIL STRIPPING AND MINING OPERATIONS | |
| Subdivision regulations. See: SUBDIVISIONS (Appendix B) | |
| SOLICITORS. See: TRANSIENT OR ITINERANT MERCHANTS, COMMERCIAL SOLICITORS, PEDDLERS AND HAWKERS | |
| SOLID WASTE | |
| Collection and disposal | |
| Charges for refuse, garbage collection and recycling collection and disposal | 54-53 |
| Containers required | 54-50 |
| Definitions | 54-49 |
| Pickup of large bulk items and brush regulated | 54-52 |
| Purpose | 54-48 |
| Times for containers to be delivered | 54-51 |
| Depositing unwholesome substances prohibited | 26-50 |
| Owners or agents responsible for removing animal waste and dead animals | 10-31 |
| Parks, prohibited acts | 46-57 |
| Recycling containers, cost and content | |
| Container specifications | 54-19 |
| Cost of containers | 54-21 |
| Ownership of contents | 54-20 |
| Unlawful removal | 54-22 |
| Unsanitary buildings or premises | 26-82 et seq. |
| See: NUISANCES | |
| SOUND-AMPLIFYING DEVICES | |
| Noise regulation exemptions | 26-172 |
| SOURCE OF FUNDS | |
| Continuing education fund | 2-158(b) |
| Traffic accident report account | 2-157(b) |
| SPECIAL ASSESSMENTS | |
| Unsafe buildings and premises | |
| Unpaid costs for unsafe premises repairs; notice; certification as special assessment collection as delinquent taxes; disposition of collections | 14-337 |
| SPILLING | |
| Sand, soil, and earth removal | |
| Duty to prevent spilling and blowing | 58-181 |
| SPORTING EVENTS | |
| Games or sports in public places | 42-21 |
| Noise regulation exemptions | 26-172 |

| | Section |
|---|---|
| SPRINKLERS | |
| Sewage works usage rates and charges | |
| Sprinkling rates | 70-42 |
| STAKES | |
| Parks, prohibited acts | 46-57 |
| Subdivision regulations. See: SUBDIVISIONS (Appendix B) | |
| STATE | |
| Defined | 1-2 |
| STOP WORK ORDERS | |
| Building code | 14-52 |
| Contractors | 14-166 |
| STORAGE | |
| Abandoned and junk vehicles | 26-219 |
| Snow removal, emergency, repair regulations | |
| Towing and storage costs | 66-122 |
| Storage of vehicles on streets | 66-183 |
| Stormwater management | |
| Storage of hazardous or toxic material | 26-266 |
| Subdivision regulations. See: SUBDIVISIONS (Appendix B) | |
| Zoning regulations. See: ZONING (Appendix A) | |
| STORMWATER MANAGEMENT | |
| Abbreviations and definitions | |
| Abbreviations | 26-360 |
| Definitions | 26-361 |
| Generally | 26-248 |
| Applicability and exemptions | 26-245 |
| Authority and title | 26-244 |
| Compliance and enforcement | |
| Appeals | 26-349 |
| Compliance with this article | 26-346 |
| Cost of abatement of the violation | 26-348 |
| Enforcement | 26-347 |
| Definitions. See herein: Abbreviations and Definitions | |
| Department of stormwater management | 2-128 |
| Findings | 26-246 |
| Interpretation | 26-250 |
| Liability, disclaimer of | 26-252 |
| Permit requirements and procedures | |
| Certification of as-built plans | 26-334 |
| Changes to plans | 26-330 |
| Conceptual drainage plan review | 26-326 |
| Fee structure | 26-331 |
| Information requirements | 26-328 |
| Post-project maintenance bond and verifications | 26-335 |
| Procedures, permit | 26-327 |

Section

STORMWATER MANAGEMENT (Cont'd.)
Required assurances ..... 26-332
Review of individual lots ..... 26-329
Terms and conditions of permits ..... 26-333
Pollution prevention for construction sites, stormwater
Applicability and exemptions ..... 26-297
Calculations and design standards and specifications.... 26-299
Inspection, maintenance, record keeping, and reporting . 26-300
Policy on stormwater pollution prevention..... 26-298
Prohibited discharges and connections
Applicability and exemptions ..... 26-263
Exempted discharges and connections..... 26-265
Generally ..... 26-264
Inspections and monitoring ..... 26-269
Private property maintenance duties ..... 26-267
Spill reporting ..... 26-268
Storage of hazardous or toxic material ..... 26-266
Purpose..... 26-247
Quality management for post-construction, stormwater
Applicability and exemptions ..... 26-311
Calculations and design standards and specifications.... 26-313
Easement requirements ..... 26-314
Inspection, maintenance, record keeping, and reporting . 26-315
Policy on stormwater quality management ..... 26-312
Quantity management, stormwater
Applicability and exemptions ..... 26-280
Calculations and design standards and specifications.... 26-282
Drainage easement requirements ..... 26-283
Inspection, maintenance, record keeping, and reporting . 26-286
Placement of utilities ..... 26-284
Policy on stormwater quantity management..... 26-281
Structures near county regulated drains..... 26-285
Responsibility for administration..... 26-249
Severability ..... 26-251
Sewer connection and repair standards
Separate stormwater and sanitary sewers required ..... 70-201
Stormwater management user fee..... 2-2
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Zoning regulations. See: ZONING (Appendix A)

STREAMS
Parks, prohibited acts ..... 46-57

STREETLIGHTS
Subdivision regulations. See: SUBDIVISIONS (Appendix B)

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES
Abandoned and junk vehicles ..... 26-210 et seq.
See: JUNK AND JUNK YARDS

Section

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES (Cont'd.)
Air pollution ..... 26-149 et seq.
See: AIR POLLUTION
Alcoholic beverage use on town property ..... 6-19 et seq.
See: ALCOHOL AND ALCOHOLIC BEVERAGES
Authority to regulate public gatherings..... 58-1
Bicycles, riding on sidewalks ..... 66-32
CATV franchise code
Conditions of street occupancy..... 62-31
Congregating in public places ..... 42-24
Defined ..... 1-2
Depositing unwholesome substances prohibited ..... 26-50
Fireworks ..... 26-120 et seq.
See: FIREWORKS
Golf carts..... 58-281 et seq.
See: GOLF CARTS
Littering..... 58-2
Noise regulations..... 26-171 et seq.
See: NOISE
Nuisances ..... 26-49 et seq.
See: NUISANCES
Numbering required of all structures designed for human habitation ..... 58-59 et seq.
See: BUILDINGS AND BUILDING REGULATIONS
Parades, assemblages and pickets ..... 58-15 et seq.
See: PARADES, ASSEMBLAGES AND PICKETS
Poles and wires..... 58-133 et seq.
See: POLES AND WIRES
Posting prohibited..... 42-27
Regulations governing drive entrance culverts
Ditch blockage prohibited ..... 58-98
Driveway culvert regulations ..... 58-97
Driveway entrance culvert permit..... 58-100
Duty of property owner ..... 58-99
Penalty..... 58-101
Sand, soil, and earth removal ..... 58-180 et seq.
See: SAND, SOIL, AND EARTH REMOVAL
Streets and sidewalks
Excavations
Application; performance bond ..... 58-222
Backfilling; restoring surface..... 58-226
Consideration of application; issuance ..... 58-223
Fees ..... 58-224
Materials..... 58-225
Permit required ..... 58-221
Protection ..... 58-228
Time limit for remaining open ..... 58-227
New street construction
Bonds and insurance ..... 58-253

Section

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES (Cont'd.)
- Construction agreement ... 58-252
- Design phase ... 58-249
- Design width ... 58-246
- Fees ... 58-254
- Payment ... 58-247
- Plan composition ... 58-250
  - Format ... 58-250(b)
  - Quantities ... 58-250(c)
  - Sheet size ... 58-250(a)
  - Specifications ... 58-250(d)
- Plan review ... 58-251
- Preliminary approval ... 58-245
  - Designer ... 58-245(c)
  - Letter request ... 58-245(a)
  - Map ... 58-245(b)
- Town council action ... 58-248
  - Approval ... 58-248(1)
  - Denial ... 58-248(3)
  - Investigation ... 58-248(2)
- Obstructions at intersections prohibited ... 58-208
- Obstructions prohibited ... 58-206
- Parking restrictions for purposes of snow removal ... 58-209
- Permit required; application ... 58-207
- Removal of snow and ice from sidewalks ... 58-210

Subdivision regulations. See: SUBDIVISIONS (Appendix B)

Traffic regulations ... 66-1 et seq.
See: TRAFFIC AND VEHICLES

Zoning regulations. See: ZONING (Appendix A)

STRUCTURES

CATV franchise code ... 62-34 et seq.
See: TELECOMMUNICATIONS

Numbering required of all structures designed for human habitation ... 58-59 et seq.
See: BUILDINGS AND BUILDING REGULATIONS

Subdivision regulations. See: SUBDIVISIONS (Appendix B)

Unsafe buildings and premises ... 14-326 et seq.
See: BUILDINGS AND BUILDING REGULATIONS

Unsanitary buildings or premises ... 26-82 et seq.
See: NUISANCES

Zoning regulations. See: ZONING (Appendix A)

SUBDIVISIONS

Subdivision regulations. See: SUBDIVISIONS (Appendix B)

Zoning regulations. See: ZONING (Appendix A)

| | Section |
|---|---|
| SUBDIVISIONS (Appendix B) | |
| (All sections referred to within this title are contained within Appendix B of this Code) | |
| Approval procedure | |
| Application for certificate of approval | 2-1 |
| CARES Act reimbursements | 2-8 |
| Fees | 2-3 |
| Letter of intent | 2-2 |
| Minor subdivisions | 2-4 |
| Payment of costs of special studies | 2-5, 2-6 |
| Small purchase policy | 2-7 |
| Definitions | |
| General | 8-1 |
| Design requirements and principles | |
| Conformity to comprehensive plan | 5-2 |
| Lots | 5-3 |
| Preservation of existing topography | 5-5 |
| Public spaces | 5-4 |
| Unsuitable locations | 5-1 |
| General requirements | |
| Amendments | 1-10 |
| Approval of plats required prior to recording | 1-13 |
| Approval time limit | 1-4 |
| Authority | 1-3 |
| Development permitted only within approved subdivisions | 1-12 |
| Enactment | 1-6 |
| Enforcement | 1-11 |
| Interpretation | 1-7 |
| Jurisdiction | 1-5 |
| Policy | 1-1 |
| Purposes | 1-2 |
| Repeal | 1-9 |
| Separability | 1-8 |
| Primary plat | |
| Action by plan commission | 3-8 |
| Basic information | 3-4 |
| Construction schedule | 3-11 |
| Effective period of approval | 3-9 |
| Existing conditions | 3-5 |
| Findings of fact by plan commission | 3-10 |
| General standards; scale | 3-2 |
| Proposed conditions | 3-6 |
| Public hearing | 3-7 |
| Required; submission | 3-1 |
| Vicinity key map; topographical survey | 3-3 |
| Required improvements | |
| General standards; payment of costs | 7-1 |
| Paving of streets; bike paths, curbs, gutters and drains | 7-3 |
| Sewers | 7-5 |

Section

SUBDIVISIONS (Appendix B) (Cont'd.)
Sidewalks ..... 7-10
Soil stripping and mining operations ..... 7-12
Storm water runoff control ..... 7-6
Street and traffic signs ..... 7-7
Streetlights ..... 7-8
Survey monuments, stakes and benchmarks ..... 7-2
Trees ..... 7-11
Underground public utilities ..... 7-9
Water system ..... 7-4
Secondary plat
Action by plan commission ..... 4-4
Completion of improvements; guarantee of improvements 4-3
Contents ..... 4-2
Required; submission ..... 4-1
Streets and private service roads
Adjustment to land contours ..... 6-2
Blocks ..... 6-11
Conformity with comprehensive plan ..... 6-1
Extension to tract boundaries ..... 6-3
Grades ..... 6-6
Intersections ..... 6-10
Minimum radius of curvature on centerlines ..... 6-8
Private service roads ..... 6-4
Tangent between reversed curves ..... 6-9
Vertical curves ..... 6-7
Width; culs-de-sac and dead-end streets ..... 6-5

SUBPOENAS. See: WARRANTS, WRITS, SUBPOENAS AND OTHER LEGAL PROCESSES

SUBSTANTIAL PROPERTY INTEREST
Defined ..... 1-2

SUPPLEMENTATION
Code of Ordinances ..... 1-13

SURVEYS, MAPS AND PLATS
Poles and wires ..... 58-135
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Zoning regulations. See: ZONING (Appendix A)

SWIMMING
Parks, prohibited acts ..... 46-57

**T**

TABLES
Parks, prohibited acts ..... 46-57

| | Section |
|---|---|
| TAGS AND TAGGING | |
| Abandoned and junk vehicles | |
| Tagging abandoned vehicle or parts | 26-218 |
| TAMPERING | |
| Cable television system | |
| Unlawful acts | 62-49 |
| Code of Ordinances, unauthorized alterations or tampering with | 1-15 |
| Parks, prohibited acts | 46-57 |
| TAVERNS | |
| Emergency preparedness | |
| Imposition of additional restrictions | 22-22 |
| TAXATION | |
| State, federal, or county taxes | |
| Preapproved payment of claims | 2-1(a)() |
| Unsafe buildings and premises | |
| Unpaid costs for unsafe premises repairs; notice; certification as special assessment collection as delinquent taxes; disposition of collections | 14-337 |
| TAXICABS AND TAXI DRIVERS | |
| Definitions | 18-85 |
| Identification on vehicles | 18-93 |
| Insurance required for operation of taxicab | 18-94 |
| License entitlement | 18-97 |
| License required | 18-86 |
| License suspension | 18-92 |
| License transfers | 18-90 |
| Licensing fee | 18-88 |
| Penalty | 18-96 |
| Photo identification displayed at all times | 18-95 |
| Records for operation | 18-87 |
| Refunds on fees | 18-89 |
| Restrictions on licenses | 18-91 |
| Tax abatement procedures | |
| Tax abatement or tax reassessment procedures | 18-123 |
| TELECOMMUNICATIONS | |
| CATV franchise code | |
| Acceptance of franchise | 62-50 |
| Additional regulations | 62-46 |
| Automatic amendments | 62-48 |
| Color TV | 62-29 |
| Compliance with applicable laws and ordinances | 62-25 |
| Conditions of street occupancy | 62-31 |
| Definitions | 62-20 |
| Duration and acceptance of franchise | 62-23 |
| Emergency use of facilities | 62-39 |
| Filings and communications with regulatory agencies | 62-32 |

| | Section |
|---|---|
| TELECOMMUNICATIONS (Cont'd.) | |
| Force majeure | 62-51 |
| Forfeiture | 62-45 |
| Grant of nonexclusive authority | 62-21 |
| Inspection and administration | 62-47 |
| Interface of CATV companies | 62-38 |
| Liability and indemnification | 62-28 |
| Nondiscrimination in employment practices | 62-44 |
| Operational standards | 62-33 |
| Cable locator | 62-33(14) |
| Channel capacity | 62-33(6) |
| Compliance with FCC rules | 62-33(1) |
| Duty to maintain office or warehouse | 62-33(11) |
| No cross modulation or interference | 62-33(5) |
| Quality of color signals | 62-33(2) |
| Quality picture | 62-33(4) |
| Rated for continuous operation | 62-33(3) |
| Service and repair | 62-33(10) |
| Service calls | 62-33(12) |
| Signals to be carried | 62-33(7) |
| Standard of care | 62-33(9) |
| State of the art | 62-33(13) |
| Temperature range | 62-33(8) |
| Payment to the town | 62-35 |
| Preferential or discriminatory practices prohibited | 62-34 |
| Program planning committee | 62-41 |
| Public, educational and municipal access | 62-37 |
| Publication costs | 62-42 |
| Rates | 62-40 |
| Renewal procedure | 62-24 |
| Safety requirements | 62-30 |
| Service connections | 62-36 |
| System construction and description | 62-27 |
| Territorial area involved | 62-26 |
| Transfers | 62-43 |
| Unlawful acts | 62-49 |
| Use of existing pole line facilities | 62-22 |
| Other franchise agreements | |
| Authority; content of franchise agreements | 62-80 |
| Ordinance required | 62-81 |
| Subdivision regulations. See: SUBDIVISIONS (Appendix B) | |
| Zoning regulations. See: ZONING (Appendix A) | |
| TELEVISIONS | |
| Noise regulations. See: NOISE | 26-171 et seq. |
| TENANT | |
| Defined | 1-2 |

| | Section |
|---|---|
| TENSES | |
| Defined | 1-2 |
| TENURE OF OFFICE | |
| Electrical inspector | 2-61(b) |
| TERMS OF OFFICE | |
| Town clerk-treasurer | 2-25 |
| Town council president | 2-274 |
| TESTING | |
| Alcohol and drug testing | |
| Omnibus Transportation Employee Testing Act adopted | 2-246 |
| THREATENING LANGUAGE | |
| Parks, prohibited acts | 46-57 |
| THROWING | |
| Parks, prohibited acts | 46-57 |
| TIME LIMITS | |
| Streets and sidewalks excavations | |
| Time limit for remaining open | 58-227 |
| Unsafe buildings and premises | 14-330 |
| TOWERS | |
| Zoning regulations. See: ZONING (Appendix A) | |
| TOWING | |
| Abandoned and junk vehicles | 26-223 et seq. |
| See: JUNK AND JUNK YARDS | |
| Illegally parked vehicles | 66-185 |
| Snow removal, emergency, repair regulations | |
| Towing and storage costs | 66-122 |
| Towing of vehicles | 66-118 |
| TOWN | |
| Defined | 1-2 |
| TOWN BOARD OF METROPOLITAN POLICE COMMISSIONERS | |
| Bond | 38-29 |
| Membership | 38-27 |
| Oaths and affirmations | 38-28 |
| Powers and duties | 38-31 |
| Residency requirements | 38-32 |
| Salary | 38-30 |
| Salary appropriation | 38-33 |
| TOWN CLERK-TREASURER | |
| Compensation | 2-27 |
| Defined | 1-2 |
| Deputies and employees | 2-28 |
| Powers and duties | 2-26 |

| | Section |
|---|---|
| TOWN CLERK-TREASURER (Cont'd.) | |
| Redevelopment fund | |
| Duties of treasurer | 2-163(b) |
| Term of office | 2-25 |
| TOWN COUNCIL | |
| Adjourned meetings | 2-281 |
| Adoption of ordinance; publication | 2-294 |
| Agenda | 2-282 |
| Article provisions deemed supplemental | 2-296 |
| Call to order; reading and adopting minutes | 2-283 |
| Compensation | 2-297 |
| Conflict of interest | 2-276 |
| Defined | 1-2 |
| Election districts | 2-272 |
| Emergency preparedness | |
| Proclamation by council president | 22-20 |
| Enactment of ordinances | 2-292 |
| Form of questioning | 2-285 |
| Maintaining order and decorum | 2-284 |
| Members to be present and vote | 2-286 |
| Membership | 2-271 |
| New street construction | |
| Town council action | 58-248 |
| Ordinances which amend the town Code | 2-290 |
| Powers | 2-278 |
| President | |
| Duties | 2-275 |
| Selection and term | 2-274 |
| Promotion of economic development and tourism | 2-6 |
| Proponents and opponents to be heard | 2-293 |
| Questions of privilege | 2-287 |
| Quorum and votes to pass | 2-277 |
| Reading ordinances aloud | 2-291 |
| Regular meetings | 2-279 |
| Special meetings | 2-280 |
| Town districts | 2-273 |
| Validity of provisions | 2-295 |
| Zoning regulations. See: ZONING (Appendix A) | |
| TOWN DEPARTMENT OF DEVELOPMENT AND TOWN ECONOMIC DEVELOPMENT COMMISSION | |
| Development | 2-120 |
| Creation | 2-120(b) |
| Meetings | 2-120(e) |
| Membership | 2-120(c) |
| Notice | 2-120(d) |
| Powers | 2-120(f) |
| Purpose | 2-120(a) |
| Promotion of economic development and tourism | 2-6 |

| | Section |
|---|---|
| TOWN PLANNER | |
| General provisions re | 2-62 |
| Zoning regulations. See: ZONING (Appendix A) | |
| TOWN SEAL | |
| General provisions re | 1-17 |
| TOXIC OR NOXIOUS MATTER | |
| Stormwater management | |
| Storage of hazardous or toxic material | 26-266 |
| Zoning regulations. See: ZONING (Appendix A) | |
| TRAFFIC AND VEHICLES | |
| Abandoned and junk vehicles | 26-210 et seq. |
| See: JUNK AND JUNK YARDS | |
| Adoption of additional regulations | 66-1 |
| Air pollution | 26-149 et seq. |
| See: AIR POLLUTION | |
| Animals in motor vehicles | 10-26 |
| Authority of policemen and firemen | 66-56 |
| Bicycle regulations | 66-23 et seq. |
| See: BICYCLES | |
| Definitions | 66-55 |
| Driving on play streets | 66-63 |
| Driving on sidewalks | 66-62 |
| Driving over fire hose | 66-61 |
| Emergency vehicles | 66-59 |
| Following fire apparatus; parking near fires | 66-60 |
| Motor vehicle accidents involving animals | 10-25 |
| Noise regulations | 26-171 et seq. |
| See: NOISE | |
| Obedience to provisions | 66-57 |
| Park regulations | 46-61 |
| Parking, stopping and standing | |
| Additional parking regulations | 66-189 |
| Angle parking | 66-184 |
| Beach parking | |
| Application | 66-216 |
| Definitions | 66-217 |
| Enforcement | |
| Enforcement | 66-324 |
| Penalties | 66-325 |
| Defendant fails to respond | 66-325(b) |
| Issuance of a citation | 66-325(c) |
| Payment; fees | 66-325(a) |
| Parking | |
| Definitions | 66-271 |
| Prohibited places | 66-272 |
| Parking permits | |
| Beach area parking permits | 66-295 |

| | Section |
|---|---|
| TRAFFIC AND VEHICLES (Cont'd.) | |
| Permit | |
| Display | 66-294 |
| Permit—Types | 66-293 |
| Beach parking lot | 66-293(a) |
| Payments and collections | |
| Payment location; accepted methods | 66-245 |
| Rules of evidence | 66-218 |
| Definitions | 66-175 |
| Disabled parking spaces | 66-186 |
| Fifteen-minute parking zone | 66-181 |
| Impoundment fee | 66-188 |
| No parking on sidewalks | 66-179 |
| No parking when sweeping, cleaning or plowing streets (nonemergency) | 66-182 |
| No-parking zones | 66-173 |
| Obstruction of a mailbox prohibited | 66-190 |
| Parking as to obstruct traffic | 66-178 |
| Parking of vehicles in residential districts | 66-187 |
| Parking on narrow roadways | 66-176 |
| Parking vehicles on Oak Hill Road | 66-174 |
| Enforcement | 66-174(b) |
| Prohibited; where | 66-174(a) |
| Storage of vehicles on streets; permit application | 66-183 |
| Towing | 66-185 |
| Pedestrians | 66-85 et seq. |
| See: PEDESTRIANS | |
| Persons propelling pushcarts | 66-58 |
| Powers of local authorities | 66-2 |
| Sign designations | |
| Four-way stop intersections | 66-385 |
| Manual and specifications for traffic control devices | 66-381 |
| No left turn | 66-387 |
| No right turn on red at certain intersections | 66-386 |
| "Slow-school" signs | 66-383 |
| Stop streets | 66-384 |
| Traffic lanes; crosswalks; safety zones | 66-382 |
| Snow removal, emergency, repair regulations | 66-116 et seq. |
| See: SNOW AND ICE | |
| Speeding and no passing regulations | |
| Applicability of state law | 66-355 |
| Business areas and school areas | 66-357 |
| Fifty mile-per-hour speed zone | 66-361 |
| Forty mile-per-hour speed zone | 66-359 |
| Forty-five mile-per-hour speed zone | 66-360 |
| No-passing zones | 66-354 |
| Thirty mile-per-hour speed zones | 66-358 |
| Twenty mile-per-hour speed zones | 66-356 |
| Subdivision regulations. See: SUBDIVISIONS (Appendix B) | |

| | Section |
|---|---|
| TRAFFIC AND VEHICLES (Cont'd.) | |
| Taxicabs and taxi drivers | 18-85 et seq. |
| See: TAXICABS AND TAXI DRIVERS | |
| Town inventory of roads and streets | |
| Incorporation by reference | 66-418 |
| Traffic accident and case reports | 38-2 |
| Traffic accident report account | |
| Accounting and expenditure rules | 2-157(d) |
| Created | 2-157(a) |
| Expenditures | 2-157(c) |
| Source of funds | 2-157(b) |
| Vehicle registration checks | 38-3 |
| Weight restrictions | |
| Frost law regulations for vehicles in excess of 10,000 pounds | 66-150 |
| Penalty | 66-153 |
| Signs | 66-152 |
| Truck weighing five tons or more prohibited on designated streets | 66-147 |
| Trucks weighing seven tons or more prohibited on certain streets | 66-149 |
| Weight restrictions for East Washington Street | 66-148 |
| Written permits | 66-151 |
| Zoning regulations. See: ZONING (Appendix A) | |
| TRAFFIC LANES | |
| Traffic signs | 66-382 |
| TRANSFERS | |
| CATV franchise code | 62-43 |
| Rainy day fund | 2-162(c) |
| Taxicabs and taxi drivers | |
| License transfers | 18-90 |
| Unsafe buildings and premises | |
| Transfers of property by persons not complying with orders | 14-343 |
| TRANSIENT OR ITINERANT MERCHANTS, COMMERCIAL SOLICITORS, PEDDLERS AND HAWKERS | |
| Application; contents | 18-56 |
| Definitions | 18-52 |
| Exemptions | 18-53 |
| Fees required | 18-57 |
| License issuance; contents and application | 18-58 |
| License requirement | 18-55 |
| Permitted hours of solicitation | 18-62 |
| Purpose | 18-51 |
| Records | 18-61 |
| Regulation of merchants and vendors | 18-60 |
| Restrictions on merchants and vendors | 18-59 |
| Violations | 18-63 |

Section

TRANSIENT OR ITINERANT MERCHANTS, COMMERCIAL SOLICITORS, PEDDLERS AND HAWKERS (Cont'd.)
Waiver ..... 18-54

TRAPPING
Animals, trapping of restricted..... 10-28

TRASH. See: SOLID WASTE

TREASURER. See: TOWN CLERK-TREASURER

TREES AND SHRUBS
Subdivision regulations. See: SUBDIVISIONS (Appendix B)

TRESPASSING
Criminal trespass ..... 42-22

TRIBUTARIES
Parks, prohibited acts ..... 46-57

TRUCKS
Weight restrictions..... 66-147 et seq.
See: TRAFFIC AND VEHICLES

**U**

UNIFORMS
Police reserve unit ..... 38-59

UNSAFE BUILDINGS. See: BUILDINGS AND BUILDING REGULATIONS

UNSAFE PREMISES. See: BUILDING AND BUILDING REGULATIONS

URINE
Depositing unwholesome substances prohibited ..... 26-50

UTILITIES
Authority to establish water and sewage utilities ..... 70-1
Buildings and building regulations..... 14-1 et seq.
See: BUILDINGS AND BUILDING REGULATIONS
Connection charges to sewage works within the town ..... 70-105 et seq.
See: WATER AND SEWERS
Parks, prohibited acts ..... 46-57
Payment and connection charges
Preapproved payment of claims ..... 2-1(a)(4)
Septic system repair or modification ..... 70-13 et seq.
See: WATER AND SEWERS
Sewage and sewer use regulations
Town of Chesterton sanitary sewer use ordinance adopted by reference ..... 70-163
Sewage works..... 70-19 et seq.
See: WATER AND SEWERS

Section

UTILITIES (Cont'd.)
Sewer connection and repair standards ..... 70-195 et seq.
See: WATER AND SEWERS
Stormwater management
Placement of utilities ..... 26-284
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Zoning regulations. See: ZONING (Appendix A)

**V**

VACANCIES
Economic development task force ..... 2-121(f)

VACCINATIONS
Dogs and cats, mandatory vaccinations of ..... 10-34

VEGETABLE MATTER
Depositing unwholesome substances prohibited ..... 26-50

VEGETATION
Pickup of large bulk items and brush regulated ..... 54-52
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Weeds and rank vegetation
Abatement ..... 74-26
Definitions ..... 74-21
Exemptions ..... 74-29
Invoicing of costs; appeals; unpaid invoices ..... 74-27
Notice procedures ..... 74-22
Noxious vegetation prohibited ..... 74-19
Penalties ..... 74-25
Procedure without appeal ..... 74-23
Responsibility to enforce ..... 74-20
Right of entry ..... 74-28
Violation ..... 74-24
Zoning regulations. See: ZONING (Appendix A)

VEHICLES. See: TRAFFIC AND VEHICLES

VEHICLES FOR HIRE
Taxicabs and taxi drivers ..... 18-85 et seq.
See: TAXICABS AND TAXI DRIVERS

VENDING
Park regulations ..... 46-61

VENDORS. See: TRANSIENT OR ITINERANT MERCHANTS, COMMERCIAL SOLICITORS, PEDDLERS AND HAWKERS

VIBRATION
Zoning regulations. See: ZONING (Appendix A)

| | Section |
|---|---|
| VIOLATIONS | |
| Building code | 14-55 |
| Golf carts | 58-289 |
| Subdivision regulations. See: SUBDIVISIONS (Appendix B) | |
| Transient or itinerant merchants, commercial solicitors, peddlers and hawkers | 18-63 |
| Unsafe buildings and premises | 14-344 |
| Weeds and rank vegetation | 74-24 |
| Zoning regulations. See: ZONING (Appendix A) | |
| VOTES AND VOTING | |
| Administration | |
| Registration to vote required | 2-4 |
| Town council | |
| Members to be present and vote | 2-286 |

**W**

| | |
|---|---|
| WADING | |
| Parks, prohibited acts | 46-57 |
| WAIVERS | |
| Transient or itinerant merchants, commercial solicitors, peddlers and hawkers | 18-54 |
| WARRANTS, WRITS, SUBPOENAS AND OTHER LEGAL PROCESSES | |
| Posting prohibited | 42-27 |
| Unsafe buildings and premises | |
| Inspection warrants | 14-339 |
| WATER AND SEWERS | |
| Authority to establish water and sewage utilities | 70-1 |
| Connection charges to sewage works within the town | |
| Connection charges established | 70-106 |
| Local and lateral sewers | 70-105 |
| Penalties | 70-107 |
| Septic system repair or modification | |
| Drawing required | 70-130 |
| Existing septic tanks | 70-202(c) |
| Penalties | 70-132 |
| Permit required | 70-131 |
| Sewage and sewer use regulations | |
| Town of Chesterton sanitary sewer use ordinance adopted by reference | 70-163 |
| Sewage works | |
| Classes of users | 70-20 |
| Commercial and industrial installations | |
| BOD requirements | 70-65 |
| Rate surcharge based upon BOD | 70-67 |
| Rate surcharge based upon suspended solids | 70-66 |

| | Section |
|---|---|
| WATER AND SEWERS (Cont'd.) | |
| Definitions | 70-19 |
| Penalties | 70-21 |
| Usage rates and charges | |
| Billing procedures | 70-43 |
| Bylaws, regulations, and pretreatment procedures | 70-47 |
| Charge based on volume, strength and character | 70-40 |
| Determination factors used by the town | 70-36 |
| Determination of rates and charges | 70-35 |
| Discharges in excess of 10,000 gallons | 70-41 |
| Discontinuance of water service | 70-44 |
| Disputed bills | 70-45 |
| Effective date | 70-49 |
| Multiple users with a single meter | 70-39 |
| Rates and charges based on study | 70-46 |
| Refunds | 70-50 |
| Sewer adjustment on swimming pool fill | 70-51 |
| Special rate contracts | 70-48 |
| Sprinkling rates | 70-42 |
| Users not receiving water | 70-37 |
| Users receiving water from several sources | 70-38 |
| Sewer connection and repair standards | |
| Applicability | 70-195 |
| Completion of work by town | 70-202(f) |
| Concrete | 70-202(d) |
| Construction | 70-200 |
| Existing septic tanks | 70-202(c) |
| Fees | 70-197 |
| General notes | 70-202 |
| Inspections | 70-202(e) |
| Manhole notes, general | 70-202 |
| Materials | 70-199 |
| Miscellaneous regulations | 70-202 |
| Miscellaneous standards, diagrams/drawings | 70-203 |
| Permit for new connection or repair | 70-196 |
| Separate stormwater and sanitary sewers required | 70-201 |
| Who may make connection; bonds and insurance | 70-198 |
| Subdivision regulations. See: SUBDIVISIONS (Appendix B) | |
| Zoning regulations. See: ZONING (Appendix A) | |
| WATER LINES | |
| Parks, prohibited acts | 46-57 |
| WATER POLLUTION | |
| Zoning regulations. See: ZONING (Appendix A) | |
| WATERCOURSES AND WATER WAYS | |
| Beach regulations | 78-19 et seq. |
| See: BEACHES | |
| Zoning regulations. See: ZONING (Appendix A) | |

Section

WEAPONS. See: FIREARMS AND WEAPONS

WEEDS. See: VEGETATION

WILD ANIMALS. See: ANIMALS

WIRES. See: POLES AND WIRES

WORKMANSHIP
Building code ..... 14-54

WRITS. See: WARRANTS, WRITS, SUBPOENAS AND OTHER LEGAL PROCESSES

WRITTEN
Defined ..... 1-2

**Y**

YARDS
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Zoning regulations. See: ZONING (Appendix A)

YEAR
Defined ..... 1-2

**Z**

ZONING (Generally)
Board of zoning appeals ..... 2-126
Unsafe buildings and premises
Recording of orders, statements of rescission, statements of public bids and records of actions taken by board of zoning appeals ..... 14-342
Buildings and building regulations ..... 14-1 et seq.
See: BUILDINGS AND BUILDING REGULATIONS
Code of Ordinances ..... 1-1 et seq.
See: CODE OF ORDINANCES
Subdivision regulations. See: SUBDIVISIONS (Appendix B)
Zoning regulations. See: ZONING (Appendix A)

ZONING (Appendix A)
(All sections referred to within this title are contained within Appendix A of this Code)
Access to public street ..... 6(d)
Accessory buildings ..... 6(f)
Administration and enforcement
Administrative official ..... 225
Appeals ..... 232
Applicability ..... 226
Certificate of occupancy ..... 227
Expiration ..... 233
Industrial uses; certificate of compliance ..... 229

| | Section |
|---|---|
| ZONING (Appendix A) (Cont'd.) | |
| Issuance or denial | 231 |
| Purpose | 224 |
| Records | 230 |
| Site plan and construction drawings | 228 |
| Air pollution | |
| Performance standards. See specific districts | |
| Amendments | |
| Minimum size of parcel | 256 |
| Public hearing | 255 |
| Purpose | 252 |
| Referral to the plan commission | 254 |
| Who may initiate | 253 |
| Annexed land, zoning of | 6(c) |
| B-1 Neighborhood Business District | |
| Limitations of use | 74 |
| Maximum building height | 79 |
| Maximum floor area ratio | 77 |
| Maximum lot coverage | 78 |
| Minimum yards | 80 |
| Permitted uses | 75 |
| Purpose | 73 |
| Residential minimum lot size | 82 |
| Residential rear yards | 81 |
| Use and bulk regulations in all business districts | 72 |
| B-2 Central Business District | |
| Limitations of use | 84 |
| Maximum building height | 86 |
| Maximum floor area ratio | 87 |
| Permitted uses | 85 |
| Purpose | 83 |
| Required yards | 88 |
| Residential minimum lot size | 90 |
| Residential rear yards | 89 |
| B-3 General Business Districts | |
| Limitations of use | 92 |
| Maximum building height | 94 |
| Maximum floor area ratio | 95 |
| Permitted uses | 93 |
| Purpose | 91 |
| Required yards | 96 |
| Blocks | |
| Mobile homes and mobile home parks | 170(d) |
| Board of zoning appeals | |
| Appeals | 248 |
| Created | 235 |
| Facilities and funding | 243 |
| Filing | 244 |
| Hearings | 245 |
| Membership | 236 |

| | Section |
|---|---|
| ZONING (Appendix A) (Cont'd.) | |
| Purpose | 234 |
| Quorum | 238 |
| Rules and bylaws | 242 |
| Staff | 241 |
| Subject matter jurisdiction | 240 |
| Terms of office | 237 |
| Territorial jurisdiction | 239 |
| Use variances | 246 |
| Variances | 247 |
| Bulk regulations | 6(g) |
| Cellular antenna towers and cellular telecommunication services, regulations for | |
| Amendments | 223 |
| Applicability | 218 |
| Application requirements | 219 |
| Definitions | 216 |
| Design standards | 221 |
| Fees | 222 |
| General | 217 |
| Pre-application conference | 215 |
| Processing of Application | 220 |
| Purpose | 214 |
| Definitions | 7 |
| Easements | |
| Mobile homes and mobile home parks | 170(c) |
| Enforcement, violation and penalties | |
| Enforcement, violation and penalties | 264 |
| Purpose | 263 |
| F-1 Flood Plain Districts | |
| Conflicting provisions | 148 |
| Designation and duties of the administrator | 144 |
| Development prohibition | 145 |
| Flood plain fringe areas | 143 |
| Limitations of use | 140 |
| Non-conforming uses | 146 |
| Permitted uses | 141 |
| Purpose | 139 |
| Variance | 147 |
| Fence and wall restrictions | |
| All districts | 265 |
| Nonresidential districts | 267 |
| Residential districts | 266 |
| Fire and explosive hazards | |
| Performance standards. See specific districts | |
| General provisions and supplementary district regulations | 6 |
| Access to public street | 6(d) |
| Accessory buildings | 6(f) |
| Height of accessory buildings in required rear or side yards | 6(f)(3) |

| | Section |
|---|---|
| ZONING (Appendix A) (Cont'd.) | |
| Limitation of size | 6(f)(5) |
| Location of accessory buildings | 6(f)(6) |
| Number of accessory structures | 6(f)(7) |
| On reversed corner lots | 6(f)(4) |
| Percentage of rear yard occupied | 6(f)(2) |
| Separation from principal structure | 6(f)(8) |
| Sheds, playhouses, etc. | 6(f)(9) |
| Time of construction | 6(f)(1) |
| Bulk regulations | 6(g) |
| Continued conformity with bulk regulations | 6(g)(1) |
| Division of zoning lots | 6(g)(2) |
| Location of required open space | 6(g)(3) |
| Permitted obstruction in required yards | 6(g)(5) |
| Required yards for existing buildings | 6(g)(4) |
| Existing use variances | 6(i) |
| Number of buildings on a zoning lot | 6(e) |
| Interpretation and application | 6(a) |
| Performance standards | 6(h) |
| Scope of regulations | 6(b) |
| Zoning of annexed land | 6(c) |
| Glare or heat | |
| Performance standards. See specific districts | |
| I-1 Light Industrial Districts | |
| Limitations of use | 104 |
| Maximum floor area ratio | 115 |
| Minimum front yard | 116 |
| Minimum rear yard | 118 |
| Minimum side yard | 117 |
| Performance standards | |
| Air pollution | 113 |
| Fire and explosive hazards | 112 |
| Glare or heat | 111 |
| Noise | 107 |
| Odorous matter | 108 |
| Toxic or noxious matter | 110 |
| Vibration | 109 |
| Water pollution | 114 |
| Permitted uses | 105 |
| Purpose | 103 |
| Regulations along residential district boundaries | 119 |
| Use and bulk regulations in all industrial districts | 102 |
| I-2 Heavy Industrial Districts | |
| Limitations of use | 121 |
| Maximum floor area ratio | 132 |
| Minimum front, side, and rear yards | 133 |
| Performance standards | |
| Air pollution | 130 |
| Fire and explosive hazards | 129 |
| Glare or heat | 128 |

| | Section |
|---|---|
| ZONING (Appendix A) (Cont'd.) | |
| Noise | 124 |
| Odorous matter | 125 |
| Toxic or noxious matter | 127 |
| Vibrations | 126 |
| Water pollution | 131 |
| Permitted uses | 122 |
| Purpose | 120 |
| Regulations along residential district boundaries | 134 |
| Invasive species control. See herein Art. XXV. | |
| Limitations of use. See specific district | |
| Lots | |
| Mobile homes and mobile home parks | 170(e) |
| Maximum building height. See specific district | |
| Maximum floor area ratio. See specific district | |
| Maximum lot coverage. See specific district | |
| Minimum yards. See specific district | |
| Mobile homes and mobile home parks | |
| Compliance required | 170 |
| Blocks | 170(d) |
| Easements | 170(c) |
| Lots | 170(e) |
| Streets | 170(b) |
| Suitability of land | 170(a) |
| General requirements | 169 |
| Improvement standards | 171 |
| Generally | 171(a) |
| Sanitary sewers | 171(b) |
| Storm sewers | 171(c) |
| Streets, curbs, gutters and walks | 171(e) |
| Water mains | 171(d) |
| Purpose | 168 |
| Noise | |
| Performance standards. See specific districts | |
| Nonconforming uses and nonconforming buildings | |
| Avoidance of undue hardship | 201 |
| Changing the use of a nonconforming use | 208 |
| Incompatibility of nonconforming uses | 200 |
| Nonconforming lots of record in combination | 203 |
| Nonconforming structures | 205 |
| Nonconforming uses of land | 204 |
| Nonconforming uses of structures or of structures and land in combination | 206 |
| Purpose | 199 |
| Repairs and maintenance | 207 |
| Single nonconforming lots of record | 202 |
| Number of accessory structures | 6(f)(7) |
| Number of buildings on a zoning lot | 6(e) |
| Odorous matter | |
| Performance standards. See specific districts | |

| | Section |
|---|---|
| ZONING (Appendix A) (Cont'd.) | |
| Off-street parking, loading and landscaping | |
| Additional landscaping provisions | 183 |
| Applicability | 183(c) |
| Interpretation | 183(b) |
| Permissible landscape materials | 183(f) |
| Procedure | 183(h) |
| Purpose | 183(a) |
| Requirements | 183(g) |
| Responsibility of landscaping in the public right-of-way | 183(e) |
| Standards | 183(d) |
| Additional loading regulations | 181 |
| Access | 181(c) |
| Location | 181(a) |
| Receiving facilities | 181(h) |
| Repair and service | 181(e) |
| Size | 181(b) |
| Space not to be used to satisfy parking facility requirements | 181(f) |
| Special uses | 181(g) |
| Surfacing | 181(d) |
| Additional parking regulations | 179 |
| Access | 179(e) |
| Computation | 179(c) |
| Design and maintenance | 179(g) |
| In yards | 179(f) |
| Joint parking facilities | 179(b) |
| Size | 179(d) |
| Use of parking facilities | 179(a) |
| General provisions | 177 |
| Changes in use of building or structure | 177(c) |
| Damage or destruction | 177(f) |
| Existing parking and loading facilities | 177(d) |
| Increase in intensity of use of building, structure or premises | 177(b) |
| Permissive parking, landscaping, and loading facilities | 177(e) |
| Required facilities | 177(a) |
| Submission of plot plan | 177(g) |
| Location of accessory off-street parking facilities | 178 |
| For uses in a residential district | 178(a) |
| For uses in business or industrial districts | 178(b) |
| Purpose | 176 |
| Schedule of loading requirements | 182 |
| Schedule of parking requirements | 180 |
| Community service uses | 180(g) |
| Establishments engaged in production, processing, cleaning, servicing, testing or repair of materials, goods, or products | 180(e) |
| Industrial uses | 180(d) |
| Miscellaneous uses | 180(i) |

| | Section |
|---|---|
| ZONING (Appendix A) (Cont'd.) | |
| Mixed uses | 180(j) |
| Offices - business, professional, medical, and governmental | 180(c) |
| Other uses | 180(k) |
| Places of assembly | 180(h) |
| Residential uses | 180(a) |
| Retail and service uses | 180(b) |
| Warehouses and storage buildings | 180(f) |
| OS Open Space Districts | |
| Building Height | 18 |
| Maximum coverage | 14 |
| Maximum floor area ratio | 13 |
| Minimum front yard | 15 |
| Minimum lot size | 12 |
| Minimum rear yard | 17 |
| Minimum side yard | 16 |
| Permitted uses | 10 |
| Purpose | 9 |
| Use and bulk regulations in OS Open Space Districts | 8 |
| PB Professional Business District | |
| Maximum coverage | 65 |
| Maximum floor area ratio | 64 |
| Maximum height | 69 |
| Minimum front yards | 66 |
| Minimum rear yards | 68 |
| Minimum side yards | 67 |
| Permitted uses | 61 |
| Prohibited uses | 63 |
| Purpose | 60 |
| Use and bulk regulations in PB Professional Business Districts | 59 |
| Permitted uses. See specific district | |
| Planned unit developments districts | |
| Approval of the final detailed plan | 157 |
| Construction | 161 |
| Covenants and maintenance | 158 |
| Extensions, abandonment, and expiration | 162 |
| Filing procedure | 155 |
| Limitation of rezoning | 163 |
| Organization of proposals | 154 |
| Permit | 160 |
| Planned unit developments, classification | 153 |
| Business | 153(b) |
| Industrial | 153(c) |
| Mobile Home Park | 153(d) |
| Residential | 153(a) |
| Preliminary plan hearing | 156 |
| Purpose | 152 |
| Recording | 159 |

| | Section |
|---|---|
| ZONING (Appendix A) (Cont'd.) | |
| Porter Beach Overlay | |
| Applicability statement | 260 |
| Background | 257 |
| Developmental standards | 261 |
| Lakeshore preservation district policies | 259 |
| Performance standards | 262 |
| Planning history | 258 |
| Purpose and intent | 3 |
| R-1 and R-2 Single-Family Residential Districts | |
| Maximum Building Height in R1 and R2 residential districts | 35 |
| Maximum coverage in R-1 and R-2 residential districts | 31 |
| Maximum floor area ratio in R-1 and R-2 residential districts | 30 |
| Minimum floor area in R-1 Residential Districts | 27 |
| Minimum floor area in R-2 Residential Districts | 29 |
| Minimum front yards in R-1 and R-2 Residential Districts | 32 |
| Minimum lot size in R-1 Residential Districts | 26 |
| Minimum lot size in R-2 Residential Districts | 28 |
| Minimum rear yards in R-1 and R-2 Residential Districts | 34 |
| Minimum side yards in R-1 and R-2 Residential Districts | 33 |
| For one-family detached dwellings | 33(a) |
| Required side yards | 33(c) |
| Reversed corner lots | 33(b) |
| Permitted uses in R-1 and R-2 Residential Districts | 23 |
| Community service uses as follows | 23(b) |
| Miscellaneous uses as follows | 23(c) |
| Residential uses as follows | 23(a) |
| Uses incidental to principle permitted uses as follows | 23(d) |
| Purpose | 22 |
| Transitional uses in R-1 and R-2 Residential Districts | 24 |
| Use and bulk regulations in all residential districts | 21 |
| R-3 Single to Four-Family Residential Districts | |
| Maximum coverage | 43 |
| Maximum floor area ratio | 42 |
| Maximum height requirement | 47 |
| Minimum floor area in R-3 residential districts | 41 |
| Minimum front yards | 44 |
| Minimum lot size | 40 |
| Minimum rear yards | 46 |
| Minimum side yards | 45 |
| Exceptions for existing narrow lots | 45(d) |
| For one-family detached dwellings | 45(a) |
| For two to four-family attached dwellings | 45(b) |
| Required side yards | 45(e) |
| Reversed corner lots | 45(c) |
| Permitted uses | 37 |
| Purpose | 36 |
| Transitional uses | 38 |

| | Section |
|---|---|
| ZONING (Appendix A) (Cont'd.) | |
| R-4 Multiple-Family Residential and PUD districts | |
| Maximum building height | 58 |
| Maximum coverage | 54 |
| Maximum floor area ratio | 53 |
| Minimum floor area in R-4 Residential Districts | 52 |
| Minimum front yards | 55 |
| Minimum lot size | 51 |
| Minimum rear yards | 57 |
| Minimum side yards | 56 |
| For multiple-family dwellings and all other residential buildings | 56(a) |
| For nonresidential buildings | 56(b) |
| Required side yards | 56(d) |
| Reversed corner lots | 56(c) |
| Permitted uses | 49 |
| Purpose | 48 |
| Residential minimum lot size. See specific district | |
| Residential rear yards. See specific district | |
| Rules of interpretation of district boundaries | 5 |
| Sanitary sewers | |
| Improvement standards | 171(b) |
| Schedule of fees | |
| Establishment | 250 |
| Payment prerequisite to action on application or appeal. | 251 |
| Purpose | 249 |
| Sheds, playhouses, etc. | 6(f)(9) |
| Signs | |
| Landscaping | 191 |
| Permitted signs | |
| Business districts | 188 |
| Industrial districts | 189 |
| Open Space districts | 185 |
| One (1) advertising sign | 185(b) |
| One (1) for sale sign | 185(c) |
| One (1) nameplate | 185(a) |
| Professional Business districts | 187 |
| Residential districts | 186 |
| For apartment and condominium complexes, one (1) identification sign for each building | 186(c) |
| For home occupations (where permitted), one (1) identification sign | 186(d) |
| For multiple family dwellings, for apartment hotels and buildings other than dwellings, one (1) identification sign | 186(b) |
| For one (1) and two (2) dwellings, one (1) nameplate | 186(a) |
| For public or private educational institutions, churches, libraries, hospitals, other public or quasi-public buildings, parks, playgrounds and off-street parking areas, identification signs | 186(e) |

| | Section |
|---|---|
| ZONING (Appendix A) (Cont'd.) | |
| Purpose and general provisions | 184 |
| Banner | 184(a) |
| Flag | 184(b) |
| Sign, feather or teardrop | 184(c) |
| Temporary signs | 190 |
| Abandonment | 190(e) |
| All Zoning Districts | 190(a) |
| Exemption | 190(f) |
| Non-Residential Districts | 190(c) |
| Residential Zoning Districts | 190(b) |
| Temporary Subdivision Signs | 190(d) |
| Site plan review | |
| Applicability of review | 211 |
| Components of review | 212 |
| Purpose | 209 |
| Review factors | 213 |
| Land use | 213(a) |
| Public services | 213(e) |
| Traffic impact | 213(b) |
| Urban design principles | 213(d) |
| Utilities | 213(c) |
| Rules for review | 210 |
| Storm sewers | |
| Improvement standards | 171(c) |
| Streets | |
| Mobile homes and mobile home parks | 170(b) |
| Streets, curbs, gutters and walks | |
| Improvement standards | 171(e) |
| Toxic or noxious matter | |
| Performance standards. See specific districts | |
| Use and bulk regulations in all business districts. See specific district | |
| Vibration | |
| Performance standards. See specific districts | |
| Water mains | |
| Improvement standards | 171(d) |
| Water pollution | |
| Performance standards. See specific districts | |
| Zoning districts, establishment and application | 4 |
| Replacement of official zoning map | 4(b) |
| Zoning districts | 4(a) |