

TOWN OF BLOOMFIELD, INDIANA

CODE OF ORDINANCES

AMERICAN LEGAL PUBLISHING CORPORATION

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ARTICLE 1: BY-LAWS

Section 1. There shall be 12 regular meetings of said Council during such year and as many called meetings as the business of said town may demand. Said regular meetings to be held on _____ as may be designated by the Town Council President or Council member calling the same as hereinafter provided.

Section 2. Said regular meetings are to be at such places as may be determined upon by said Council and said called meetings at such places as said Town Council President or Council member calling the same may designate.

Section 3. The Town Council President shall take the chair at the hour appointed for the meeting and shall immediately call the Council to order and may order and compel the attendance of absent members and, upon the appearance of a quorum, shall cause the minutes of the proceeding meeting to be read for the approval or modification of said Council.

Section 4. The Town Council President or any Council member may call a special meeting whenever they may deem it necessary for the transaction of any business by giving or causing to be given six hours verbal or written notice to the other members of the Council who may be in town. Said special meetings shall be governed and regulated in the same manner as the regular and stated meeting and have the same powers for the transaction of any and all business brought before such meeting.

Section 5. The Town Council President and/or Council member or, in the absence of the Town Council President, the Council members having selected one of their number Town Council President Pro-tem, shall constitute a quorum for any and all business.

Section 6. The order of business of each meeting shall be:

- 1) First: calling the Council to order by the Town Council President;
- 2) Second: reading and consideration of the minutes of the preceding meeting;
- 3) Third: presentation and allowance of reference accounts;
- 4) Fourth: receiving and passing upon petitions and the remonstrances;
- 5) Fifth: report of standing committee;
- 6) Sixth: report of special committee;

By-Laws

- 7) Seventh: reports of officers;
- 8) Eighth: resolutions and ordinances; and
- 9) Ninth: miscellaneous business.

Section 7. The proceedings of every meeting of the Council shall be drawn up at full length by the Clerk-Treasurer and by him or her attested and signed by the Town Council President or, in his or her absence, by the President Pro-tem, upon approval of said minutes at the next meeting. No resolution, order, ordinance or action of the Council shall be defective or invalid for the want of such signing, provided the same is signed at any meeting of the Council thereafter.

Section 8. The Town Council President or Town Council President Pro-tem shall decide all questions of order, but his or her decisions shall be subject to an appeal.

Section 9. Every member present shall vote when a question is put unless interested or excused by the Council, but no member shall vote where personally interested in the question.

Section 10. Every motion or proposition shall, if the Town Council President or any member demands it, be reduced to writing.

Section 11. Every member may insist upon a recorded vote upon any question or proposition and may have his or her written protest entered at large upon the minutes against the adoption of any motion or proposition whatever.

Section 12. The style of the resolution orders and ordinances of this Council shall be ABe it Resolved, Ordered or Ordained@, as the case may be, ABy, the Council of the Town of Bloomfield@.

Section 13. The by-laws of the town may be altered, amended or repealed by the Council, at any meeting, by a majority vote. A resolution to alter, amend or repeal the by-laws should be presented by a member of the Council in writing.

(Ord. 1-1889, passed - -)

ARTICLE 2: CLERK-TREASURER

Section 1. The office of the Town Clerk and Town Treasurer shall be combined and held by the same person.

(Ord. 178, passed - -)

Section 2.

1) There is hereby created the office of Deputy Clerk-Treasurer of the town. The Clerk-Treasurer is authorized to appoint a Deputy Clerk-Treasurer who shall have the power and duty to execute all documents required by any law or ordinance to be executed by the Clerk-Treasurer and affix the seal of the town thereto whenever required.

2) When signing any documents, the Deputy Clerk-Treasurer shall sign the name of the Town Clerk-Treasurer followed by the word "By" and the Deputy Clerk-Treasurer's own name and the words "Deputy Clerk-Treasurer".

3) The powers and duties herein described shall be exercised by such Deputy Clerk-Treasurer only in the absence of the Town Clerk-Treasurer from his or her office in the town hall or only when written direction has been given by the Clerk-Treasurer to exercise such power. Such Deputy Clerk-Treasurer shall have the authority and power herein described and such further power and authority as may be provided by the statute.

4) The office of the Clerk of Sewage Disposal Works, also known as Sewage Clerk, is hereby abolished.

Clerk-Treasurer

ARTICLE 3: TOWN MARSHAL

Section 1. The Marshal of said town is hereby authorized to appoint Deputy Marshals who, in executing the orders of said Council, shall possess the powers and be subject to the liabilities of said Marshal, one of whom shall be designated by said Marshal. Said deputies shall each give a bond to said town with surety in the final sum of \$200 who shall serve two years from the date of his or her appointment and each Deputy shall be subject to the orders of said Marshal. The duties shall be as directed by the Council.

(Ord. 102, passed - -)

Section 2. It shall be the duty of the Marshal of said town to take charge of any dog which shall be found running at large within the corporate limits of said town without being securely muzzled and, if any owner can not be found for such dog, then the Marshal shall kill the same.

(Ord. 25, passed - -)

TOWN MARSHAL

ARTICLE 4: RESERVED

FIREARM TRAINING FUND

ARTICLE 4.1: LAW ENFORCEMENT CONTINUING EDUCATION FUND

Section 1. *Accident reports.* The Police Department is authorized to charge a fee for copies of reports in accordance with I.C. 9-29-11-1.

Section 2. *Police photographs.* The Police Department is authorized to charge a fee of \$3 per photograph.

Section 3. *Police videotapes.* The police shall furnish, for trial purposes to litigants, copies of videotapes for a charge of \$20 per copy.

Section 4. *Fingerprinting for noncriminal purposes.* The Police Department shall charge a fee of \$5 to fingerprint any person who requires the prints for reasons other than official business of the Police Department. Requests for fingerprints for child protection shall be exempt.

Section 5. *Certificate of title-vehicle inspection.* In accordance with I.C. 9-17-2-12 and 9-29-4-2, the Police Department shall charge \$5 to inspect a vehicle prior to the owner=s application to the Bureau of Motor Vehicles for a certification of title.

Section 6. *Miscellaneous incident reports.* The fee for providing a copy of an incident report shall be \$3.

Section 7. *Notarization.* In accordance with I.C. 33-42-8-1, the fee for notarizing a document not required for official police or town business shall be \$2.

Section 8. *Gun permits.* An application for a handgun license from an individual shall be charged according to state statute. If application is denied by the state, a refund shall be made to the individual. (Ord. 2001-17, passed 11-7-2001; Ord. 2011-02, passed 5-23-2011)

LAW ENFORCEMENT CONTINUING EDUCATION FUND

ARTICLE 5: ADVISORY PLAN COMMISSION

Section 1. *Establishment of the Town Advisory Plan Commission.* The Council hereby establishes the Advisory Plan Commission (APlan Commission@) under I.C. 36-7-4-207.

Section 2. *Members.* The Plan Commission shall consist of seven members who shall be appointed as follows:

- 1) Three non-citizen members appointed by the Council who must be elected or appointed municipal officials or employees in the municipal government of the town; and
- 2) Four citizen members appointed by the Council, of whom not more than two may be of the same political party.

Section 3. *Qualifications of citizen members.* The four citizen members appointed by the Council must be residents of the town. Each citizen member shall be appointed because of the member=s knowledge and experience in community affairs, the member=s awareness of the social, economic, agricultural and industrial problems of the area and the member=s interest in the development and integration of the area. A citizen member may not hold other elective or appointive office in municipal, county or state government.

Section 4. *Term.*

- 1) The term of office of a non-citizen member who is appointed by the Council is coextensive with the member=s term of office or employment unless the Council appoints another member to serve at its first regular meeting in any year.
- 2) The citizen members appointed by the Council shall initially be appointed for the following terms of office: two members for a term of three years; and two members for a term of four years. Each member=s term expires on the first Monday of January of the third or fourth year, respectively, after the year of the member=s appointment. When an initial term of office of a citizen member expires, each new appointment of a citizen member is for a term of four years. A citizen member serves until his or her successor is appointed and qualified. A citizen member is eligible for reappointment.

Section 5. *Removal of citizen members.* The Council may remove a citizen member of the Plan Commission for cause. The Council must mail notice of the removal, along with written reasons for the removal, to the citizen member at his or her residence of address. A citizen member who is removed may, within 30 days after receiving notice of the removal, appeal the removal to the Circuit or Superior Court of the county. The Court may, pending the outcome of the appeal, order the removal or stay the

removal of the citizen member.

Section 6. *Vacancies.* If a vacancy occurs among the Plan Commission members who are appointed, then the Council shall appoint a member for the unexpired term of the vacating member.

Section 7. *Statutory provisions incorporated by reference.* The provisions of I.C. 36-4 governing the powers, duties and procedures of municipal advisory plan commissions and as may be amended from time to time are herein incorporated by reference.

(Ord. 2009-04, passed 5-7-2009)

ARTICLE 6: ECONOMIC DEVELOPMENT COMMISSION

Section 1. There is hereby created the Town Department of Development and the Town Development Commission, which Commission shall consist of three members.

Section 2. Members of the Town Development Commission shall be nominated and appointed and shall serve for the terms, all as provided in I.C. 36-7-12.
(Ord. 73-105, passed - -)

ECONOMIC DEVELOPMENT COMMISSION

ARTICLE 7: PARKS AND RECREATION

Section 1. There is hereby established a Department of Parks and Recreation composed of the Board of Parks and Recreation, a superintendent and such other personnel as the Council shall determine.

Section 2. The Board shall be composed of four members. In addition, a member of the Board of School Trustees of the Town School District shall serve *ex officio*. The Council members of the town shall select the regular members on the basis of their interest in the knowledge of the parks and recreation, but no more than two members shall be of the same political party. The *ex officio* member shall be selected by the School Board of the Town School District.

Section 3. Upon the establishment of a Board, the terms of the members initially appointed shall be for one, two, three and four years. Thereafter, as a term expires, each new appointment shall be a four-year term. All terms shall expire on the first Monday of January, but an appointee shall continue in office until his or her successor is appointed.

Section 4. At its first regular meeting in each year, the Board shall elect a President and a Vice-President. The Vice-President shall have the authority to act as the President of the Board during the absence or disability of the President.

Section 5. The Board shall have the general power to perform all acts necessary to acquire and develop sites and facilities to conduct such programs as are generally understood to be park and recreation functions, including powers and duties listed in I.C. 36-10-3-10 through 36-10-3-12 of the Park and Recreation Law.

Section 6. The Board may create an advisory council and special committees composed of citizens interested in the problems of park and recreation in accordance with the Park and Recreation Law.

Section 7. The Board shall prepare and submit an annual budget in the same manner as other departments of the town government. The Board may accept gifts, donations and subsidies for park and recreation purposes.

(Ord. 4-79, passed - -)

PARKS AND RECREATION

ARTICLE 7.1: CONDUCT AND ACTIONS PROHIBITED IN TOWN PARK

Section 1. *General conduct regulations/actions specifically prohibited.*

- 1) No person shall write, cut, mutilate or in any manner deface any building, fence, bench, masonry, ornament or trees in the Bloomfield Park.
- 2) No person shall pull, pluck, break or in any manner injure any fruit, flowers, saplings, shrubs or plants nor climb any trees in the Bloomfield Park.
- 3) No person shall discharge any firearm or have possession of any firearm within the limits of the Bloomfield Park unless that person is a law enforcement official or is using the firearm for ceremonial purposes conducted by an organization that is sanctioned by the Armed Forces of the United States of America.
- 4) No person shall use profane, obscene, threatening or abusive language..
- 5) No person shall fight, threaten to fight, throw stones or other dangerous objects in a reckless manner or commit any offense against public decency in the Bloomfield Park.
- 6) No person shall introduce, for the purpose of bartering, selling or giving away any spiritous, vinous, malt or intoxicating liquors within the limits of the Bloomfield Park.
- 7) No person shall sell nor offer for sale any article within the limits of the Bloomfield Park without first having obtained the written consent from the Council.
- 8) No restrooms, buildings or structures within the park shall be improperly used.
- 9) No person shall make a fire for any purpose within the bounds of the Bloomfield Park, for any purpose whatsoever, without first having obtained the permission of the Council, with the exception of cooking grills used for the purpose of cooking.
- 10) Persons holding public or private picnics within the limits of the Bloomfield Park must clean up the ground that has been occupied by them and remove all paper and litter therefrom.
- 11) No park patron shall perform any act that tends to create a danger, hazard or disturbance to other park patrons or their property.
- 12) No person shall litter or otherwise improperly dispose of waste within the Bloomfield Park.

CONDUCT AND ACTIONS PROHIBITED IN TOWN PARK

13) No person shall operate or ride upon any skateboard, roller skates, roller blades, scooters or coasters upon any sidewalk or other hard surfaced area of Bloomfield Park.

14) Any person who brings a pet within the Bloomfield Park must keep that pet on a leash and clean up the pet's waste.

Section 2. *Penalty.* Any person found to be in violation of or derogation of the provisions of this article shall be subject to removal from the Bloomfield Park, banned from the park for up to 30 days and shall have committed an ordinance violation which may be fined up to \$500.

Section 3. The provisions of this article shall be in full force and effect from and after the date of publication as required by I.C. 5-3-1.
(Ord. 2001-13, passed 6-5-2001; Ord. 2005-04, passed 10-4-2005; Ord. 2008-8, passed 11-6-2008; Ord. 2008-9, passed 11-6-2008; Ord. 2013-03, passed 7-3-2012)

ARTICLE 8: RESERVED

AVIATION DEPARTMENT

ARTICLE 9: VOTING WARDS AND PRECINCT

Section 1. The town is hereby redistricted and divided into wards and voting precincts, in accordance with the provisions hereinafter set out.

1) *Division into wards.*

a) *Ward 1.* That the territory in said town, included within the following boundaries shall constitute and be the first ward of the town, viz: beginning at the intersection of the center lines of Franklin Street and Mechanic Street in said town as now located and running thence west along the center of Mechanic Street to its intersection with the center of John Street; thence south along the center of John Street to its intersection with the center of South Street; thence west along the center South Street and the prolongation thereof to the west corporate boundary of said town; thence in a northerly and easterly direction along the west and north boundary line of said town to the point where the north corporate boundary line of said town intersects the center of Washington Street (also known as the Bloomfield and Spencer Road); thence south along the center line of said Washington Street to its intersection with the center line of Main Street in said town; thence west along the center of Main Street to its intersection with the center of Franklin Street; thence south along the center of Franklin Street to the place of beginning.

b) *Ward 2.* That the territory in said town, included within the following boundaries shall constitute and be the first ward of the town, viz: beginning at the intersection of the center lines of Franklin Street and Mechanic Street in said town and running thence south along the center line of Franklin Street and the prolongation thereof to the south corporate boundary line of the town; thence in an easterly, northerly and westerly direction along the south, east and north boundary lines respectively of the town to the point where the north corporate line of said town intersects the center of Washington Street in said town at the northeast corner of Ward Number 1; thence south along the center of Franklin Street to the place of the beginning.

c) *Ward 3.* That the territory in said town included within the following boundaries shall constitute and be the third Ward of the town, viz: beginning at the intersection of the center lines of Franklin Street and Mechanic Street in said town and running thence south along the center of said Franklin Street and the prolongation thereof to the south corporate boundary line of the town; thence in a westerly and northerly direction along the south and west corporate boundary lines of the town, with all the meanderings thereof to the southwest corner of Ward Number 1; thence east to the intersection of the center lines of south Street and John Street in said town along the south line of said Ward Number 1; thence north to the center of Mechanic Street along the center of John Street; thence east along the center of Mechanic Street to the place of beginning.

VOTING WARDS AND PRECINCTS

2) *Voting precinct.* There is only one voting precinct:

Bloomfield Fire Station
75 W Mill Street, Bloomfield, IN

(Ord. 173, passed - -)

ARTICLE 10: RESERVED

RESERVED

ARTICLE 11: STREET COMMISSIONER

Section 1. There is hereby created the office of Street Commissioner. The Street Commissioner shall be appointed by the Council members of the town. All duties shall be directed by the Council.

Section 2. The Street Commissioner shall have charge of the construction and care of all public streets and alleys in the town and with the keeping of the same clean. Such Commissioner shall see to it that all gutters and drains function properly and that they are kept free from defects.

Section 3. The Street Commissioner shall have charge and custody of sanitary and storm sewer systems of the town and shall see to it that they are kept in good repair and that they function properly.
(Ord. 15-85, passed 11-6-1985)

STREET COMMISSIONER

ARTICLE 12: UNSAFE BUILDING FUND

Section 1. There is hereby established in the operating budget of the town a fund designated as the Unsafe Building Fund.

Section 2. Any balance remaining in the Unsafe Building Fund at the end of a fiscal year shall be carried over in such Fund for the following year and shall not revert to the General Fund.

Section 3. 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 Title II of the Municipal Code of the town or under I.C. 36-7-9;
- 2) Money received from bonds posted under Title II, Article I of the Municipal Code of Bloomfield or under I.C. 36-7-9; and
- 3) Money received in satisfaction of receivers' notes or certificates that were issued under Title II of the Municipal Code of the town under I.C. 36-7-9 and were purchased with money from the Unsafe Building Fund.

Section 4. Money in the Unsafe Building Fund may be used for the expenses incurred in carrying out the purposes of Title II of the Municipal Code of the town, 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 Commissioner;
- 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 Title II of the Municipal Code of the town;
- 5) The bid of work by a contractor under Title II of the Municipal Code of the town;

UNSAFE BUILDING FUND

- 6) The cost of emergency action under Title II of the Municipal Code of the town; and
- 7) The cost of notes or receivers' certificates issued under Title II of the Municipal Code of the town.

ARTICLE 13: VIOLATIONS BUREAU

Section 1. There is hereby established an Ordinance Violations Bureau.

Section 2. There is hereby created the position of Violations Clerk who shall administer the Ordinance Violations Bureau.

Section 3. The Violations Clerk may accept written appearances, waivers of trial, admissions of violations and payments of civil penalties in ordinance violation cases.

Section 4. The Violations Clerk shall collect civil penalties, provide receipts therefore and account for such civil penalties under procedures established by the State Board of Accounts.

Section 5. Payment of civil penalties may be made in person or by mail to the Violations Clerk.

Section 6. A person charged with a violation of the Municipal Code of the town is entitled to a trial before a court as provided by law, unless the person waives the right to trial and enters an admission of the violation with the Violations Clerk. Upon such an admission, the Violations Clerk shall assess and receive from the violator the amount prescribed by the schedule of civil penalties established under Section 10.

Section 7. If a person charged with a violation of the Municipal Code of the town 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.

Section 8. If a person:

- 1) Denies a municipal code violation;
- 2) Fails to pay a civil penalty assessed by the Violations Clerk after having entered an admission of violation; or
- 3) Fails to deny or admit the violation;

the Violations Clerk shall report this fact to the Town Attorney, who shall then initiate proceedings in court against the person for the alleged ordinance violation.

Section 9. All sums collected by the Violations Clerk as civil penalties for ordinance violations shall be accounted for and paid to the town as provided by law.

Violations Bureau

Section 10. The following are the provisions of the Municipal Code of the town are subject to admission of violations before the Violations Clerk and for which the amount of civil penalty to be assessed a violator who elects to admit a violation shall be \$25:

- 1) Title II, Art. 2, Sec. 1: Obstructing a street or sidewalk;
- 2) Title III, Art. 1, Sec. 2: Abandoning or neglecting an animal;
- 3) Title III, Art. 1, Sec. 3: Keeping dogs which disturb peace;
- 4) Title III, Art. 1, Sec. 6: Permitting certain livestock to run at large;
- 5) Title III, Art. 1, Sec. 7: Permitting a diseased animal to run at large;
- 6) Title III, Art. 1, Sec. 8: Allowing a stable, kennel or pen to become unclean;
- 7) Title III, Art. 2, Sec. 1: Shooting fireworks;
- 8) Title III, Art. 2, Sec. 2: Obstructing alley;
- 9) Title III, Art. 2, Sec. 3: Permitting water to drain onto sidewalk;
- 10) Title III, Art. 2, Sec. 4: Erecting billboards;
- 11) Title III, Art. 4, Sec. 7: Dumping garbage;
- 12) Title III, Art. 6, Sec. 2: Permitting weeds or grass to grow in excess of 12 inches;
- 13) Title IV, Art. 4, Sec. 1: Soliciting without a license;
- 14) Title IV, Art. 4, Sec. 7: Locating vehicles selling fruits and vegetables on public streets;
- 15) Title V, Art. 1, Sec. 1: Excavating street without permit;
- 16) Title V, Art. 2, Sec. 2: Cutting a curb or altering a sidewalk without permission;
- 17) Title V, Art.2, Sec. 4: Obstructing or interfering with use of parking meters;
- 18) Title V, Art. 5, Sec. 9: Defacing or breaking a parking meter;
- 19) Title V, Art. 7, Sec. 2: Parking on sidewalk;
- 20) Title V, Art. 8, Sec. 1: Parking vehicles with load capacity of over one ton over two hours;
- 21) Title V, Art. 9, Sec. 2: Improper parking;

Violations Bureau

- 22) Title V, Art. 9, Sec. 3: Parking vehicle with left side next to curb;
- 23) Title V, Art. 9, Sec. 4: Displaying vehicle for sale on street;
- 24) Title V, Art. 9, Sec. 5: Parking too long to load or unload passengers or freight;
- 25) Title V, Art. 9, Sec. 6: Parking vehicle in alley so as to block alley or driveway;
- 26) Title V, Art. 9, Sec. 8: Parking in handicapped space;
- 27) Title V, Art. 11, Sec. 1: Erecting or maintaining or encroaching structure on public property;
(Ord. 2012-05, passed 8-1-2012)

Violations Bureau

ARTICLE 14: POOL DEPARTMENT

Section 1. There is hereby established as an executive department of the town a Pool Department, which shall be under the control of a board of five members, to be known as the Pool Board.

Section 2. The Pool Board has the authority to make decisions, subject to the approval of the Council, regarding the maintenance, operation and improvement of the public pool. Subject to the approval of the Council, the Pool Board has the power to take any action necessary to affect and achieve the safe and efficient management, maintenance, operation and improvement of the public pool.

Section 3. Members of the Pool Board shall serve one-year terms for the calendar year in which the member takes office.

(Ord. 2009-03, passed 3-3-2009)

Pool Department

ARTICLE 15: NEPOTISM

Section 1. The town finds that it is necessary and desirous to adopt a policy of conduct with regard to nepotism in the employment with the town and in contracting with the town in order to continue to be able to provide local government services to its residents and to comply with the new laws effective July 1, 2012 and known as I.C. 36-1-20.2 and I.C. 36-1-21 respectively.

Section 2. On July 1, 2012, the town shall have a nepotism and a contracting with a unit policy that complies with the minimum requirements of I.C. 36-1-20.2 (hereinafter ANepotism Policy@) and I.C. 36-1-21 (hereinafter AContracting with a Unit by a Relative Policy@) and implementation will begin.

Section 3. The Town Nepotism Policy is hereby established and effective July 1, 2012 by adopting the minimum requirements provisions of I.C. 36-1-20.2 and including all future supplements and amendments thereto which become law from time to time and making them a part hereof as if fully set out herein.

Section 4. The Town Contracting with a Unit by a Relative Policy is hereby established effective July 1, 2012 by adopting the minimum requirements provisions of I.C. 36-1-21 and including all future supplements and amendments thereto which become law from time to time and making them a part hereof as if fully set out herein.

Section 5. The town finds that both I.C. 36-1-20.2 and I.C. 36-1-21 specifically allow a unit to adopt requirements that are Amore stringent or detailed@ and that more detailed are necessary.

Section 6. The town further finds that a single member of the legislative body cannot act for the body to make work assignments, compensation, grievances, advancement or a performance evaluation without prior authority of a majority of the body and therefore, without such authority by the majority, he or she will not be in the direct line of supervision.

Section 7. The town finds that a single member of governing bodies with authority over employees in the town cannot act for the governing body to make work assignments, compensation, grievances, advancement or a performance evaluation without prior authority of a majority of the body, when a statute provides that a majority is needed to act and therefore, without such authority by the majority, the single member will not be in the direct line of supervision.

Section 8. All elected and appointed officials and employees of the town are hereby directed to cooperate fully in the implementation of the policies created by this article and demonstrating compliance with these same policies.

NEPOTISM

Section 9. Failure to abide by or cooperate with the implementation, compliance and certifications connected with the Nepotism Policy is a violation and may result in the discipline, including termination, of an employee or a transfer from the direct line of supervision or other curative action. An elected or appointed official of the town who fails to abide by or cooperate with the implementation, with the compliance and with mandated certifications of either the Nepotism Policy may be subject to action allowed by law.

Section 10. Failure to abide by or cooperate with the implementation, compliance and certifications connected with the Contracting with Unit by a Relative Policy is a violation and may result in the discipline, including termination, of an employee or a curative action. An elected or appointed official of the town who fails to abide by or cooperate with the implementation, with the compliance and with mandated certifications of either the Nepotism Policy or the Contracting with Unit by a Relative Policy may be subject to action allowed by law.

Section 11. The polices created by this article are hereby directed to be implemented by any of the following actions:

- 1) Posting a copy of this article in its entirety in at least one of the locations in the town where it posts employer posters or other notices to its employees:
 - a) Providing a copy of this article to its employees and elected and appointed officials;
 - b) Providing or posting a notice of the adoption of this article; or
 - c) Any such other action or actions that would communicate the polices established by this article to its employees and elected and appointed officials.
- 2) Upon any of taking these actions these policies are deemed implemented by the town.

Section 12. A copy of the provisions of I.C. 36-1-20.2 and I.C. 36-1-21 effective July 1, 2012 are annexed hereto.

Section 13. Two copies of I.C. 36-1-20.2 and I.C. 36-1-21 and as supplemented or amended, are on file in the office of the Clerk-Treasurer for the town for public inspection as may be required by I.C. 36-1-5-4.
(Ord. 2012-3, passed 6-28-2012)

ARTICLE 16: RESERVE POLICE UNIT

Section 1. There is hereby created a police reserve unit that shall be known and designated as the Reserve Police Unit of the town. The Police Reserve is hereby created to assist the Police Department as determined necessary by the Town Marshal. The unit shall be organized and administered as follows.

Section 2. Members of the reserve unit shall be recommended by the Town Marshal and approved by the Council.

Section 3. Police reserves are not members of the regular Police Department, but they shall have all the same police powers as regular members, only when on duty for the town, except as limited by the rules of the Department. The Department may adopt rules to limit the authority of police reserves. Police reserves shall abide by the Department's standard operating procedures.

Section 4. Upon appointment, police reserves may:

- 1) Receive one summer and one winter uniform per person until the reserve unit has either a fund or a sufficient supply of uniforms to provide the necessary uniforms to the reservists; and
- 2) Be insured for accident coverage.

Section 5. Police reserves are not eligible to participate in any pension program provided for regular members of the Department.

Section 6. Police reserves, upon appointment, shall have successfully completed a 40-hour pre-basic/refresher course training. The Town Marshal may, at his or her discretion, establish additional training requirements, provided such requirements are applied uniformly; and police reserves shall not carry a sidearm until they have successfully completed training in firearms and has qualified on firing range under supervision of certified firearms instructor.

Section 7. Police reserves shall be on probation for a period of one year from the date they become qualified to function as a police reserve.

Section 8. Police reserves will be required to work an average of 12 to 16 hours per month and a total of no less than 144 hours per calendar year for the town.
(Ord. 2002-04, passed 10-2-2002)

RESERVE POLICE UNIT

ARTICLE 17: RESERVED

AUXILIARY POLICE UNIT

ARTICLE 18: RAINY DAY FUND

Section 1. The Rainy Day Fund is established as of March 7, 2007.

Section 2. The Rainy Day Fund may receive transfers of unused and unencumbered funds under I.C. 36-1-8-5 in respect to funds raised by general or special tax levies.

1) Whenever the purposes of a general or special tax levy on all taxable property of the town have been fulfilled and a used and unencumbered balance remains in the Fund, the Common Council shall order the balance of that fund to be transferred to the Rainy Day Fund.

2) In any fiscal year, the Common Council may transfer not more than 10% of the town=s annual budget for the fiscal year, as adopted under I.C. 6-1.1-17, to the Rainy Day Fund.

Section 3. Supplemental distributions of the County Option Tax, pursuant to I.C. 6-3.5-6, shall be deposited by the Clerk-Treasurer into the Rainy Day Fund.

Section 4. The Common Council may designate such other sources as it may from time to time determine are appropriate to be deposited or transferred to the Rainy Day Fund.

Section 5. The purpose of the Rainy Day Fund shall be to provide such funding as may be determined reasonable and necessary by the Common Council for the uses and purposes for which funds from the General Fund and County Option Income Tax may be otherwise be expended.

Section 6. The Rainy Day Fund is subject to the same appropriation process as other funds that receive tax money. Before making an appropriation, the Common Council shall make a finding that the proposed use of the Rainy Day Fund is consistent with the intent of the funds as required by I.C. 36-1-8-5.1(b).

Section 7. This article shall be in full force and effect and after its passage and signing by the Common Council on March 7, 2007.
(Ord. 2007-2, passed 4-7-2007)

RAINY DAY FUND

ARTICLE 19: FIXED ASSET CAPITALIZATION POLICY

Section 1. Definitions and provisions. For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1) *Definitions.*

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

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

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

2) *Land.*

a) This town will capitalize all land purchases, regardless of cost.

b) Exceptions to land capitalization are land purchased outright, as easements or rights-of-way for infrastructure. Examples of infrastructures are roads and streets, street lightning systems, bridges, overpasses, sidewalks, curbs, parking meters, street signs, viaducts, wharfs and storm water collection.

c) Original cost of land will include the full value given to the seller, including relocation, legal services incidental to the purchase (including title work and opinion), appraisal and negotiation fees, surveying and costs for preparing the land for its intended purpose (including contractors and/or town workers (salary and benefits), such as demolishing buildings, excavating, clean up and or inspection.

d) A department will record donated land at fair market value on the date of transfer plus any associated costs. Purchases made using federal or state funding will follow the source funding policies and above procedures.

Fixed Asset Capitalization Policy

3) *Machinery and equipment.*

a) The definition of machinery and equipment. An apparatus, tool or conglomeration of pieces to form a tool. The tool will stand alone and not become a part of a basic structure or building.

b) This town will capitalize and tag items with an individual value equal to or greater than \$750. Machinery combined with other machinery to form one unit with a total value greater than the above mentioned limit will be one unit. Shipping charges, consultant fees and any other cost directly associated with the purchase, delivery or set up, (including contractors and/or town works) salary and benefits, which makes such equipment operable for its intended purpose will be capitalized.

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

i) Total costs exceed \$2,000;

ii) The useful life is extended two or more years; and

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

d) Examples include:

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

ii) If police cars are constantly changing light bars or radios to other vehicles, the Town will capitalize each piece of equipment separately, if it meets the required dollar amount;

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

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

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

4) *Buildings.*

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

Fixed Asset Capitalization Policy

b) A department=s new building will be capitalized only if it meets the following conditions:

- i) The total cost exceeds \$5,000; and
- ii) The useful life is greater than two years.

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

- i) The total cost exceeds \$5,000;
- ii) The useful life is extended two or more years; and
- iii) The total cost will be greater than the current book value and less than the fair market value.

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

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

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

5) *Improvements other than buildings.*

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

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

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

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

- i) The total cost exceeds \$5,000; and

Fixed Asset Capitalization Policy

- ii) The useful life is greater than two years.
- e) A department will capitalize improvements of renovations to existing improvements other than buildings only if the result meets the following conditions:
 - i) The total cost exceeds \$5,000;
 - ii) The asset=s useful life is extended two or more years; and
 - ii) The total cost will be greater than the current book value and less than the fair market value.
- f) A department=s donated improvements other than buildings will be recorded at fair market value on the date of transfer with any associated costs.
- g) Purchases made using federal or state funding will follow the source funding, policies and above procedures.
- h) *Historical cost.* The cash equivalent price exchanged for goods or services at the date of acquisition. Land, buildings, equipment and most inventories are common examples of items recognized under the historical cost attribute.
 - i) *Enterprise funds.* Those funds used to account for operations that are:
 - i) Financed and operated in a manner similar to private business enterprise where the intent of the governing body is that the costs (expenses, including depreciation) of providing goods or services to the general public on a continuing basis be financed or recovered primarily through user charges; or
 - ii) Where the governing body has decided that periodic determination of revenues earned expenses incurred and/or net income is appropriate for capital maintenance, public policy, management control, accountability and other purposes.

Section 2. Recording and accounting.

- 1) The town and its various departments shall classify capital expenditures as capital outlays within the fund from which the expenditure was made in accordance with the *Chart of Accounts of the Cities and Towns Accounting Manual*. The cost of property, plant and equipment includes all expenditures necessary to put the asset into position and ready for use. For purposes of recording fixed assets of the town and its departments, the valuation of assets shall be based on historical cost or where the historical cost is indeterminable, by estimation for those assets in existence.

Fixed Asset Capitalization Policy

2) The town=s municipally owned utilities shall record acquisition of fixed assets in accordance with generally accepted accounting principles. When an asset is purchased for cash, the acquisition is simply recorded at the amount of cash paid, including all outlays relating to its purchase and preparation for intended use. Assets may be acquired under a number of other arrangements including:

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

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

4) In addition, an asset register (prescribed form 211) shall be maintained to provide a detail record of the capital assets of the governmental unit.

Section 3. *Safeguarding of assets.* Be it ordained that accounting controls be designed and implemented to provide reasonable assurances that:

- 1) Capital expenditures made by the town, its various departments and utilities be in accordance with management=s authorization as documented in the minutes;
- 2) Transactions of the utilities be recorded as necessary to permit preparation of financial statements in conformity with generally accepted principles;
- 3) Adequate detail records be maintained to assure accountability for town and utility owned assets;
- 4) Access to assets be permitted in accordance with management=s authorization; and
- 5) The recorded accountability for assets be compared with the existing assets at least every two years and appropriate action be taken with respect to any differences.

Fixed Asset Capitalization Policy

(Ord. 2009-01, passed 1-6-2009)

Fixed Asset Capitalization Policy

ARTICLE 20: RESERVED

Personnel

ARTICLE 21: WASTEWATER DEPARTMENT CLERK

Section 1. The Council shall appoint the Wastewater Department Clerk. The Wastewater Department Clerk shall have the power and duty to execute and record documents and be directly responsible for the billing and collection of the sewage use and service charges.

Section 2. The Clerk-Treasurer may appoint the Wastewater Department Clerk to serve as the Deputy Clerk-Treasurer, subject to the approval of the Council.
(Ord. 2000-02, passed 2-2-2000)

WASTEWATER DEPARTMENT CLERK

ARTICLE 22: PURCHASING

Section 1. *Designation of purchasing agency.*

- 1) The Council hereby is designated as the purchasing agency for every agency, board, branch, bureau, commission, council, department, office or other establishment of the town.
- 2) The purchasing agency shall have all powers and duties authorized under I.C. 5-22, as may be amended from time to time by law or supplemented from time to time by ordinances, rules or policies adopted by the Council.
- 3) The purchasing agency may designate in writing any employee of the town as a purchasing agent.

Section 2. *Purchase of services.*

- 1) The purchasing agency may purchase services with an estimated cost of less than \$10,000 on the open market without inviting quotes or bids.
- 2) The purchasing agency shall purchase services with an estimated cost of \$10,000 or more in accordance with I.C. 5-22-7.

Section 3. *Purchase of supplies manufactured in the United States.* Supplies manufactured in the United States shall be specified for all town purchases and shall be purchased unless the Council determines that:

- 1) The supplies are not manufactured in the United States in reasonably available quantities;
- 2) The price of the supplies manufactured in the United States exceeds by an unreasonable amount the price of available and comparable supplies manufactured outside the United States;
- 3) The quality of the supplies is substantially less than the quality of comparably priced available supplies manufactured outside the United States; or
- 4) The purchase of supplies manufactured in the United States is not in the public interest.

Section 4. *Purchase of supplies under \$50,000.* The purchasing agency may purchase supplies with an estimated cost of less than \$50,000 on the open market without inviting quotes or bids.

Section 5. All prior ordinances or parts thereof inconsistent with any provision of this article hereby are repealed.

Section 6. The provisions of this article shall be in full force and effect from and after February 18, 2000.
(Ord. 2000-04, passed 2-18-2000)

TITLE II: PLANNING AND DEVELOPMENT

Article

- 1. BUILDING COMMISSIONER**
- 2. BUILDING PERMIT FOR PORCHES**
- 3. ZONING**
- 4. HOUSE NUMBERING**
- 5. SUBDIVISION CONTROL**

ARTICLE 1: BUILDING COMMISSIONER

Section 1. I.C. 36-7-9 is hereby adopted by reference by the town.

Section 2. *Definitions.*

1) ***HEARING AUTHORITY.*** The Town Council of the Town of Bloomfield, Indiana. The ***HEARING AUTHORITY*** shall be responsible for conducting hearings and making determinations of whether to affirm, deny or modify, in whole or in part, any order or action of the Enforcement Authority for which a hearing is required or indicated, consistent with the Code and I.C. 36-7-9.

2) ***SUBSTANTIAL PROPERTY INTEREST.*** In I.C. 36-7-9 hereby is adopted and incorporated by reference.

3) ***UNSAFE BUILDING DEPARTMENT*** and ***ENFORCEMENT AUTHORITY.*** The Town Marshal, the Building Commissioner and any authorized agents or assigns thereof. The Enforcement Authority shall be responsible for the administration and enforcement of the Unsafe Building Law, consistent with the Code and I.C. 36-7-9.
(Ord. 12-85, passed 10-2-1985; Ord. 2013-01, passed 1- -2013)

Building Commissioner

ARTICLE 2: BUILDING PERMIT FOR PORCHES

Section 1. It shall be unlawful for any person or persons or any association or corporation to obstruct any street or sidewalk by building any porch or addition to any building or any way to interfere with the use of the streets and sidewalks in said town with building materials of any and every kind with excavations or with any buildings in process of removal, except by having first obtained the permission of the Council of said town and complying with any rules and regulations said Council prescribe in each case. Any person or persons or any association or corporation who shall violate any of the above provisions commits a Class C infraction.

(Ord. 45, passed - -)

Building Permit for Porches

ARTICLE 3: ZONING

Section 1.

1) *Jurisdiction.* This article shall apply to all incorporated land within the town.

2) *Non-interference with greater restrictions otherwise imposed.* This article is not intended to interfere with, abrogate or amend any existing easements, covenants or other agreements between parties, nor is it intended by this article to repeal, abrogate, annul or in anyway interfere with any existing provisions of laws or ordinances not specifically repealed by this article, rules or regulations previously adopted and not in conflict with any of the provisions of this article or which shall be adopted, provided, however, that where this article imposes a greater restriction upon the use of buildings or premises than is imposed or required by such existing provisions of law or by such rules, regulations, agreements, covenants or permits, the provisions of this article shall control, but where such private covenants, permits, agreements, rules or regulations impose a greater restriction than this is imposed by this article, the greater restriction will control.

3) *Zoning Map.* A Zoning Map of the town is hereby adopted as part of this article and said map shall be kept on file and available for examination at the office of the County Recorder and the Town Clerk-Treasurer. The Zoning Map divides the town into the districts listed in Section 2.

4) *Compliance.* No structure shall be located, erected, constructed, reconstructed, moved, converted or used, except in full compliance with all the provisions of this article and after lawful issuances of the permits required by this article.

5) *Severability.* If any provision of this article or the application of any provision to particular circumstances is held invalid, the remainder of the article or application of such provision to other circumstances shall not be affected.

6) *Definitions.*

a) **MAJOR REPAIRS.** Repairs or improvements to a structure, the cost of which equals or exceeds 40% of the actual cash value of the structure either:

i) Before the improvement is started; or

ii) If the structure has been damaged and is being restored, before the damage occurred.

Zoning

b) **MOBILE HOME.** A vehicle or other portable structure that is designed or used as a dwelling as manufactured.

c) **NON-CONFORMING USE.** An existing use of land or structure which fails to comply with the requirements set forth in this article applicable to the district in which such use is located.

d) **OPEN USE OF LAND.** The use of a lot without a building.

e) **PRINCIPAL STRUCTURE.** A building which is used for residential, business, agricultural or religious purposes or which is occupied by a private non-profit organization or which is owned by a state or local government or agency thereof.

Section 2. Establishment of districts. The town is hereby divided into the districts listed below as shown by the district boundaries on the Zoning Map. The districts are GP, General Purpose District and FP, Flood Plain District.

1) *District boundaries.* The exact boundaries of a district shall be determined by the measurements shown on the Zoning Map. If the boundaries of a district are uncertain they shall be determined by the use of the scale of the Zoning Map.

2) *General purpose district.* The General Purpose District as shown on the Zoning Map designates lands within the town, which are generally free from any flood hazard which may be created by periodic overflow of or flooding from White River, West Fork.

3) *Provisions and regulations of the general purpose district.* Any residential, commercial, industrial, agricultural, public or semi-public use shall be permitted within the General Purpose District provided:

a) Following the passage of this article, a permit must be secured, as provided. by Section 5, prior to the location, erection, construction or enlargement of any principal structure within the General Purpose District.

b) Following the passage of this article, a permit must be secured, as provided by Section 5 prior to the undertaking of major repairs to principal structures within the General Purpose District.

c) All applications for a permit to allow the location, erection or construction of a new principle structure or mobile home within the General Purpose District must be accompanied by a certificate of approval from the County Department of Health, assuring the adequacy of the proposed sewage disposal system.

4) *Flood Plain District.* The Flood Plain District, as shown on the Zoning Map, designates lands within the town which are likely to be flooded once every 100 years and have been designated by the Federal Insurance Administrator as having special flood hazards as provided by the Flood Disaster Protection Act of 1973.

Zoning

5) *Provisions and regulations of the Flood Plain District.* Any open use of land, including agricultural and recreational uses shall be permitted in the Flood Plain District. Any structure used for residential (excepting mobile homes), commercial, industrial, public or semi-public purposes, any structure incidental to any agricultural or recreational use and any major repairs to an existing structure may be permitted by the Town Board of Zoning Appeals in the Flood Plain District only in accordance with the following special permit procedure.

6) *Special permit procedure.* Upon receipt of an application for a special permit by the property owner, the Clerk-Treasurer shall set a date for a hearing, notify the applicant and notify any person or governmental unit having a probable interest in the proposal. The Clerk-Treasurer shall also notify the State Natural Resources Commission. The Board of Zoning Appeals may then, after hearing according to the law, grant the special permit only after it has considered the recommendation of the State Natural Resources Commission and only if conditions, restrictions and requirements are imposed on the use to assure that the use of construction or major repair:

- a) Uses construction materials and utility equipment that are resistant to flood damage;
- b) Uses construction practices and methods that will minimize flood damage;
- c) Is designed (or modified) and anchored to prevent flotation, collapse or lateral movement of the structure; and
- d) Avoids impairment of or contamination from on-site waste disposal systems during flooding.

Section 3. General. In accordance with state law, a Board of Zoning Appeals shall be appointed, which Board may adopt rules to govern its procedure. The Board of Zoning Appeals shall hold meetings, keep minutes and, pursuant to notice, shall conduct hearings, compel the attendance of witnesses, take testimony and render a decisions in writing, all as required by law. When permitting any appeal, variance, special exception or change of a nonconforming use, the Board may impose such conditions and requirements as it deems necessary for the protection of adjacent property and the public interest.

1) *Appeals.* The Board shall have the power to hear and decide appeals from any order, requirement, decisions, grant or refusal made by the Clerk-Treasurer.

2) *Variances.*

a) The Board of Zoning Appeals, upon appeal, shall have the power to authorize variances from the requirements of this article and to attach such conditions to the variances as it deems necessary to assure compliance with the purpose of this article. A variance may be permitted if all of the following requirements are met.

i) Literal enforcement of the article would result in an unnecessary hardship with respect to the property;

Zoning

- ii) Such unnecessary hardships caused by the unique characteristics of the property;
- iii) The variance would not change the land use of the property or the character of the neighborhood; and/or
- iv) The variance observes the spirit of this article, produces substantial justice and is not contrary to public interest.

b) The Board of Zoning Appeals may not grant a variance to any of the requirements of the Flood Plain District without the written approval of Natural Resources.

3) *Special exceptions.* The Board of Zoning Appeals shall have the power to authorize special permits in accordance with procedure of Section 2.

Section 4. The lawful use of a building or premises existing at the time of the passage of this article, may be continued although such use does not conform to all the provisions of this article.

1) A non conforming use in the Flood Plain District may be altered, enlarged or extended, on a one-time basis, provided the procedure set forth in this article are followed and further provided such alterations, enlargements or extensions do not increase the value of the building or structure, excluding the value of land, by more than 40% of its pre-improvement market value unless such building or structure is permanently changed to a conforming use.

2) Any non-conforming use in the Flood Plain District which is damaged by flood, fire, explosion, Act of God or the public enemy may be restored to its original dimensions and conditions, provided the damage does not reduce the value of the buildings excluding the value of the land, by more than 40% of its pre-damage market value.

Section 5. Administrative responsibility. The Town Plan Commission shall establish the procedures and responsibilities for the administration and enforcement of this article in accordance with the following provisions and state legislation.

1) *Permits.* No building permit shall be issued by the Clerk-Treasurer unless the proposed structure or use of structure or land is in complete conformity with the provisions of this article or unless a written order is received from the Board of Zoning Appeals, the Town Plan Commission or a court in accordance with this article and state legislation:

2) *Filing fees.* For each application for a permit the sum of \$150 shall be paid to and collected by the Clerk-Treasurer.

3) *Petitions.* Petitions for amendment shall be filed with the Town Plan Commission and the petitioner, upon such filing, shall, whether or not the proposed amendment is enacted, pay a filing fee of \$2 and the cost of public notice that is required.

Zoning

4) *Referral.* Any proposed amendment not originating from the Town Plan Commission shall be referred to the Town Plan Commission for consideration and report before any final action is taken by the Council of the town. The Town Plan Commission shall hold a public hearing as prescribed by law and report its findings and recommendations in writing to the legislative body.

5) *Violations and penalties.* It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use any structure of land in violation of any regulation in or any provisions of this article or of any regulation enacted hereunder by the Plan Commission or Board of Zoning Appeals. Any structure or use that violates this article shall be deemed to be a common nuisance and the owner of the structure or land shall be liable for maintaining a common nuisance. Any person who violates any provision of this article shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$100 and not more than \$500. Each day the violation continues shall constitute a separate offense.

6) *Method of appeal.* Any person aggrieved or affected by any provision of this article or by the decision of the Administrator may appeal to the Board of Zoning Appeals, as provided by the rules of the Board. Every decision of the Board shall be subject to review by certiorari.

(Ord. 75-3-1, passed - -)

Zoning

ARTICLE 4: HOUSE NUMBERING

Section 1. Numerals required. The owner or occupant of each house or business structure located within the corporate limits of Bloomfield that has been assigned a number by the United States Post Office shall have displayed on such building the number so assigned in such a manner that the number can readily be seen from the road, street or highway to which the house or business structure faces.

Section 2. Location of numerals. All numerals shall be placed on the house or business structure where the numerals may be easily seen when approaching the house or business from the road, street or highway which the house or business structure faces. If the house or business structure is not visible from the road or if it is situated more than 100 feet from the road three-inch reflective numerals must be affixed to both sides of a mailbox or roadway post in a manner consistent with all provisions of Section 3 of this article.

Section 3. Size and appearance of numerals. Each of the numerals shall be in English, using Arabic (not Roman) numerals with a minimum height of three inches and shall be kept legible, made of reflective, durable, weatherproof material and of a color that stands distinctly against its background. If, pursuant to Section 2, a mailbox or roadway post is used then three-inch numbers may be used, but the numbers must be consistent with this section in all other respects.

Section 4. Replacement of numerals. When numerals are removed or become illegible or when the address assigned by the United States Post Office is changed or if the town so requires, such numerals shall be removed or replaced by the owner or occupant of the premises.

Section 5. Enforcement.

1) It is the duty of owners and occupants of houses and business structures in the town to comply with provisions of this article.

2) The provisions of this article may be enforced by any public safety officer including but not limited to reserves and volunteers acting in their official capacity and by designated employees of the town departments acting in their official capacity.

3) All proceeds collected from enforcement of this article shall be remitted to the Town Clerk, 12 East Main Street, Bloomfield, Indiana 47424 and shall be placed in the town=s General Fund.

4) A property owner=s or occupant=s first violation of this article shall be subject to a written warning explaining the violation, the action necessary to bring the non-complying house or business structure into compliance (the Adeadline@) with this article, the date by which the owner or occupant

HOUSE NUMBERING

must bring the house or business structure into compliance and the potential penalties for failure to bring the house or business structure into compliance.

5) The second violation of this article shall constitute a Class D infraction, subject to a fine of \$25.

6) A third and all subsequent violations of this article shall constitute as a Class D infraction, subject to a fine of \$50 per violation.

7) Each day of non-compliance after the deadline constitutes a separate violation.
(Ord. 2009-08, passed 11-3-2009)

ARTICLE 5: SUBDIVISION CONTROL

Section 1. Compliance required. No plat of subdivision of land within the town or within one and one-half miles of the corporate limits thereof shall be approved except in full compliance with the provisions of this article.

Section 2. Definitions. When used in this article, the following terms shall have the meaning indicated:

- 1) **ALLEY.** A public way which affords a secondary means of access to abutting property.
- 2) **BUILDING SETBACK LINE.** A line within a lot or other parcel of land, so designated on the plat of the proposed subdivision, between which and the adjacent boundary of the street upon which the lot abuts, the erection of an enclosed structure or portion thereof is prohibited.
- 3) **BUTT LOTS.** Lots, the real lot line of which abut the side lot line of other lots platted in the same block and are not separated therefore by an alley or other open space.
- 4) **COLLECTOR STREET.** A street which carries traffic from minor streets to the major street system, including the principal entrance streets of residence development and the primary circulating streets within such a development.
- 5) **CONDOMINIUM SUBDIVISION.** Any subdivision or part of a subdivision in which it is intended that multiple-family buildings be constructed and sold by the builder or developer as condominium units rather than as complete apartment buildings.
- 6) **CROSSWALK.** A public or private right-of-way across a block to be used by pedestrians or for underground utilities.
- 7) **CUL-DE-SAC.** A minor street having one open end and being terminated at the other by a vehicular turnaround.
- 8) **EASEMENT.** The quantity of land set aside or over which a liberty, privilege or advantage in land without profit, existing distinct from the ownership of the land, is granted to the public or some particular person or part of the public.
- 9) **FINAL PLAT.** A map or chart of a subdivision which has been accurately surveyed and such survey marked on the ground so that streets, alleys, blocks, lots and other divisions thereof can be identified.

Subdivision Control

10) **LOT WIDTH.** The width of the lot measured along the minimum building setback line, except for lots which front the concave side of a curving street where the width of lot shall be measured 60 feet back from the front lot line.

11) **MAJOR STREET.** A public thoroughfare with a high degree of traffic continuity having a width of 60 feet or more.

12) **OWNER.** Includes the plural as well as the singular and may mean either a natural person, firm, association, partnership, private corporation, public or quasi-public corporation or combination of any of them.

13) **PRELIMINARY PLAT.** A map or plan of a proposed land division or subdivision.

14) **STREET.** A public or private thoroughfare which affords primary access by pedestrians and vehicles to abutting property.

15) **SUBDIVISION.** A division of a lot, tract or parcel of land into five or more lots or other divisions of land, for the purpose, whether immediate or future, of:

a) Transfer of ownership;

b) Building development; or

c) Redevelopment, including all changes in street or lot lines; provided, however, that divisions of land for agricultural purposes, in parcels of five acres or more not involving any new street or easement of access, shall be exempted.

16) **TENTATIVE APPROVAL.** An approval with or without recommended alterations given to a preliminary plat by the Plan Commission and provides the necessary authority to proceed with the preparation and presentations of the final plat.

Section 3. Procedure. Before dividing any tract of land into five or more lots of less than five acres in size, a subdivider shall:

1) File at least ten days before a regular Plan Commission meeting. Five copies of the preliminary plat to the Plan Commission meeting, five copies of the preliminary plat to the Plan Commission for examination and subsequent recommendations of approval or disapproval. The Plan Commission shall, within 15 days from the date of the next regular or special Plan Commission meeting following such filing, forward its recommendations for approval or disapproval to the Council;

2) Within one year after receiving tentative approval of the preliminary plat by the Plan Commission the original and five copies of the final plat shall be submitted to the Plan Commission for recommended final approval by the Council;

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3) After receiving recommended final approval by the Plan Commission, the original and one copy of the final plat shall be presented to the Council for its final approval; and

4) Following final approval by the Council, the final plat, as approved, may be legally recorded in compliance with the laws of the state. Approval of the final plat by the Council shall be null and void if the plat is not recorded within 90 days after the date of approval unless application for an extension of time is made in writing during the 90-day period to the Council and granted.

Section 4. Preliminary plat. The preliminary plat shall contain the information herein specified and comply with the following requirements:

1) Description and delineation:

- a) Proposed name of the subdivision;
- b) Location of the subdivision by section, township and range or by other legal description;
- c) Names and addresses of the owner and the designer of the subdivision; and
- d) Date of preparation, scale 100 feet to the inch and north-point (designated as true north).

2) Existing conditions:

- a) Boundary line of proposed subdivision should be indicated by a solid heavy line and the total approximate acreage encompassed thereby;
- b) Location, width and names of all existing or prior platted streets or other public ways, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings and structures, houses or permanent easements and section and corporation lines, within and adjacent to the tract;
- c) Existing sewers, water mains, culverts or other underground facilities within the tract and to a distance of at least 130 feet beyond the tract boundaries indicating pipe sizes, grades, manholes and exact location;
- d) Boundary lines of adjacent tracts of unsubdivided or subdivided land, showing ownership where possible; and
- e) Contour at vertical intervals of not more than two feet. High water levels of all watercourses, if any, shall be indicated in same datum used for contour elevations.

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- 3) Proposed subdivision plan:
 - a) Layout of streets showing location and widths of streets, crosswalks and easements;
 - b) Layout, numbers and typical dimensions of lots;
 - c) Parcels of land intended to be dedicated or temporarily reserved for public use or set aside for use of property owners in the subdivision;
 - d) Building setback lines showing dimensions;
 - e) Easements for public utilities where alleys are not provided; and
 - f) Typical street cross-sections.

Section 5. Final plat. The final plat shall contain all information required on the preliminary plat (except contours) plus the following descriptions and delineations:

- 1) Accurate angular and lineal dimensions for all lines, angles and curves used to describe boundaries, streets, alleys, easements, areas to be reserved for public use and other important features;
- 2) An identification system for all lots and blocks and names of streets. Lot lines to show dimensions in feet and hundredths;
- 3) True angles and distances to the nearest established street lines or official monuments (not less than three) which shall be accurately described in the plat;
- 4) Radii, internal angles, points and curvatures, tangent bearings and lengths of all arcs;
- 5) Accurate location of all monuments, which shall be concrete six inches by six inches by 30 inches with iron pipe cast in center. Permanent stone or concrete monuments shall be set at each corner or angle on the outside boundary. Pipes or other physical markers shall be placed at each intersection of street center lines. All United States, state, county or other official benchmarks, monuments or triangulation stations in or adjacent to the property, shall be preserved in precise position;
- 6) Pipes or other physical markers shall be placed at each lot corner;
- 7) Accurate outlines and legal descriptions of any areas to be dedicated or reserved for public use, with the purposes indicated thereon and of any area to be reserved by deed, covenant for common uses of all property owners;
- 8) Certification by a licensed surveyor to the effect that the plat represents a survey made by such surveyor and that monuments and markers shown thereon exist as located and that all dimensional and geodetic details are correct;

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9) Notarized certification by owner, or by, any mortgage holder on record of the adoption of the plat and the dedication of streets and other public areas;

10) Certifications showing that all taxes and special assessments due on the property to be subdivided have been paid in full;

11) Proper form for the approval by the Council with space for signatures;

12) Approval by signature of town, county and state officials concerned with the specification of utility installations; and

13) Approval by signature of the Plan Commission. This approval of the final plat shall not be deemed to constitute or effect an acceptance by the public of the dedication of any street or other proposed public way or space shown on the plat.

Section 6. *Agreements as to improvements.* The final plat to be placed on record shall be accompanied by a statement signed by the owner and subdivider setting for the following:

1) Plans and specifications for such improvements previously approved by the Plan Commission clearly describing the same;

2) Agreement executed by the owner and subdivider wherein they agree to make and install the improvements provided for in Section 3, in accordance with the plans and specifications accompanying the final plat; and that all such improvements shall be inspected during the course of construction by the Street Commissioner; and

3) In the event that the Council of the town, by motion, approves the action of the Plan Commission in approving the final plat, it shall withhold its approval of the plat until an agreement signed by the subdivided, as provided in division 2 above, shall be given, supported by a bond executed by an acceptable surety company in an amount equal to the estimated cost of construction of the required improvements (which estimated cost shall be determined by the Plan Commission). The surety will be subject to the condition that the improvements will be completed within two years after approval of the final plat. As an alternative, the subdivider may deposit cash with the city in place of such surety bond.

Section 7. *Required land improvements.* No final plat of subdivision of land shall be approved without receiving a statement signed by the Street Commissioner certifying that the improvements described in the subdivider=s plans and specifications, together with agreements, meet the minimum requirements of all ordinances of the city and that they comply with the following.

1) *Sewers.*

a) Sanitary sewers shall be installed to serve all properties in the subdivision.

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b) Storm sewers shall be constructed throughout the entire subdivision to carry off water from all inlets and catch basins and be connected to an adequate outfall. The storm water drainage system shall be separate and independent of the sanitary sewer system.

2) *Street improvements.*

a) Grades of streets shall not be in excess of 3% on major or collector streets, nor in excess of 5% on other streets.

b) All streets within the corporate limits of the city other than state and county highways shall be improved with pavements bounded by integral concrete curbs and gutters, to an overall width in accordance with the following minimum dimensions:

<i>Dedicated Street</i>	<i>Type of Street</i>	<i>Pavement Width</i>
Collector	60 feet	26 feet
Cul-de-sac	50 feet	26 feet
Major	63 feet	26 feet

c) Pavements shall be six inches thick portland cement concrete or be surfaced with bituminous concrete not less than two inches thick over a base of crushed stone or gravel installed in two courses not less than eight inches thick after compaction.

d) Curbs and gutters on minor residential streets shall be concrete of the integral rolled type unit, not less than 13 inches in overall width and not less than six inches thick where curb abuts the street pavement.

e) Storm water inlets and catch basins shall be provided within the roadway improvement at points specified by the Street Commissioner.

f) All curb corners shall have a radius of not less than 15 feet, and at intersections involving collector or major streets, of not less than 25 feet.

g) In subdivisions outside the corporate area but within the one and one-half mile area, street improvements shall conform to standards of improvements as outlined in this article for subdivisions within the corporate area.

3) *Public utilities.*

a) All utility lines for telephone and electric service shall be placed in real-line easements when carried on overhead poles.

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b) Where telephone and electric service lines are placed underground entirely throughout a subdivided area, such conduits or cables shall be placed within easements or dedicated public ways in a manner which will not conflict with other underground services. Further, all transformer boxes shall be located so as not to be unsightly or hazardous to the public.

4) *Sidewalks.*

a) Concrete sidewalks to a width of not less than five feet offset on foot from the abutting lot lines shall be required.

Section 8. *Lot size and area.* The minimum depth of lots shall be 100 feet. The minimum lot area in subdivisions lying within the city limits shall be 8,400 square feet and the minimum frontage shall be 70 feet provided, however, that the minimum area of all corner lots in such subdivisions shall be 9,000 square feet and the minimum frontage shall be 75 feet.

Section 9. *Ground floor area of dwellings.* The minimum ground floor habitable area of one-story buildings without basements shall be 1,103 square feet and with basements shall be 1,050 square feet; for one and one-half story buildings without basements shall be 950 square feet and with basements, 900 square feet; and for two-story buildings with or without basements shall be 750 square feet. All dimensions shall be measured outside to outside.

Section 10. *Occupancy permits.* No land shall be occupied or used and no dwelling hereafter erected or altered shall be occupied or used in whole or in part for any purpose whatsoever until a certificate shall have been issued by the Building Commissioner stating that the building complies with all dwelling and health laws and ordinances and with the provisions of these regulations. No change of use shall be made in any dwelling or part thereof now or hereafter erected or altered without a permit having been issued by the Building Commissioner and no permit shall be issued to make such change unless it is in conformity with the provisions of this article or amendments thereto hereafter duly enacted. Nothing in this article shall prevent the continuance of the present occupancy or use of any existing dwelling except as may be necessary for safety of life and property. Certificates for occupancy and compliance shall be applied for coincident with the application for a building permit and shall be issued within ten days after the erection or alteration of such buildings shall have been completed. A record of all certificates shall be kept on file in the office of the Clerk-Treasurer and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected. A fee of \$2 shall be charged for each original certificate and \$1 for each copy thereof, which fees shall be collected by the Building Commissioner and by him or her paid over to the Clerk-Treasurer. No permit for excavation for the erection of any building shall be issued before application has been made for certificate of occupancy and compliance. No building or premises may be occupied until such certificate shall have been issued.

Section 11. *Annexation.* Any areas proposed for annexation to the present corporation limits of the town shall be studied by the Plan Commission prior to the incorporation of the area into the city.

Section 12. *Waiver.* Notwithstanding the requirements imposed by Section 1 through Section 11, a builder, owner or subdivider can petition the Council of the town for a waiver of any of the requirements imposed by this article and a majority of the Council may waive any of the requirements imposed by this

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article.

(Ord. 28-88, passed - -1988)

Subdivision Control

TITLE III: PUBLIC HEALTH AND SAFETY

Article

1. **ANIMALS, VEGETABLE OR MINERAL MATTER**
2. **NUISANCE**
3. **FIRE DEPARTMENT- EQUIPMENT**
4. **GARBAGE**
5. **OPEN BURNING**
6. **WEEDS**
7. **FUEL TANK TRUCKS - UNLOADING**
8. **ABANDONED MOTOR VEHICLES**

ARTICLE 1: ANIMALS, VEGETABLE OR MINERAL MATTER

Section 1. No person shall throw, put or deposit or cause or permit any person in his or her employ to throw, put or deposit any vegetable, animal or mineral matter, straw, shavings, leather, paper, glass, tin, iron, earthenware or parts thereof, slops, manure, offal or filth or who shall cause, permit the flow or stagnation of any filthy or stinking liquid on any public square, commons, unenclosed grounds, street, alley, highway, sidewalk or gutter in the town.

Section 2. No person having a vertebrate animal in his or her custody shall recklessly, knowingly or intentionally abandon or neglect the animal.

Section 3. It shall be unlawful to harbor or keep any dogs which disturb the peace by barking, baying or whining at any time of the day or night.

Section 4. Any dog found in the town running at large under conditions set forth above is hereby declared to be a nuisance and the Town Marshal and the Deputy Town Marshals are authorized to kill any such dog when it is necessary for the protection of any person or property.

Section 5. Whenever any dog bites a person, the owner of such dog shall immediately notify the town marshal who shall order the dog held on the owner's premises or shall have it impounded for a period of two weeks. The dog shall be examined immediately after it has bitten anyone and again at the end of the two-week period. If, at the end of two weeks, a veterinarian is convinced that the dog is then free from rabies the dog shall be released. If the dog dies in the meanwhile, its head shall be sent to the State Department of Health for examination for rabies.

Section 6. It shall be unlawful to permit any cattle, horse, swine, sheep, goats or poultry to run at large in the town. It shall further be unlawful to picket or tie any such animal in any of the streets of the town for the purpose of grazing or feeding.

Section 7.

1) No animal afflicted with a contagious or infectious disease shall be allowed to run at large or to be exposed in any public place whereby the health of a human being or beast may be affected; nor shall such diseased animal be shipped or removed from the premises of the owner thereof, except under the supervision of the Town Marshal.

2) The Town Marshal shall secure such disposition of any diseased animal and such treatment of affected premises as to prevent the communication and spread of the contagion or infection, except in cases where the state veterinarian is empowered to act.

Animals, Vegetable or Mineral Matter

Section 8.

1) No person shall cause or allow any stable, kennel pen or place where any animal is or may be kept to become unclean or unwholesome or ill-smelling and it shall be unlawful to keep any live swine or pigs in the town.

2) It shall be unlawful to keep or have any goats anywhere in the town or any cattle or chickens within 150 feet of any residence, other than the residence of the person so keeping or having such animals anywhere in the town.

Section 9. As used in Article 1 of Title III of the Municipal Code, the meaning of terms are as follows.

1) **ANIMAL.** Any living creature, domestic or wild other than human beings.

2) **KENNEL.** Any person, partnership or corporation engaged in the business of breeding, buying, selling or boarding dogs and cats.

3) **OWNER.** Any person, partnership or corporation owning, keeping or harboring animals.

4) **PET SHOP.** Any person, partnership or corporation engaged in the business of breeding, buying, selling or boarding animals of the species.

5) **VETERINARY HOSPITAL.** Any establishment maintained and operated by a licensed veterinarian for the diagnosis and treatment of diseases and injuries of animals.

Section 10. A violation of any section of this article shall be a Class C infraction. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues on public sidewalks and other public places within the corporate limits of the town.
(Ord. 146, passed - -; Ord. 2003-03, passed 7-2-2003)

ARTICLE 2: NUISANCE

Section 1. *Discharge of firearm prohibited.*

1) It shall be unlawful and prohibited for any person to point, aim, fire or discharge or to permit or allow to be pointed, aimed, fired or discharged, a firearm or any other similar weapon or device of any type within the corporate limits of the town.

2) The regulations and prohibitions set forth in this section shall not apply to law enforcement, military or other authorized personnel in the performance of their official duties. Further, the regulations and prohibitions set forth in this section shall not apply to the discharge of a firearm in a lawful defense of person or property or otherwise permitted by law.

3) *Definition. FIREARM.* Any device that will expel a projectile and includes any such device commonly referred as a pistol, revolver, rifle, gun or shotgun.

4) Violations of this section shall be punishable as follows:

- a) First violation shall result in a fine of \$100; and
- b) Subsequent violations shall result in a fine of \$200.

5) Further, any person found to be in violation of this section shall be responsible for and liable to the town for all reasonable costs incurred by the town in the enforcement of this section. Costs include, but are not limited to, reasonable attorney fees. Each discharge of a firearm shall constitute a separate offense.

6) The provisions of this section shall be in full force and effect from and after the date of publication as required by I.C. 5-3-1.
(Ord. 2005-01, passed 2-2-2005)

Section 2. *Obstruct alleys.* Any person who shall obstruct or hinder the passage of any street, alley, lane or sidewalk or crossing in said town by placing thereon any building material or any vehicle to be repaired or any animal to be shod, any box, barrel, furniture, wood, coal or any other material whatever or by hitching or tying any animal on any sidewalk or crossing in the town shall be fined therefore in any sum not exceeding \$5 for each day or part of a day the same may remain, provided that nothing herein shall prohibit the loading or unloading of any goods or merchandise or anything, without needless delay and also providing that any person occupying any building for business purposes shall have the privilege of using two feet of the sidewalk next to the building for the purpose of exhibiting goods or any article

Nuisance

of trade, provided further that building material intended for building purposes during the progress of erection or improvement shall be excepted.

(Ord. 4, passed - -)

Section 3. *Running water on street.* Any person, firm or corporation who shall cause or permit any water or other liquid substance to drip, flow, run or drain from any shed, roof or spouting directly or indirectly on, to, over or across any sidewalk, whether improved or unimproved, in the town, commits a Class C infraction.

(Ord. 30-84, passed - -)

Section 4. *Billboards.*

1) The erection, maintenance or operation of billboards or other structures for the exhibition to the public of posters, advertisements or bills, within the corporate limits of the town, along the public highways and other public places, is unsightly and is hereby declared to be a public nuisance and as such prohibited.

2) It shall be unlawful for any person, firm or corporation to erect, construct, maintain or operate, within the corporate limits of said town, any billboard or other structure for the exhibition to the public of posters, advertisements or bills, along the public highways and other public places.

(Ord. 150, passed - -)

Section 5. *Property owners - responsibilities.*

1) All owners or occupants of real estate within the geographical limits of the town shall be under a duty to remove or cause to be abated any public nuisance as defined herein. This duty shall also extend to the area commonly known as the tree row, which is the area of ground lying between private property and the curb or the paved or improved portion of the street.

2) The following conditions hereby are declared public nuisances:

a) Whenever any tree or other vegetation exists on private property in close proximity to any municipal property or governmental right-of-way or easement that because of its location, size or condition interferes with the public safety or lawful use of such property, right-of-way or easement;

b) Whenever any tree, limb, shrub, vine, plant or other vegetation may be standing adjacent to any public street so as to obstruct thereby the vision of travelers along such street;

c) Whenever any dead, rotting, decayed, broken or dangerous tree, limb, shrub, vine, plant or other vegetation overhang are close to a public way;

d) Whenever any tree, limb, shrub, vine, plant or other vegetation may overhang the surface of a public way so that it obstructs the movement of pedestrians and vehicles. It is presumed that an unobtrusive height is eight feet above the surface of a sidewalk and 15 feet above the surface of the street or alley;

Nuisance

e) Whenever any tree, tree stump, limb, branch or other vegetation, as a result of storm damage, rotting or otherwise, overhangs or has fallen in a public way or creates a hazard or potential hazard to travelers along such public way;

(f) Whenever any weed or grass exceeds ten inches in height.

3) *Failure to remove or abate; notice.*

a) If any owner or occupant of real estate located within the geographical limits of the town fails to perform the duties set forth in section 1 of this article, the Clerk-Treasurer shall prepare and serve or cause to be served upon such owner or occupant a written notice to abate such nuisance within five days from the date that notice was served upon the owner or occupant.

4) *Abatement by town; payment of cost.*

a) If the Clerk-Treasurer has issued a written notice as described under division 3 of this section and the owner or occupant of the real estate within the geographical limits of the town has not abated the nuisance, the Council may cause the nuisance to be abated. The actual cost incurred by the town in abating such nuisance shall be set forth in a certified statement by the Clerk-Treasurer. The certified statement of such costs shall be served upon the owner or occupant of the real estate. The certified statement shall contain a legal description or a commonly known address of the premises, the expenses and costs incurred, the date(s) the nuisance was abated and a notice that the town claims a lien for this amount.

b) The owner or occupant shall pay the actual cost incurred by the town in causing such abatement within 30 days from the date that the certified statement of costs is served upon such owner or occupant. If the owner or occupant of the real estate fails to pay the costs within the time prescribed, a certified copy of the statement of costs shall be delivered to the County Auditor's Office. The Auditor shall place the amount shown on such certificate on the tax duplicate against such real estate and the amount shall be collected when taxes are collected. When collected, such amount shall be disbursed to the town for deposit in the General Fund.

5) *Penalties.* Violations outlined in this article are punishable as Class C infractions pursuant to I.C. 34-28-5-4, which allows for a judgment of up to \$500. The payment of a penalty for the violation of any provision of this article shall not excuse the violation or permit it to continue. A separate offense shall be deemed committed each day such violation occurs or continues.

6) *Foreclosure of lien.* Real estate subject to a lien for unpaid charges shall be sold for non-payment of the same and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in equity in the name of the town. The Town Attorney hereby is authorized and directed to institute such proceedings, in the name of the town, in any court having jurisdiction over such matter.

7) *Procedure for appeal.* Any owner or occupant who wishes to appeal the notice of violation or certified statement of costs under this article shall file a written appeal to the Clerk-Treasurer within

Nuisance

five days of the notice of violation or certified statement of costs being served upon the owner or occupant. The Council shall conduct a hearing thereon within 30 days of the written appeal being filed with the Clerk-Treasurer. The owner or occupant appealing shall have the opportunity to present evidence to the Council at such hearing.

8) *Effective date.* The provisions of this article shall be in full force and effect from and after the date of publication as required by I.C. 5-3-1.
(Ord. 2001-12, passed 7-5-2001)

ARTICLE 3: FIRE DEPARTMENT EQUIPMENT

Section 1. It shall be unlawful for any person to remove from the corporate limits of the town any fire truck, fire apparatus or fire equipment owned by said town except that members of the Fire Department of said town may remove such fire trucks, apparatus and equipment to other towns or cities that have a reciprocal fire fighting agreement with the town for the purpose of fighting a fire in such other town or city.

(Ord. 319, passed - -)

Fire Department- Equipment

ARTICLE 4: GARBAGE

Section 1.

- 1) **GARBAGE.** Only waste food substances.
- 2) **RUBBISH.** Inorganic wastes that cannot be burned or incinerated without the use of auxiliary fuel. Such rubbish shall include tin cans, metals, mineral matter and glass.
- 3) **REFUSE.** All materials that have no utilitarian use at the location of its storage or accumulation and also includes materials such as discarded or abandoned paper containers, building materials, tires, trash, parts of machines and motor vehicles, appliances and all other materials commonly understood to constitute **REFUSE**.

Section 2. Each citizen, person, firm or corporation in said town, desiring to avail himself, herself or itself of the garbage collection and disposal service hereinafter provided, shall procure and use a proper type container with a tight-fitting lock lid and bail with slightly recessed bottom, constructed of a material sufficiently resistant to garbage acids, in which to store said garbage on his, her or their premises for the purpose of its being collected and disposed of.

Section 3.

- 1) Private residences or households desiring to avail themselves of any garbage collection and disposal service shall place their containers of garbage at the designated collection location, on the collection days, in time to be taken up by the collector on his or her regular collecting trips, but at all other times shall be stored in the rear portion of their premises.
- 2) Collection from commercial establishments shall be made in the rear thereof and the containers of garbage from such establishments shall be conveniently placed at the rear of their said premises.
- 3) Any residence, household, family or commercial establishment failing to adhere to the requirements of this article shall not be entitled to said service and the collector of garbage shall be authorized to refuse to collect and dispose of the garbage therefrom.

Section 4. Hereafter, it shall be unlawful for any person, firm or corporation to store, accumulate or dispose of garbage, rubbish or refuse within the corporate limits of said town, in an unsanitary, negligent or obnoxious manner.

Garbage

Section 5. Any collector of garbage within said town, by virtue of the provisions of this article, shall fix and give notice of definite time of collecting garbage and shall:

- 1) Adhere to the same collection days for his or her respective routes each week;
- 2) Procure and use a suitable truck in which to collect said garbage; said truck to be equipped with a suitable cover to prevent spilling or slopping out of said truck, while within the corporate limits of said town or on the public highways of said state;
- 3) Promptly and thoroughly clean up any spilling of garbage that may occur; provided, that the days of collection from households may be changed from time to time by said collector, upon the giving of proper notice thereof; and
- 4) Remove said garbage at least one mile beyond the corporate limits of said town for the purpose of disposing of it; if said garbage is disposed of by feeding to hogs or livestock, the feeding shall be done strictly in compliance with the provisions of the statutes and the rules and regulations of the State Board of Health relating thereto and all unconsumed garbage shall be recollected and disposed of by burning or adequately burying each day. If said garbage is not fed, it shall be disposed of pursuant to state and federal law.

Section 6. It shall be unlawful to dump rubbish, refuse, garbage or other waste upon any lot or any public or private land within the corporate limits of the town or to use or maintain any lot or any public or private land in the town as a dumping or storage ground for such rubbish, refuse, garbage or other waste, excepting only that clean fill dirt and rock may be used for the purpose of filling, grading and leveling.

Section 7. The maintenance, creating, causing or permitting any of the above named conditions by any person, firm, co-partnership or corporation shall be deemed a nuisance as being injurious to property and the enjoyment thereof, as being injurious to the health and offensive to the senses.

Section 8. It shall be the duty of Town Clerk-Treasurer or the Town Council President to serve or cause to be served a notice upon the owner or occupant of any premises upon which a violation of any section of this article exists and said notice shall demand the abatement of the nuisance within ten days.

Section 9. *Owner=s right to object.*

1) Upon receipt of a notice to abate, the owner or occupant may notify the Town Clerk-Treasurer or the Town Council President of an intent to object to a notice to abate. This correspondence shall be in writing, shall specify the street address and legal description of the property involved and shall be made if only there exists a good faith dispute as to the request to abate. Any such correspondence must be received by the Town Clerk-Treasurer or the Town Council President within the time set out in the notice to abate.

2) Upon receipt of such correspondence, the Clerk-Treasurer or the Town Council President shall provide copies of same to the Town Attorney and to each member of the Council. No further action

Garbage

shall be pursued against the owner to abate the nuisance until resolution of the objection. Resolution of the objection, if not achieved by the Town Attorney, will be decided by the Council in a public hearing.

Section 10. *Lien procedure.*

1) Charges for garbage or refuse abatement that are not paid by the owner or occupant shall become a lien upon the premises. When a bill for such charges remains unpaid for 60 days after it has been rendered, the Clerk-Treasurer may file with the Auditor of the county a certified statement of lien claim. This statement shall contain a legal description of the premises, the expenses and costs incurred, the date the nuisance was abated and notice that the town claims a lien for this amount and the Auditor shall place the amount claimed on the tax duplicate against the real estate affected by the abatement and the amount shall be collected as taxes are collected and disbursed to the General Fund of the town.

2) Notice of such lien claim shall be mailed to the owner of the premises if his or her address is known. Provided, however, that failure of the Town Clerk-Treasurer or the Town Council President to record such lien claim or to mail such notice or the failure of the owner to receive such notice shall not affect the right to foreclose the lien for such charges as provided in the following section.

Section 11. *Foreclosure of lien.*

1) Property subject to a lien for unpaid abatement charges shall be sold for non-payment of the same and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in equity in the name of the town.

2) The Town Attorney hereby is authorized and directed to institute such proceedings, in the name of the town, in any court having jurisdiction over such matter, against any property for which such bill has remained unpaid one year after it has been rendered.

(Ord 2001-08, passed 7-5-2001)

Garbage

ARTICLE 5: OPEN BURNING

Section 1. Open burning of any material within the corporate limits of the town shall be prohibited, except as permitted by this Article 5.

Section 2. *Exceptions.*

1) The following types of fires are allowed:

a) Recreational or ceremonial fires, such as fires for scouting activities and fires used for cooking purposes, such as camp fires;

b) Fires used for celebrating school pep rallies;

c) Private residential burning where a residence contains four or fewer units. Burning is prohibited in apartment complexes and mobile home parks. Burning allowed in this division shall be in a noncombustible container sufficiently vented to induce adequate primary combustion air with enclosed sides; and

d) Only clean wood products and clean petroleum products may be burned in fires allowed under this division 1.

2) A person, firm or corporation may open burn the following while located at the site of origin of such vegetation:

a) Vegetation from:

i) A farm;

ii) An orchard;

iii) A nursery;

iv) A tree farm; or

v) A drainage ditch.

b) Wood products derived from pruning, i.e. brush; and

Open Burning

c) Undesirable wood remnants of the demolition of a predominantly wooden structure originally located on real property.

3) All open burning that is allowed under this article must comply with the following conditions.

a) A person who open burns shall extinguish the fire if the fire creates a nuisance or fire hazard.

b) Burning may not be conducted during unfavorable meteorological conditions such as:

i) High winds;

ii) Temperature inversions; or

iii) Air stagnation.

c) All fires must be attended at all times during burning until completely extinguished.

d) Asbestos containing materials may not be burned.

e) Adequate firefighting equipment shall be on-site for extinguishing purposes during burning times.

f) All residential burning shall be conducted during daylight hours only and shall be extinguished prior to sunset.

4) All fires and open burning permitted under this article shall be conducted at least 100 feet from any structure owned by a person other than the person who owns the property on which the fire or open burn is conducted.

(Ord. 2011-03, passed 5-23-2011)

Section 3. It shall be unlawful for any person, firm or corporation to burn by open burning any material on the public streets, sidewalks or alleys of the town or within four feet of the improved portion of said streets, sidewalks or alleys.

Section 4. Violations outlined in this article are punishable as Class C infractions pursuant to I.C. 34-28-5-4, which allows for a judgment of up to \$500. The payment of a penalty for the violation of any provision of this article shall not excuse the violation or permit it to continue. A separate offense shall be deemed committed each day such violation occurs or continues.

Section 5.

1) ***CLEAN PETROLEUM PRODUCTS.*** Uncontaminated, refined petroleum products, such as kerosene or diesel fuel, not previously used in any application.

Open Burning

2) **CLEAN WOOD PRODUCTS.** Wood products, including vegetation, that are not coated with stain, paint, glue or other coating material.

3) **OPEN BURN.** The burning of any materials wherein air contaminants resulting from combustion are emitted directly into the air without passing through a stack or chimney from an enclosed chamber.

Section 6. The provisions of this article shall be in full force and effect from and after the date of publication as required by I.C. 5-3-1.
(Ord. 2000-10, passed 11-8-2000; Ord. 2006-02, passed 1-11-2006)

Open Burning

ARTICLE 6: WEEDS

Section 1. *Duty of owner to keep weeds, grass or other vegetation cut and/or removed.* It shall be the duty of any owner or occupant of real estate within the geographical limits of the town to cut and remove all weeds, grass or other vegetation, other than trees, bushes, flowers or other ornamental plants, which exceed a height of ten inches, as measured from the ground, including but not limited to that portion of such real estate that is adjacent to or abutting any sidewalk, alley or street.

Section 2. *Failure to cut; notice.*

1) If any owner or occupant of real estate located within the geographical limits of the town fails to perform the duties set forth in Section 1 of this article, the Clerk-Treasurer shall prepare and serve or cause to be served upon such owner or occupant a written notice calling for the cutting and removal of such weeds, grass or other plants by such owner or occupant, within seven days from the date that notice was served upon the owner or occupant. Notice shall be served upon the owner or occupant by United States first-class mail, postage prepaid, at the last known address of the owner as shown by the records of the County Treasurer by personal delivery or by posting the same in a prominent place upon the premises. If notice is by mail, then notice shall be considered served on the date of mailing.

2) If an initial notice of the violation of an ordinance adopted under this section was provided by certified mail or equivalent service pursuant to statute, a continuous abatement notice may be posted at the property at the time of abatement instead of by certified mail or equivalent service. A continuous abatement notice serves as notice to the real property owner that each subsequent violation during the same year for which the initial notice of the violation was provided may be abated by the municipality or county or its contractors.

Section 3. *Removal by town.* If a written notice has been issued, as described under Section 2 of this article and the owner or occupant of the real estate within the geographical limits of the town has not cut and removed the weeds, grass or other vegetation described in the notice within the prescribed time, the Council may cause to be cut and removed if necessary, such weeds, grass or other vegetation. Whenever the Council causes weeds, grass or other vegetation to be cut and removed if necessary, the town may use either its own work force and equipment or it may contract with an outside agency to perform the work.

Section 4. *Declared nuisance; removal.* If a property owner or occupant has failed to perform his or her duty to cut and remove weeds, grass or other vegetation, as provided in Section 1 of this article and such weeds, grass or other vegetation obstruct, either in whole or in part, the normal and usual view of any street or vehicular traffic from an intersecting street, alley or drive, such weeds, grass or other vegetation may be declared to be a public nuisance by the Council. Such weeds, grass or other vegetation may be cut and removed if necessary by the town immediately and without the necessity of the seven-

Weeds

day written notice described in Section 2 of this article. The cost of such cutting and removal shall be paid by the owner or occupant of the real estate or collected as taxes are collected as provided in Section 5(3) of this article, notwithstanding the omission of the seven-day written notice referred to herein and described in Section 2 of this article.

Section 5. Penalties.

1) If any owner or occupant of real estate located within the geographical limits of the town fails to perform the duties set forth in Section 1 of this article, the second and each subsequent time that the Clerk-Treasurer prepares and causes to be served upon such owner or occupant a written notice calling for the cutting and removal of such weeds, grass or other plants, by such owner or occupant, the Clerk-Treasurer shall serve, in the same manner set forth in Section 2 of this article, a certified statement containing the legal description or common address of the premises and a reasonable administrative fee of not less than \$50 for preparing and causing to be served each such notice.

2) In the event the town causes the weeds, grass or other vegetation to be cut and, removed if necessary, the Clerk-Treasurer shall serve, in the same manner set forth in Section 2 of this article, a certified statement containing the legal description or common address of the premises, the date the weeds, grass or other vegetation was cut and removed if necessary, the reasonable expenses and costs incurred by the town, a reasonable administrative fee and a reasonable fine for violation of this article. Any person or entity violating this article shall be deemed guilty of an offense and fined not less than \$50 for a first offense, not less than \$100 for a second offense and not less than \$200 for all subsequent offenses. The payment of a fine for the violation of any provision of this article shall not excuse the violation or permit it to continue. A separate offense shall be deemed committed each day such violation occurs or continues.

3) The owner or occupant shall pay to the Clerk-Treasurer the amounts set forth in the certified statement within 15 days from the date that the certified statement of costs is served upon such owner or occupant. If the owner or occupant of the real estate fails to pay the costs within the time prescribed, a certified copy of the statement of costs shall be delivered to the County Auditor's Office. The County Auditor shall place the amount shown on such certificate on the tax duplicate against such real estate and the amount shall be collected when taxes are collected. When collected, such amount shall be disbursed to the town for deposit in the General Fund.

Section 6. Foreclosure of lien. Real estate subject to a lien for unpaid weed, grass or other vegetation cutting or removal charges shall be sold for nonpayment of the same and the proceeds of such sale shall be applied to pay the charges set forth in the certified statement after deducting costs, which includes reasonable attorney fees, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in equity in the name of the town. The Town Attorney hereby is authorized and directed to institute such proceedings, in the name of the town, in any court having jurisdiction over such matters.

Section 7. Procedure for appeal. Any owner or occupant that wishes to appeal the notice of violation or certified statement of costs under this article shall file a written appeal to the Clerk-Treasurer within ten days of the notice of violation or certified statement of costs being served upon the owner or occupant. The Council shall conduct a hearing thereon within 30 days of the written appeal being filed with the

Weeds

Clerk-Treasurer. The owner or occupant appealing shall have the opportunity to present evidence to the Council at such hearing.

Section 8. *Effective date.* The provisions of this article shall be in full force and effect from and after the date of publication as required by I.C. 5-3-1.
(Ord. 2002-01, passed, 8-7-2002; Ord. 2012-04, passed 7-3-2012)

Weeds

ARTICLE 7: FUEL TANK TRUCKS - UNLOADING

Section 1. It shall be unlawful for any person firm or corporation to unload any truck, tank truck, tank car or other vehicle in the town, containing gasoline, oil, fuel oil or any other petroleum products, which said vehicle shall have a tank capacity of over 1,500 gallons, save and except that trucks or vehicles of large tank capacity may deliver to such points, places and locations in the town as are specifically designed for the wholesale re-distribution of said products and which are properly located to safely separate their fire hazard from the town generally and which are properly provided with fire protective devices and are approved by the State Fire Marshal.

(Ord. 334, passed - -)

Fuel Tank Trucks- Unloading

ARTICLE 8: ABANDONED MOTOR VEHICLES

Section 1. *Compliance with state laws and regulations.* The town intends that this article shall not conflict with any provision of state law or regulation and if Indiana statutes or regulations are amended, to conflict with any provision in this article, then this article shall be considered amended to comply with the amendments to statutes or regulations.

Section 2. *Establishment of Abandoned Vehicle Department.*

1) There hereby is established the Bloomfield Abandoned Vehicle Department (the Department) pursuant to I.C. 9-22-1-3 which shall be authorized and responsible for the administration of the provisions of this article pertaining to the removal, storage and disposal of abandoned vehicles and parts.

2) The Department shall consist of the Town Council President, the Town Marshal and all members of the Police Department.

Section 3. *Definitions.*

1) **ABANDONED VEHICLE.** The meaning stated in I.C. 9-13-2-1, as follows:

- a) A vehicle located on public property illegally;
- b) A vehicle left on public property without being moved for 24 hours;
- c) A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicular traffic on a public right-of-way;
- d) A vehicle that has remained on private property without the consent of the owner or person in control of that property for more than 48 hours;
- e) A vehicle from which the engine, transmission or differential has been removed or that is otherwise partially dismantled or inoperable and left on public property;
- f) A vehicle that has been removed by a towing service or public agency upon request of an officer enforcing a statute or an ordinance other than the abandoned vehicle law, 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; and

Abandoned Motor Vehicles

g) A vehicle that is at least three model years old, is mechanically inoperable and is left on private property continuously in a location visible from public property for more than 20 days. For purposes of this subdivision, a vehicle covered by a tarpaulin or other plastic, vinyl, rubber, cloth, or textile covering is considered to be visible.

2) **OFFICER.** The meaning stated in I.C. 9-22-1-2, as follows:

- a) A regular member of the State Police Department;
- b) A regular member of a city or town police department;
- c) A town marshal or town deputy marshal;
- d) A regular member of the county police force; and
- e) An individual of an agency designated by ordinance of the fiscal body.

3) **PARTS.** The meaning stated in I.C. 9-13-2-122 and refers to all components of a vehicle that, as assembled, do not constitute a complete vehicle.

4) **VEHICLE.** The meaning stated in I.C. 9-13-2-196(d) and refers to an automobile, a motorcycle, a truck, a trailer, a semitrailer, a tractor, a bus, a school bus, a recreational vehicle, a trailer or semitrailer used in the transportation of watercraft, or a motorized bicycle; and as those terms are defined in I.C. 9-13-2.

Section 4. The Town Council President is an officer for the purpose of enforcing this article.

Section 5. *Exempt vehicles.*

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 or at a commercial vehicle servicing facility;

4) A vehicle located upon property licensed or zoned as an automobile scrap yard; and

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

Section 6. *Responsibility of owner.* The person who owns an abandoned vehicle or parts is responsible for the abandonment and is liable for all of the costs incidental to their removal, storage and disposal.

Abandoned Motor Vehicles

Section 7. *Vehicle in possession of a non-owner.* When an officer discovers a vehicle in the possession of a person, other than the person who owns the vehicle, and the person cannot establish the right to possession of the vehicle, the officer shall follow the procedure provided by I.C. 9-22-1-5, 9-22-1-6, 9-22-1-7, 9-22-1-8, and 9-22-1-9, as follows.

- 1) The officer shall cause the vehicle to be removed and taken to a storage facility.
- 2) The officer shall notify the Bureau of Motor Vehicles (the ABureau@) ,within 72 hours, of the location and description of the vehicle. The Bureau shall then cause a search to be made to determine and notify the person who owns the vehicle as provided by I.C. 9-22-1-19.
- 3) If the Bureau cannot determine who owns the vehicle, the Bureau shall declare the vehicle abandoned and provide for disposal of it pursuant to I.C. 9-22-1.
- 4) If the properly identified person who owns or holds a lien on a vehicle appears at the site of storage before disposal of the vehicle or parts and pays all costs incurred against the vehicle or parts at that time, the vehicle or parts shall be released.
- 5) The release must state the name, signature and address of the person who owns or holds a lien on the vehicle, a description of the vehicle or parts, costs and date of release.
- 6) If the person who owns or holds a lien on the vehicle does not appear and pay all costs, the Bureau shall declare the vehicle abandoned and provide for disposal under I.C. 9-22-1.

Section 8. *Tagging abandoned vehicle or parts.*

- 1) When the officer finds or is notified of a vehicle or parts believed to be abandoned, the officer shall tag the vehicle or parts, in a prominent place, with the following information, as provided by I.C. 9-22-1-11, as follows:
 - a) The date, time, officer=s name, public agency and address and telephone number to contact for information;
 - b) The vehicle and parts are considered abandoned;
 - c) The vehicle or parts will be removed after: i) 24 hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under I.C. 8-23-4; or ii) 72 hours, for any other vehicle;
 - d) The person who owns the vehicle will be held responsible for all costs incidental to the removal, storage and disposal of the vehicle; and

Abandoned Motor Vehicles

e) The person who owns the vehicle may avoid costs by removal of the vehicle or parts within : i) 24 hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under I.C. 8-23-4; or ii) 72 hours, for any other vehicle.

2) If the vehicle or parts tagged are not removed within the applicable period, the officer shall prepare a written abandoned vehicle report of the vehicle or parts, including information on the condition, missing parts and other facts that might substantiate the estimated market value of the vehicle or parts. The officer shall also obtain a photograph of the vehicle as provided by I.C. 9-22-1-12.

3) If, in the opinion of the officer, the market value of an abandoned vehicle or parts is less than \$500, the officer shall immediately dispose of the vehicle to an automobile storage facility and forward a copy of the abandoned vehicle report and photograph(s), to the Bureau, as provided by I.C. 9-22-1-13. The photographs may be taken by the officer, the towing service or the storage facility. The Department shall cause the original records and photographs to be retained for at least two years. A vehicle that is ten model years or older, that has extensive deterioration to the interior or exterior or is inoperable; or a vehicle that is five model years or older, which has been extensively destroyed by fire, explosion, vandalism or other causes, excluding traffic accidents and is inoperable is presumptively valued at \$100 or less.

4) If, in the opinion of the officer, the market value of the abandoned vehicle or parts is at least \$500, the officer shall, before placing a notice tag on the vehicle or parts, make a reasonable effort to ascertain the person who owns the vehicle or parts or who may be in control of the vehicle or parts. After 72 hours, the officer shall require the vehicle or parts to be towed to a storage facility as provided by I.C. 9-22-1-14.

Section 9. *Self-help by owner or rental property.*

1) A person who owns rental property and who finds a vehicle believed to be abandoned on that person=s rental property shall attach, in a prominent place on the vehicle, a notice tag containing the following information, as provided by I.C. 9-22-1-15:

a) The date, time, name and address of the person who owns the rental property and a telephone number to contact for information;

b) The vehicle is considered abandoned;

c) The vehicle will be removed after 24 hours;

d) The person who owns the vehicle will be held responsible for all costs incidental to the removal, storage and disposal of the vehicle; and

e) The person who owns the vehicle may avoid costs by removal of the vehicle or parts within 24 hours.

Abandoned Motor Vehicles

2) If, after 24 hours, the person who owns the vehicle believed to be abandoned on rental property has not removed the vehicle from the rental property, the person who owns the rental property may have the vehicle towed as provided by I.C. 9-22-1-16. The towing operator shall do the following:

- a) Contact the Bureau to obtain the name and address of the person who owns the vehicle;
- b) Deliver by certified mail, a copy of the information contained in the notice tag to the person who owns the vehicle, not later than five business days after the vehicle is removed;
- c) Notwithstanding the 24-hour requirement, in an emergency situation, a vehicle may be removed immediately. ***EMERGENCY SITUATION*** means that the presence of the abandoned vehicle interferes physically with the conduct of normal business operations of the owner of the rental property or poses a threat to the safety or security of persons or property or both; and
- d) The towing operator shall give notice to the Department and the Bureau that the abandoned vehicle is in the possession of the towing operator.

3) If a person who owns or controls private property complains to the Department that a vehicle has been left on the property for at least 48 hours without the consent of the person who owns or controls the property, then the officer shall follow the same procedure as set forth above in Section 8.

Section 10. *Abandoned vehicle report.*

1) Within 72 hours after removal of an abandoned vehicle to a storage facility, under Sections 7, 8 or 9 above, either the Department or the storage facility shall prepare and forward to the Bureau an abandoned vehicle report containing a description of the vehicle including the following information concerning the vehicle:

- a) Make;
- b) Model;
- c) Identification number; and
- d) Number of the license plate.

2) The Department or the storage facility, whichever prepares the abandoned vehicle report, shall request that the Bureau advise the Department or the storage facility of the name and most recent address of the person who owns or holds a lien on the vehicle.

3) If the 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 or parts, they may be disposed of to an automobile storage facility and a copy of the abandoned vehicle report and photograph(s) of the vehicle or parts shall be forwarded to the Bureau, as provided by I.C. 9-22-1-13. The Department shall retain the original records and photographs for at least two years.

Abandoned Motor Vehicles

Section 11. *Duties of the Bureau of Motor Vehicles.* Upon receipt of an abandoned vehicle report under Section 10, the Bureau shall do the following:

- 1) Conduct a reasonable search through the National Automobile Theft Bureau and the State Police Department to determine whether the vehicle or parts have been reported as stolen;
- 2) Conduct a reasonable search of Bureau records to determine the person who owns the vehicle or parts or the person who holds the lien of record; and
- 3) If a reasonable search discloses the name and address of the person who owns or holds a lien on the vehicle, mail a written notice, by first-class mail to:
 - a) The person who owns the vehicle with a copy to each person who holds a lien on the vehicle if the Bureau disposes of the vehicle; or
 - b) The public agency ,if the public agency disposes of the vehicle, indicating that the vehicle or parts have been impounded at a certain location and must be removed within 20 days after the date of mailing of the notice and advising that the vehicle or parts will be disposed of after that time. The notice must advise the person who owns or holds a lien on the vehicle that all costs incurred in removing and storing the vehicle or parts is the person=s legal responsibility.

Section 12. *Sales by the Bureau of Motor Vehicles or the town.*

- 1) If the person who owns or holds a lien upon a vehicle does not appear within 20 days after the mailing of a notice under Section 10, the Bureau or the Department shall sell the vehicle or parts.
- 2) If the Bureau sells the vehicle or parts, it shall be to the highest bidder at a public sale. Notice of the sale shall be given under I.C. 5-3-1, except that only one newspaper insertion one week before the public sale is required.
- 3) If the Department sells the vehicle or parts it may either:
 - a) Sell to the highest bidder at a public sale. Notice of the sale shall be given under I.C. 5-3-1, except that only one newspaper insertion one week before the public sale is required; or
 - b) Sell the vehicle or parts as unclaimed property under I.C. 36-1-11. The 20-day period for the property to remain unclaimed is sufficient for a sale under this division.

Section 13. *Bill of sale.* A person who purchases a vehicle under Section 12, shall be furnished a bill of sale under I.C. 9-29-7. A person who purchases a vehicle under Section 12 must:

- 1) Present evidence from a law enforcement agency that the vehicle purchased is roadworthy, if applicable; and

Abandoned Motor Vehicles

2) Pay the appropriate title fee under I.C. 9-29-4 to obtain a certificate of title under I.C. 9-17 for the vehicle.

Section 14. *Removal of storage costs.* The costs for removal and storage of an abandoned vehicle or parts not claimed by the person who owns or holds a lien on a vehicle shall be paid from the Abandoned Vehicle Fund established under Section 16. The charge payable by the person who owns or holds a lien on a vehicle or parts may not exceed the limits established by Section 15.

Section 15. *Proceeds of sale.* The proceeds of sale of an abandoned vehicle or parts under Section 12 shall be credited against the cost of the removal, storage and disposal of the vehicle.

Section 16. *Abandoned Vehicle Fund.*

1) There hereby is established for the town an Abandoned Vehicle Fund, as required by I.C. 9-22-1-30.

2) If the Department sells the vehicle or parts, the proceeds from the sale of abandoned vehicles or parts, including:

a) Charges for bills of sale; and

b) Money received from persons who own or hold liens on vehicles for the cost of removal or storage of vehicles shall be deposited with the Town Clerk-Treasurer and placed by the Clerk-Treasurer in the town's Abandoned Vehicle Fund.

3) The costs incurred by the Department in administering this article shall be paid from the Abandoned Vehicle Fund.

4) The town shall annually appropriate sufficient money to the Fund to carry out this article. Money remaining in the Fund at the end of a year remains in the Fund and does not revert to the General Fund.

Section 18. *Allowable charges for towing and storage.*

1) Charges for providing towing service for abandoned vehicles shall be the reasonable value of the service rendered according to the usual and customary charges.

2) Charges for storage for abandoned vehicles and parts, shall be the reasonable value of the services rendered according to the usual and customary charges.

Section 19. *Power to facilitate ordinance.* To facilitate the removal of abandoned vehicles or parts, the town may:

Abandoned Motor Vehicles

- 1) Employ personnel;
- 2) Acquire equipment, property and facilities; and
- 3) Enter into towing and storage contracts.

Section 20. *Immunity from liability.* Pursuant to I.C. 9-22-1-32, 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 or leases or occupies property from which an abandoned vehicle or parts are removed;
- 2) The town and the Department;
- 3) A towing service;
- 4) An automobile scrapyard;
- 5) A storage yard; or
- 6) An agent of a person or entity listed in divisions 1 through 5.

Section 21. *Approved towing service and storage facility.* Any towing service or storage facility that is used for the removal and storage of abandoned vehicles or parts by law enforcement officers and that has not been disapproved by the Bureau, because of violations of the Bureau's rules and regulations, may be used by the town for towing and storage of abandoned vehicles and parts.
(Ord. 2001-09, passed 7-5-2001)

TITLE IV: BUSINESS AND COMMERCE

Article

1. FAIR HOUSING
2. RESERVED
3. RESERVED
4. SOLICITATION

ARTICLE 1: FAIR HOUSING

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

Section 2. Definitions. The definitions set forth in this section shall apply throughout this article:

1) **AN AGGRIEVED PERSON.** Includes any person who (I.C. 22-9.5-2-2):

- a) Claims to have been injured by a discriminatory housing practice; or
- b) Believes that such person will be injured by a discriminatory housing practice that is about to occur.

2) **COMMISSION** (I.C. 22-9.5-2-3). The Indiana Civil Rights Commission created pursuant to I.C. 22-9-1-4 et. seq.

3) **COMPLAINANT** (I.C. 22-9.5-2-4). A person, including the Commission, who files a complaint under I.C. 22-9.5-6.

4) **DISCRIMINATORY HOUSING PRACTICE.** An act that is unlawful under Sections 4, 5, 6, 7 or 8 of this article or I.C. 22-9.5-5.

5) **DWELLING.** Any building, structure or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families; or any vacant land which is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as a residence by one or more families.
(I.C. 22-9.5-2-8)

6) **FAMILIAL STATUS.**

- a) One or more individuals who have not attained the age of 18 years being domiciled with a parent or another person having legal custody of such individual or the written permission of such parent or other person.

Fair Housing

b) The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

7) **FAMILY.** Includes a single individual (I.C. 22-9.5-2-9), with the status of such family being further defined in section. Also, pursuant to 24 C.F.R. Part 5, the definition of **FAMILY** is revised to include families regardless of the actual or perceived sexual orientation, gender identity or marital status of its members.

8) **HANDICAP.**

a) With respect to a person:

i) A physical or mental impairment which substantially limits one or more of such person=s major life activities;

ii) A record of having such an impairment;

iii) Being regarded as having such an impairment;

iv) An impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990; or

v) Any other impairment defined under I.C. 22-9.5-2-10.

b) **HANDICAP** shall not include current illegal use of or addictions to a controlled substance as defined in U.S.C. Section 802 of Title 21 (I.C. 22-9.5-2-10(b)); nor does it include an individual solely because that individual is a transvestite (I.C. 22-9.5-2-10(c)).

9) **PERSON.** Includes (I.C. 22-9.5-2-11) one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, non-incorporated organizations, trustees, trustees in cases under U.S.C. Title 11, receivers and fiduciaries.

10) **TO RENT.** Includes (I.C. 22-9.5-2-13) to lease, to sublease, to let and otherwise to grant for a consideration the rights to occupy the premises owned by the occupant.

Section 3. Unlawful practice. Subject to the provisions of division 2 of this section, Section 9 of this article and I.C. 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth I.C. 22-9.5-5-1 and in Section 4 of this article shall apply to:

1) All dwellings except as exempted by division 2 and I.C. 22-9.5-3.

2) Other than the provisions of division 3 of this section, nothing in Section 4 shall apply to:

Fair Housing

a) Any single-family house sold or rented by an owner where the private individual owner does not own more than three such single-family houses at any one time; provided that in the sale of such single family house by a private individual owner not residing in the house at the time of sale or exemption shall apply only to one such sale within any 24-month period. The private individual owner may not own any interest in, nor have owned or reserved on his or her behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time. The sale or rental of any such single family house shall be exempted from application of this section only if such house is sold or rented:

i) Without the use in any manner of the sales or rental facilities or services of any real estate broker, agent or salesman, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent or salesman, or person; and

ii) Without the publication, posting or mailing, after notice of advertisement or written notice in violation of Section 4, division 2 of this article, but noting in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other such professional assistance as necessary to perfect or transfer this title.

b) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence.

3) For the purposes of division 2, a person shall be deemed to be in the business of selling or renting dwellings if:

a) They have, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;

b) They have, within the preceding 12 months, participated as agent, other than in the sale of his or her own personal residence, in providing sales or rental facilities or services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or

c) They are the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five or more families.

Section 4. *Discrimination in the sale or rental of housing.* As made applicable by Section 3 and except as exempted by Section 3, division 2 and Section 9, it shall be unlawful:

1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, handicap, familial status or national origin;

2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services of facilities in connection therewith, because of race, color, religion, sex, handicap, familial status or national origin;

Fair Housing

3) To make, print, or publish, or cause to be made, printed, or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status or national origin, or an intention to make any such preference, limitation or discrimination;

4) To represent to any person because of race, color, religion, sex, handicap, familial status or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available;

5) For profit, to induce or attempt to induct any person to sell or rent any dwelling by representations regarding the entry or perspective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status or national origin;

6) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of:

a) That buyer or renter;

b) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

c) Any person associated with that person.

7) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of:

a) That person;

b) A person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or

c) Any person associated with that person.

8) For purposes of this division, discrimination includes:

a) A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modifications, reasonable wear and tear excepted;

Fair Housing

b) A refusal to make reasonable accommodations in rules, policies, practices or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

c) In connection with the design and construction of covered multi-family dwellings for first occupancy after the date that is 30 months after September 13, 1998, a failure to design and construct those dwellings in such a manner that:

i) The public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;

ii) All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

iii) All premises within such dwellings contain the following features of adaptive design:

A. An accessible route into and through the dwelling;

B. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations; and

C. Reinforcements in bathrooms such that an individual in a wheelchair can maneuver about the space.

Compliance with the appropriate requirement Americans with Disabilities Act of 1990 and of the American National Standard for Buildings and Facilities providing accessibility and usability for physically handicapped people (commonly cited as ANSI A117.1) suffices to satisfy the requirements of division 8, c, iii, C.

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

Section 5. *Discrimination in residential real estate-related transactions.*

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

2) As used in this section, the term residential real estate-related transaction means any of the following:

a) The making or purchasing of loans or providing other financial assistance:

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- i) For purchasing, constructing, improving, repairing or maintaining a dwelling; or
- ii) Secured by residential real estate.

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

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

Section 6. *Discrimination in the provision of brokerage service.* It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers=organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him or her in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status or national origin.

Section 7. *Interference, coercion, or intimidation.* It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by Sections 3, 4, 5 or 6 of this article.

Section 8. *Prevention of intimidation in fair housing cases.* Whoever, whether or not acting under code or law, by force or threat of force willfully injures, intimidates or interferes with, or attempt to injure, intimidate or interfere with:

1) Any person because of his or her race, color, religion, sex, handicap, familial status, or national origin and because he or she is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings;

2) Any person because he or she is or has been, or in order to intimidate such person or any other person or any class of persons from:

a) Participating, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in division 2; or

b) Affording another person or class of persons opportunity or protection so to participate.

3) Any citizen because he or she is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in division 1, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined according to local, state and

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federal law; and if bodily injury results shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

Section 9. Exemptions.

1) Exemptions defined or set forth under I.C. 22-9.5-3 et seq. shall be exempt from the provisions of this article to include those activities or organizations set forth under divisions 2 and 3 of this section.

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

3) Nothing in this article regarding familial status shall apply with respect to housing for older persons. As used in this section, ***HOUSING FOR OLDER PERSONS*** means housing:

a) Provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development or the State Civil Rights Commission determines is specifically designed and operated to assist elderly person (as defined in the state or federal program);

b) Intended for, and solely occupied by, person 62 years of age or older; or

c) Intended and operated for occupancy by at least one person 55 years of age or older per unit.

Section 10. Administrative enforcement of article.

1) The authority and responsibility for properly administering this article and referral of complaints hereunder to the Commissioner as set forth in division 2 hereof shall be vested in the Chief Elected Official of the town.

2) Notwithstanding the provisions of I.C. 22-9.5-4-8, the town, because of lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under this article, herein elects to refer all formal complaints of violation of this article by complainants to the Indiana Civil Rights Commission for administrative enforcement actions pursuant to I.C. 22-9.5-6 and the Chief Elected Official of the town shall refer all complaints to the Commission as provided for under division 1 of this section to said Commission for purposes of investigation, resolution and appropriate relief as provided for under I.C. 22-9.5-6.

3) All executive departments and agencies of the town shall administer their departments,

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programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this article and shall cooperate with the Chief Elected Official and the Commission to further such purposes.

4) The Chief Elected Official of the town or the Chief Elected Official=s designee, shall provide information on remedies available to any aggrieved person or complainant requesting such information.

(Ord. passed 2-5-2014)

ARTICLE 2: RESERVED

Taxi Cabs

ARTICLE 3: RESERVED

Entertainment

ARTICLE 4: SOLICITATION

Section 1. *Registrations required.*

1) It shall be unlawful for any person, including corporations, to engage in business as a canvasser, calling at residences or places of business without the previous consent of the occupant for the purpose of soliciting orders, sales, subscriptions, or business of any kind, or seeking for information or donations without first having registered with the office of the Clerk-Treasurer.

2) A registrant other than a corporation shall give his or her complete identification, his or her signature, the name of his or her employer, the nature of the products or services in which he or she is interested, the names of the manufactures of such products or of the organization which he or she is representing and the proposed method of operation in the town.

Section 2. *Certificate.*

1) Each applicant who registers and who pays the \$20 solicitation fee shall be furnished a certificate indicating that he or she has registered and showing the dates covered by such registration.

2) Each person shall, at all times while soliciting or canvassing in the town carry upon his or her person the registration certificate and the same shall be exhibited by such registrant whenever he or she is required to do so by any police officer or by any person solicited.

Section 3. *Exceptions.* The provisions of this article shall not apply to the following:

1) Officers or employees of the town, county, state or federal government or any subdivision thereof, when on official business; nor

2) Students of elementary and high schools of the town or county when the solicitation is sponsored by said school.

Section 4. *Revocation.* Any such registration may be revoked by the Town Council President or by the Town Marshal because of any violation by the registrant of this article or any other article of the town or of any state or federal law or whenever the registrant shall cease to possess the qualifications and character required in this article for the official registration.

Section 5. *Consent of occupant.* The practice of going in and upon private residence or places of business in the town by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise, not having been requested or invited to do so by the owners or occupants of said private residences, for the purpose of soliciting orders for the sale of goods wares and merchandise and/or for the purpose of disposing of and/or peddling or hawking the same, is declared to be a nuisance.
(Ord.1-77, passed - -)

Section 6. Any person violating any of the provisions of this article commits a Class C infraction.
(Ord. 40, passed - -)

Section 7. It shall be unlawful for any person or corporation to locate at any place on the public square or the streets adjoining thereto any wagon, automobile, truck or other vehicle in which there are fruits, goods, wears or merchandise of any kind for sale from such vehicle or to obstruct the street around and adjacent to the public square in said town in any manner by the sale or offer for sale of any fruits, goods, wares or merchandise.
(Ord. 227, passed - -)

Section 8. Any person, firm or corporation violating any of the provisions of this article commits a Class C infraction.
(Ord. 39-84, passed - -)

TITLE V: PUBLIC WORKS, TRANSPORTATION AND FACILITIES

Article

- 1. STREET EXCAVATION**
- 2. STREET MAINTENANCE**
- 3. RESERVED**
- 4. TRAFFIC**
- 5. PARKING AND METERS**
- 6. PARKING RESTRICTIONS**
- 7. PARKING ON SIDEWALKS**
- 8. PARKING OF TRUCKS**
- 9. PARKING ON CERTAIN STREETS**
- 10. TOWING OF VEHICLES**
- 11. ENCROACHMENT STRUCTURE UPON PUBLIC**

PROPERTY

- 12. RESERVED**
- 13. PUBLIC AND PRIVATE SEWERS AND DRAINS**
- 14. DRAINING OF SURFACE WATER**
- 15. SEWER RATES**
- 16. SEWER PENALTIES AND VIOLATIONS**
- 17. SIDEWALK MAINTENANCE**

ARTICLE 1: STREET EXCAVATION

Section 1. *Permit required.* It shall be unlawful for any person, firm or corporation to tunnel under or to make any excavation in any street, alley or other public place in the town having obtained a permit as is herein required or without complying with the provisions of this article or in violation of or variance from the terms of any such permit.

Section 2. *Applications.* Applications for such permits shall be made to the Clerk-Treasurer and shall describe:

- 1) The location of the intended excavation or tunnel;
- 2) The size thereof;
- 3) The purpose therefore;
- 4) The person, firm or corporation doing the actual excavating work;
- 5) The name of the person, firm or corporation for whom or which the work is being done;

and

6) Contain an agreement that the applicants will comply with all articles and laws relating to the work to be done.

Section 3. *Fees.* The fee for such permits shall be \$20 but no permit shall be issued until the applicant has complied with Sections 4, 5 or 6.

Section 4. *Bond.* If the proposed tunnel or excavation exceeds 60 square feet, no such permit shall be issued unless and until the applicant therefore has filed with the Clerk-Treasurer a bond in the sum of \$50,000 conditioned to indemnify the town for any loss, liability or damage that may result or accrue from or because of the making, existence or manner of guarding or constructing any such tunnel or excavation. Such bond shall have, as surety, a corporation licensed to do business in the state as a surety company.

Section 5. *Deposit.* If the proposed tunnel or excavation is 60 square feet or less, no such permit shall be issued unless and until the applicant therefore has deposited with the Clerk-Treasurer a cash deposit.

1)

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Street Excavation

If pavement is involved in excavation	\$500
If excavation is in a paved area	\$1,000

2) From this deposit shall be deducted the expense to the town of relaying the surface of the ground or pavement and of making the refill if this is done by the town or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

Section 6. *Indemnification agreement.* If the person, firm or corporation seeking the permit owns real estate in the town which has an assessed tax valuation of \$5,000 or more, as shown by the Office of the Treasurer of Greene County, the person, firm or corporation, in lieu of filing a bond as provided in Section 4, may file a general indemnity agreement to indemnify the town for any loss, liability or damage that may result because of the making, existence, or manner of guarding of any tunneling.

Section 7. *Manner of excavating.*

1) It shall be unlawful to make any such excavation or tunnel in any way contrary to or at variance with the terms of the permit therefore.

2) Proper bracing shall be maintained to prevent the collapse of adjoining ground and in excavations the excavation shall not have anywhere below the surface any portion which extends beyond the opening at the surface.

3) No injury shall be done to any pipes, cables or conduits in the making of such excavations or tunnels and notice shall be given to the persons maintaining any such pipes, cables or conduits or to the Street Commissioner, which are or may be endangered or affected by the making of any such excavation or tunnel before such pipes, cables or conduits shall be disturbed.

4) No unnecessary damage or injury shall be done to any tree or shrub or the roots thereof.

Section 8. *Sidewalks.* If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed or provided, which shall be safe for travel and convenient for users. The temporary sidewalk is subject to inspection by the Street Commissioner, and shall not be open for use until approved by him or her.

Section 9. *Restoring surface.*

1) Any person, firm or corporation, making any excavation or tunnel in or under any public street, alley or other public place in the town shall restore the surface to its original condition if there is no pavement there.

2) Refills shall be properly tamped down, and any bracing in such tunnel or excavation shall be left in the ground.

3) Any opening in a paved or improved portion of a street shall be repaired and the surface

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re-laid by the applicant, in compliance with the articles of the town and under the supervision of the Street Commissioner.

Section 10. *Supervision.* The Town Council President shall, from time to time, inspect or cause to be inspected all excavations and tunnels being made in or under any public street, alley or other public place in the town to see to the enforcement of the provisions of this article. Notice shall be given to him or her at least ten hours before the work of refilling any such tunnel or excavation commences.

Section 11. *Tunneling required.* It shall be unlawful to make any excavation in any portion of a street or sidewalk in the town which is paved with a concrete or asphalt paving. Where necessary and where a proper permit has been secured, tunnels may be driven or excavated under any such pavement provided that, upon completion of the work involved, the tunnel shall be backfilled with compacted sand.

Section 12. *Protective measures and routing of traffic.*

1) It shall be the duty of every person cutting or making an excavation in or upon any public place to place and maintain barriers and warning devices necessary for safety of the general public.

2) Barriers, warning signs, lights and the like shall conform to the requirements of all applicable town ordinances. Warning lights shall be flares, torches, lanterns, electrical markers or flashers used to indicate a hazard to traffic from sunset of each day to sunrise of the next day. Torches shall be open wick or flame flares or bombs generally used in connection with roadway repairs or construction and operating on kerosene or similar fluid.

3) Electrical markers or flashers shall emit light at sufficient intensity and frequency to be visible at a reasonable distance for safety. Reflectors or reflecting material may be used to supplement, but not replace, light sources. The Council may restrict the use of lanterns or open flame devices in fire hazard areas.

4) The permittee shall take appropriate measures to assure that during the performance of the excavation work, traffic conditions as near normal as possible shall be maintained at all times so as to minimize inconvenience to the occupants of the adjoining property and to the general public.

5) When traffic conditions permit, the Town Council President may, with written approval, permit the closing of streets and alleys to all traffic for a period of time prescribed by him or her, if in his or her opinion it is necessary. Such written approval may require that the permittee give notification to various public agencies and to the general public. In such cases such written approval shall not be valid until such notice is given. Warning signs shall be placed far enough in advance of the construction operation to alert traffic within a public street and cones or other approved devices shall be placed to channel traffic in accordance with the instructions of the Superintendent of Public Works.

Section 13. *Clearance for vital structures.* The excavation work shall be performed and conducted so as not to interfere with access to fire hydrants, fire stations, fire escapes, water gates, underground vaults, valve housing structures, and all other vital equipment as designated by the Town Council President.

Street Excavation

Section 14. *Protection of traffic.* The permittee shall maintain safe crossings for two lanes of vehicle traffic at all street intersections where possible and safe crossings for pedestrians at intervals of not more than 300 feet. If any excavation is made across any public street, alley or sidewalk, adequate crossings shall be maintained for vehicles and for pedestrians. If the street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, a passageway at least one-half of the sidewalk width shall be maintained along such sidewalk line.

Section 15. *Relocation and protection of utilities.*

1) The permittee shall not interfere with any existing utility without the written consent of the Town Council President and the owner of the utility. If it becomes necessary to relocate an existing utility, this shall be done by its owner.

2) No facility owned by the town shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee. The cost of moving privately owned utilities shall be similarly borne by the permittee unless it makes other arrangements with the person owning the utility.

3) The permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires or other apparatuses which may be in any way affected by the excavation work and do everything necessary to support, sustain and protect them under, over, along or across said work. The permittee shall secure approval of method of support and protection from the owner of the utility.

4) In case any of said pipes, conduits, poles, wires or apparatuses should be damaged, and for this purpose pipe coating or other encasement or devices are to be considered as part of a substructure, the permittee shall promptly notify the owner thereof. All damaged utilities shall be repaired by the agency or person owning them and the expense of such repairs shall be charged to the permittee. It is the intent of this division that permittee shall assume all liability for damage to facilities and any resulting damage or injury to anyone because of such utility damage and such assumption of liability is a contractual obligation of the permittee. The only exception will be such instances where damage is exclusively due to the negligence of the owning utility.

5) The town shall not be made a party to any action because of this section. The permittee shall inform itself as to the existence and location of all underground utilities and protect the same against damage.

Section 16. *Abandonment of structures.* Whenever the use of a substructure is abandoned, except the abandonment of service lines designed to serve single properties, the person owning, controlling or having an interest therein shall, within 30 days after such abandonment, file with the Town Council President a statement in writing giving in detail the location of the substructure so abandoned. If such abandoned substructure is in the way or subsequently becomes in the way of an installation pursuant to a governmental function the owner shall remove such abandoned substructure or pay the cost of its removal during the course of excavation for construction of the utility by the town or any other public body.

Street Excavation

Section 17. *Protection of adjoining property.*

1) The permittee shall at all times and at this or its own expense preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for the purpose.

2) Wherein the protection of such property it is necessary to enter upon private property for the purpose of taking appropriate protecting measures, the permittee shall obtain consent from the owner of such private property for such purpose and if he or she cannot obtain such consent, the Town Council President may authorize him or her to enter the private premises solely for the purpose of making the property safe.

3) The permittee shall, at its own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damage to public or private property or highways resulting from its failure properly to protect and carry out said work.

4) Whenever it may be necessary for the permittee to trench through any lawn area, said area shall be re-seeded or sod shall be carefully cut and rolled and replaced after ditches have been backfilled as required in this article. All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began. The permittee shall not remove, even temporarily, any trees or shrubs which exist in parking strip areas without first obtaining the consent of the appropriate town official having supervision of such property.

Section 18. *Placement of excavated material.*

1) All material excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such manner as not to endanger those working in the trench, pedestrians or users of the streets and so that as little inconvenience as possible is caused to those using streets and adjoining property.

2) Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, such as might be the case in a narrow alley, the Town Council President shall have the authority to require that the permittee haul the excavated material to a storage site and then re-haul it to the trench site at the time of backfilling and it shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal.

3) All material excavated shall be laid compactly along the side of the trench and kept trimmed so as to cause as little inconvenience as reasonably possible to vehicular and pedestrian traffic or as specified by the Street Commissioner. Whenever necessary, in order to expedite the flow of traffic or to abate the dirt or dust nuisance, toe boards or bins may be required by the Town Council President to prevent the spreading of dirt into traffic lanes.

Street Excavation

Section 19. *Clean up.*

1) As the excavation work progresses, all streets shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All clean up operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the Town Council President.

2) From time to time, as may be ordered by the Town Council President, and in any event immediately after completion of said work, the permittee shall, at his or her own expense, clean up and remove all refuse and unused materials of any kind resulting from said work and upon failure to do so within 24 hours after having been notified to do so by the Town Council President and the cost thereof charged to the permittee, the permittee shall also be liable for the cost thereof under the surety bond provided hereunder.

Section 20. *Protection of watercourses.* The permittee shall maintain all gutters free and unobstructed for the full depth of the adjacent curb and for at least one foot in width from the face of such curb at the gutter line. Whenever a gutter crosses an intersecting street, an adequate waterway shall be provided and at all times maintained. The permittee shall make provisions to take care of all surplus water, muck, silt, slickings or other run-off pumped from excavations or resulting from sluicing or other operations and shall be responsible for any damage resulting from its failure to so provide.

Section 21. *Breaking through pavement.*

1) Heavy duty pavement breakers may be prohibited by the Town Council President when the use endangers existing substructures or other property.

2) Saw cutting of portland cement concrete may be required when the nature of the work or the condition of the street warrant. When required, the depth of the cut shall be not less than one inch in depth, however, depths greater than one inch may be required by the Town Council President when circumstances warrant. Saw cutting may be required by the Town Council President outside of the limits of the excavation over cave-outs, overbreaks and small floating sections.

3) Approved cutting of bituminous pavement surface ahead of excavations may be required by the Town Council President to confine pavement damage to the limits of the trench.

4) Sections of sidewalks shall be removed to the nearest score line or joint.

5) Unstable pavement shall be removed over cave-outs and overbreaks. The subgrade shall be treated as the main trench.

6) Pavement edges shall be trimmed to a vertical face and neatly aligned with the center line of the trench.

7) Cut-outs outside of the trench lines must be normal or parallel to the trench line.

Street Excavation

8) Boring or other methods to prevent cutting of new pavement may be required by the Town Council President.

9) The permittee shall not be required to repair pavement damage existing prior to excavation unless his or her cut results in small floating sections that may be unstable in which case the permittee shall remove and pave the area.

Section 22. *Depth of structures.* No person shall, without written permission of the Town Council President, install any substructure, except manholes, vaults, valve casings, culverts, and catch basins at a vertical distance less than:

1) *Streets.*

a) The minimum depth shall be 24 inches below the established flow line of the nearest gutter.

b) If said flow line is not established, then the depth shall be at minimum of 24 inches below the surface of the nearest outermost edge of the traveled portion of the street.

2) *Parkway.*

a) The minimum depth of any substructure shall be 16 inches below established gutter grade when said substructure parallels the parkway.

b) The minimum depth of any substructure shall be 12 inches below the top of the established sidewalk or curb when such substructure is at right angles to the parkway.

3) *Other public places.*

a) The minimum depth of any substructure in any other public place shall be 12 inches below the surface.

b) Nothing in this section shall impose a duty upon the permittee to maintain said specifications as required herein upon subsequent changes of grade in the surface unless the grade in said substructure interferes with the maintenance of or travel on a public street.

Section 23. *Backfilling.*

1) Pine material free from lumps and stone selected from the soil shall be thoroughly compacted around and under the substructure to the upper level of such substructure. Above the upper level of the substructure, backfill material shall be placed into the subgrade of the pavement in lifts consistent with the type of soil involved and the degree of consolidation specified by the Council.

2) Broken pavement, large stones, roots and other debris shall not be used in the backfill. The number and size of each lift shall be dependent upon the type of soil involved. Such backfill shall be

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done in a manner that will permit the restoration of the surface to a density condition not less than that existing prior to excavation unless otherwise specified.

3) The Town Council President may require soil tests to be furnished by a recognized soil testing laboratory or registered professional engineer specializing in soil mechanics when, in his or her opinion, backfill for any excavation is not being adequately compacted. In order for the resurfacing to be permitted, such tests must show that the backfill material meets the minimum requirements as prescribed by the Council. All expense of such tests shall be borne by the permittee.

Section 24. *Trenches in pipe laying.* The maximum length of open trench permissible at any time shall be in accordance with existing ordinances or regulations.

Section 25. *Prompt completion of work.* After an excavation is commenced, the permittee shall prosecute with diligence and expedition all excavation work covered by the excavation permit and shall promptly complete such work and restore the street to its original condition or as near as may be, so as not to obstruct the public place or travel thereon more than is reasonably necessary.

Section 26. *Urgent work.* When traffic conditions, the safety or convenience of the traveling or the public interest require that the excavation work be performed as emergency work, the Town Council President shall have full power to order, at the time the permit is granted, that a crew of persons and adequate facilities be employed by the permittee 24 hours a day to the end that such excavation work may be completed as soon as possible.

Section 27. *Emergency action.* Nothing in this article shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipe or for making repairs, provided that the person making such excavation shall apply to the Town Council President for such a permit on the first working day after such work is commenced.

Section 28. *Noise, dust and debris.* Each permittee shall conduct and carry out excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of the excavation work, noise, dust and unsightly debris. Between the hours of 10:00 p.m. and 7:00 a.m., the permittee shall not use, except in case of emergency as herein otherwise provided, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property.

Section 29. *Preservation of monuments.* Any monument set for the purpose of locating or preserving the lines of any street or property subdivision or a precise survey reference point or a permanent survey mark within the city, shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission in writing from the Council so to do. Permission to remove or disturb such monuments, reference points or marks shall only be granted upon condition that the person applying for such permission shall pay all expenses incidental to the proper replacement of this monument by the town.

Section 30. *Inspections.* The Town Council President shall make such inspections as are reasonably

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necessary in the enforcement of this article. The Town Council President shall have the authority to promulgate and cause to be enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this article.

Section 31. *Location records.* Every public utility, after the enactment of this article, shall maintain records showing the location of all of its underground facilities except relatively minor facilities which connect a particular premise or building to a facility serving more than one premise or building and except oil or gas gathering or field lines. Every public utility shall maintain equipment which can locate such facilities in the field.

Section 32. *Penalty.* Any person, firm or corporation violating any of the provisions of this article commits a Class C infraction and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Ord. 4-80, passed - -)

Street Excavation

ARTICLE 2: STREET MAINTENANCE

Section 1. It shall be unlawful to erect, construct, cause, permit, keep or maintain within the limits of the town any structure or anything whatsoever which for any reason:

1) Restricts the free movement of vehicles on the public streets in and about the town by creating additional entrances to and from said streets over those presently existing or prevents or makes impractical the use by the general public of existing parking facilities as heretofore provided and for which parking meters have been erected;

2) Interferes with the right of the town to receive income from the existing parking meters; or

3) Involves the cutting or opening of existing curbs or the widening of existing openings in existing curbs, except as hereinafter provided.

Section 2. No person shall cut, change or alter any, curb or sidewalk in the town without the permission of the town.

Section 3. Any cutting, changing or altering of any curb or sidewalk shall be done only after application to and approval by the Council. Said application shall include plans and specifications of the work intended to be done in relationship to said cutting, changing or altering of and curb or sidewalk.

Section 4. It shall be unlawful to in any way obstruct, interfere with or make inconvenient the use of parking meters and the parking spaces provided therefor.

Section 5. The maintenance, causing or permitting any of the above named conditions by any person shall be deemed a nuisance as an obstruction and encumbrance to the public grounds of the town.
(Ord. 343, passed - -)

Section 6. Any person violating any of the provisions of this article commits a Class C infraction.
(Ord. 41-84, passed - -)

Street Maintenance

ARTICLE 3: RESERVED

Street Machinery

ARTICLE 4: TRAFFIC

SPEEDING REGULATIONS

Section 1. *Unique municipal interests and scope.* The speed laws and regulations of the state are not sufficient to address certain local needs for speed regulation, particularly in business, residential and school districts within the town. As such, this article is needed to address such local concerns and to develop procedures to enable municipal enforcement of local speed regulations. The procedure of enforcing speed regulation shall be pursuant to Sections 5, 6 and 7, and any section of the code inconsistent therewith shall not apply to speed regulation enforcement.

Section 2. *Speed limits in business, residential and school districts.* It shall be unlawful for any person to operate any motor vehicle along or upon any street or highway within the limits of the town at a greater speed than:

- 1) Twenty-five miles per hour in any business district of the town;
- 2) Twenty-five miles per hour in any residential district of the town;
- 3) Twenty miles per hour in the school district of the town; or
- 4) Fifteen miles per hour in any park or alley in the town unless otherwise marked.

Section 3. *Speed limit signs.* Appropriate signs shall be placed upon the approaches to the districts described in this article showing the appropriate speed limit for that district.

Section 4. *Penalties.*

1) Any person who violates any part of this article and is so cited by the Town Marshal, deputy or other law enforcement officer shall be assessed a fine of \$50, in addition to any court costs or fees assessed and/or collected by the County Clerk's office.

2) Any person who contests the citation at trial, hearing or other contested proceeding, shall be subject to an additional fee of \$250 based upon increased administrative costs and attorney fees, if that person is determined by a judge, jury, or applicable trier-of-fact, to have violated this section of the municipal code.

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Section 5. *Filing of summons and claim in County Superior Court.*

- 1) Consistent with the state statutes, the town shall cause a summons and appropriate citation form to be filed with the County Clerk of the Superior Court as soon after the issuance of the citation as reasonably possible.
- 2) The Town Marshal, deputy or other law enforcement officer shall provide a court date and time at which the person cited must appear, and such appearance may only be dispensed with if the person:
 - a) Tenders full payment to the County Clerk of the Superior Court for both the \$50 fine and any applicable court costs on or before such date/time;
 - b) The person enters into a deferral program with the town, by completing the deferral program agreement, and tendering full payment for the deferral program to the County Clerk of the Superior Court; or
 - c) The person obtains an order continuing the date/time signed by a judicial officer with requisite authority to grant a continuance of a proceeding in the County Superior Court.

Section 6. *Default judgment; reporting to Indiana Bureau of Motor Vehicles.*

- 1) In the event that the person fails to appear and pay the fine plus court costs, fails to complete the process of deferral, and fails to obtain a continuance of the hearing provided on the citation by the Town Marshal, deputy, or other law enforcement officer, default judgment shall be entered, a grace period of 30 days shall follow, and, if the fines and costs remain unpaid after 30 days, the Violations Bureau Clerk or Deputy Clerk shall report the judgment to the Indiana Bureau of Motor Vehicles, which shall be authorized to impose a suspension of the person=s driving privileges and any other applicable consequences.
- 2) In the event that the person voluntarily pays the fine and court costs on or before the date/time provided on the citation, then the town and/or the Violations Bureau Clerk shall report the judgment to the Indiana Bureau of Motor Vehicles and any other appropriate agency and adverse consequences to the person=s driving privileges, driving record, and insurance premiums could result.

Section 7. *Deferral program.*

- 1) The town shall offer a deferral program to each eligible person cited under this article. The deferral program will provide that the person not violate any local, state, or federal law or regulation for a period of six months, among other terms and conditions deemed appropriate by the town and consistent with the law. So long as the person does not violate the deferral agreement, the cause of action shall be dismissed as soon as reasonably possible after the expiration of the deferral period.
- 2) The town shall assess a minimum initial user=s fee of \$50.50, and a monthly user=s fee of \$60 (\$10/month), all of which is due, along with court costs and other applicable fees. As of the adoption

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of this article, the total deferral program fee would be \$190. However, court costs and other applicable fees are subject to change, and, as such, any increases in court costs and fees shall increase the total deferral program fee accordingly.

(Ord. 2014-1, passed 2- -2014)

TRAFFIC CONTROL REGULATIONS

Section 8. *Municipal interest and scope.* The traffic control devices laws and regulations of the state, including I.C. 9-21-8-41, do not specifically address or limit local traffic regulation by traffic control devices and specific needs and interests of municipalities in regulating compliance with traffic control devices, and, as such, it is appropriate that the town pass certain measures providing for such regulation on non-highways. The procedure outlined in Sections 14, 15 and 16 shall apply to all traffic control device ordinance violations and any other section of the code inconsistent therewith shall not be applicable.

Section 9. *Traffic control devices; instructions; extraordinary care; safety controls.*

1) A person who drives a vehicle or street car may not disobey the instructions of an official traffic control device placed in accordance with this article unless otherwise directed by a police officer.

2) All traffic shall observe and obey traffic control devices including signals, signs, and warnings, and all directions, signs, or warning devices that may be given or displayed by a law enforcement officer or flagman to safely control traffic movement at a worksite and promote safety at a worksite.

3) Residential districts have unique needs for the strict enforcement of and compliance with traffic control devices in order to ensure the safety of young children and families who may be pedestrians, bicycling, or otherwise using public ways recreationally or for other frequent and common purpose, and, as such, persons shall exhibit extraordinary care in such residential districts.

Section 10. *Definitions.* As used in article, ***TRAFFIC CONTROL DEVICES*** shall mean signs, signals, devices or markings which:

1) Designate through on all streets and highways of the town and order stop signs, flashing signals or yield signs erected at specified entrances thereto or designate any intersection as a stop intersection or a yield intersection;

2) Prohibit, restrict or regulate the operation of vehicles on any controlled-access on all streets and highways of the town or the use of any controlled-access on all streets and highways of the town by any vehicle, device moved by human power or pedestrian;

3) Authorize or restrict parking on all streets and highways of the town.

Section 11. *Traffic control device placement.* As defined in Section 10, all signs, signals, devices or

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markings shall be placed in such a position and sufficiently legible that to be seen by an ordinary observant person.

Section 12. *Traffic control device standards.* As defined in Section 10, all signs, signals, devices or markings shall be of the shapes and colors, and have the meanings as specified in the Indiana Uniform Act Regulating Traffic on Highways and shall apply to all vehicles, device moved by human power or pedestrians.

Section 13. *Penalties.*

1) Any person who violates any part of this article and is so cited by the Town Marshal, deputy, or other law enforcement officer may be assessed a fine of \$50, in addition to any court costs or fees assessed and/or collected by the County Clerk=s office.

2) Any person who contests the citation at trial, hearing, or other contested proceeding, shall be subject to an additional fee of \$250 based upon increased administrative costs and attorney fees, if that person is determined by a judge, jury, or applicable trier-of-fact, to have violated this article.

Section 14. *Filing of summons and claim in County Superior Court.*

1) Consistent with the state statutes, the town shall cause a summons and appropriate citation form to be filed with the County Clerk of the Superior Court, as soon after the issuance of the citation as reasonably possible.

2) The Town Marshal, deputy, or other law enforcement officer shall provide a court date and time at which the person cited must appear, and such appearance may only be dispensed with if the person:

a) Tenders full payment to the County Clerk of the Superior Court for both the \$50 fine and any applicable court costs on or before such date/time;

b) The person enters into a deferral program with the town, by completing the deferral program agreement and tendering full payment for the deferral program to the County Clerk of the Superior Court; or

c) The person obtains an order continuing the date/time signed by a judicial officer with requisite authority to grant a continuance of a proceeding in the County Superior Court.

Section 15. *Default judgment; reporting to Indiana Bureau of Motor Vehicles.*

1) In the event that the person fails to appear and pay the fine plus court costs, fails to complete the process of deferral, and fails to obtain a continuance of the hearing provided on the citation by the Town Marshal, deputy, or other law enforcement officer, default judgment shall be entered, a grace period of 30 days shall follow, and, if the fines and costs remain unpaid after 30 days, the Violations Bureau Clerk or Deputy Clerk shall report the judgment to the Indiana Bureau of Motor Vehicles, which

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shall be authorized to impose a suspension of the person=s driving privileges.

2) In the event that the person voluntarily pays the fine and court costs on or before the date/time provided on the citation, then the town and/or the Violations Bureau Clerk shall report the judgment to the Indiana Bureau of Motor Vehicles and any other appropriate agency, and adverse consequences to the person=s driving privileges, driving record, and insurance premiums could result.

Section 16. *Deferral program.*

1) The town shall offer a deferral program to each eligible person cited under this article. The deferral program will provide that the person not violate any local, state, or federal law or regulation for a period of six months, among other terms and conditions deemed appropriate by the municipality and consistent with the law. So long as the person does not violate the deferral agreement, the cause of action shall be dismissed as soon as reasonably possible after the expiration of the deferral period.

2) The town shall assess a minimum initial user=s fee of \$50.50, and a monthly user=s fee of \$60 (\$10/month), all of which is due, along with court costs and other applicable fees. As of the adoption of this article, the total deferral program fee would be \$190. However, court costs and other applicable fees are subject to change, and, as such, any increases in court costs and fees shall increase the total deferral program fee accordingly.

(Ord. 2014-2, passed 2-5-2014)

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ARTICLE 5: PARKING AND METERS

Section 1. Definitions. Whenever in this article the following terms are used, they shall have the meaning respectively ascribed to them in this section.

1) **OPERATOR.** Every individual who shall operate a vehicle as the owner thereof or as the agent, employee or the owner.

2) **PARKING.** The standing of a vehicle upon a street, whether such vehicle is occupied or not and whether such vehicle be accompanied or not by an operator for a period of time in excess of two minutes.

3) **PARKING METERS.** A mechanical device located upon a public street or sidewalk in a place regularly designed as a parking zone as hereinafter defined, which device shall record a certain number of minutes by the use of a clock mechanism determining the period of time for which parking privileges may be extended to the person so depositing a coin.

4) **PARKING METER ZONE.** A certain designated and marked off section of the public street within the marked boundaries where the vehicle may be temporarily parked and allowed to remain for such a period of time as the parking meter attached thereto may indicate.

5) **PERSON.** Any individual, firm, copartnership or corporation.

6) **ROADWAY.** The portion of a street between the regularly established curb lines.

7) **SIDEWALK.** The portion of a street between the curb lines and the adjacent property lines.

8) **STREET.** Any public street, avenue, road, boulevard, highway or other public place located in the town and established for the use of vehicles.

9) **VEHICLE.** Any person or property may be transported upon a public highway except those operated upon rails and permanent tracks.

(Ord. 279, passed - -)

Section 2. Parking meter zones as hereinabove described are hereby created on the following streets of the town:

1) Both sides of Washington Street from Main Street to Spring Street;

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- 2) East side of Washington to entrance of the Post Office;
 - 3) Both sides of Franklin Street from Spring Street to Main Street;
 - 4) Both sides of North Franklin Street from Main Street to Indiana Avenue;
 - 5) Both sides of South Franklin Street from Spring Street to West Mechanic Street;
 - 6) Both sides of Main Street from Washington Street running west to Jefferson Street;
 - 7) North side of East Spring Street to Judge Street; and
 - 8) Both sides of Spring Street from Washington Street to Franklin Street and the south side of West Spring Street to Jefferson Street.
- (Ord. 2005-02, passed 3-28-2005)

Section 3. The Council is hereby authorized and directed to cause parking meters to be installed and operated in said parking meter zones hereby or thereafter established in such numbers and in such places as, its judgment, will be necessary to the regulation, control, and inspection of the parking of vehicles less therein. Said Council may make such reservation of Aloading zones@ and regulate their use for commercial vehicles as it deems necessary from time to time hereafter.

Section 4. Parking meters installed in parking meter zones shall be installed upon the curb immediately adjacent to the individual parking spaces hereinafter described and each parking meter shall be so constructed and adjusted as to show when properly operated as signal that the space adjacent to which it is installed is or is not legally in use.

Section 5. The Council shall have lines or markings painted upon the curb or street adjacent to each parking meter, designating the parking space for which said meter is to be used, and each vehicle parked adjacent to any parking meter shall park within said lines or markings. It shall be unlawful to park any vehicle across any such line or marking or to park a vehicle in such a position that it shall not be entirely within the space designated by such lines or markings.

(Ord. 279, passed - -)

Section 6. It shall be unlawful for any person to park or allow to be parked any vehicle registered in his or her name or operated or controlled by him or her to be upon any street within any parking meter zone in any space adjacent to which a parking meter is installed, anytime during which the other is showing a signal indicating that such space is illegally in use, other than such time is necessary to operate the meter to show legal parking except between the hours of 4:00 p.m. in the evening until 8:00 a.m. the following morning of each weekday. The provisions of this article shall not apply between the hours of 4:00 p.m. Friday to 8:00 a.m. the following Monday. The provisions of this article shall also not apply between the hours of 9:00 p.m. Friday. The provisions of this article shall not apply on legal holidays.

(Ord. 2000-09, passed 7-5-2000)

Section 7. Parking meters, when installed and properly operated, shall be adjusted as to show legal

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parking during a period of 15 minutes upon and after the deposit therein of a United States dime and one hour upon and after a deposit of a United States quarter.

(Ord. 2005-02, passed 3-28-2005)

Section 8. It shall be unlawful to deposit or cause to be deposited in any parking meter any slug, device or metallic substitute for a coin of the United States.

Section 9. It shall be unlawful for any unauthorized person to open or for any person to deface, injure, tamper with or willfully break, destroy or impair the usefulness of any parking meter installed pursuant to this article or to hitch any animals thereto.

Section 10. It shall be the duty of the Clerk-Treasurer to cause to be kept an account of all violations of this article.

1) It shall cause to be kept an account of and report of the number of each parking meter which indicates that the vehicle occupying the parking space adjacent to such parking meter has been parked in violation of any of the provisions of this article, the date and hour of such violation, the make and the state license number of such vehicle, and any other facts or knowledge of which is necessary to a thorough understanding of the circumstances attending such violation.

(Ord. 279, passed - -)

2) It shall cause to be attached to such vehicle a notice stating that it has been parked in violation of this article and instruction to the owner or operator to report to the Clerk-Treasurer in regard to such violation. The owner or operator shall, within 48 hours after the time when such notice was attached to such vehicle, pay the Clerk-Treasurer in full satisfaction of each violation the sum of \$5. After 48 hours after the time when such notice was attached to such vehicle, but within 60 days after the time when such notice was attached to such vehicle, the owner or operator shall pay the Clerk-Treasurer in full satisfaction of each violation the sum of \$10.

3) It shall cause to be attached to such a vehicle stating that it has been parked in violation of this article; parking over lines, parking in yellow zone, parking in no parking zone, blocking the sidewalk, overtime parking in posted zone. The owner and operator shall, within 48 hours after the time when such notice was attached to such vehicle, pay in full satisfaction of each violation the sum of \$8. After 48 hours after the time when such notice was attached to such vehicle, the owner or operator shall pay the Violation Clerk in full satisfaction the amount of \$16.

4) Vehicles parked in designated handicap parking zones displaying a valid handicap license plate, decal, tag or card may park free at the designated posted parking spot. The fine for parking in a handicap parking spot without a valid license plate, decal tag or card the owner or operator shall, within 48 hours after the time when such notice was attached to the vehicle, pay in full satisfaction of the violation the sum of \$25.

5) Handicap parking spaces on East Spring Street, Washington Street and Franklin Street will have a two-hour parking time limit.

6) Two parking spaces in front of 12 Main Street will have a 15 minute parking limit.

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(Ord. 279-A2, passed - -; Ord. 2005-02, passed 3-28-2005)

7) For the purpose of this article, failure to deposit coins in said parking meters for each two hour violation shall constitute separate offenses hereunder and be subject to the terms hereof as separate offenses.

(Ord. 279, passed - -; Ord. 2008-02, passed 4-1-2008)

8) The failure of such owner or operator to make such payment provided herein in Section 10(2) within such period of 60 days after the time when such notice was attached to such vehicle shall render such owner or operator subject to the penalties of Section 11 provided for violation of the provisions of this article.

(Ord. 279-A2, passed - -)

Section 11. Any person who shall violate any of the provisions of said Ord. 279 of the town, and any person who aids, abets or assists therein, shall, upon conviction be fined in any sum not exceeding \$10 for each violation.

(Ord. 281, passed - -)

Section 12. The specified coin, coins or tokens required to be deposited in parking meters as provided herein are hereby levied and assessed as fees to provide for the proper regulation and control of traffic upon the public streets and also the cost of supervision and regulating the parking of vehicles in the parking meter zones created hereby and to cover the cost of purchasing, acquiring, installation, operation, maintenance, supervision, regulation and control of the parking meters described herein.

Section 13.

1) The amount of the coins required to be deposited in parking meters as provided herein is hereby levied and assessed as a fee to provide for the proper regulation, control, and inspection of traffic upon the public streets and to cover the cost of supervising, regulating, and inspecting the parking of vehicles in the parking meter zones provided for herein, the cost of placing and maintaining lines or markings designating parking spaces in parking meter zones, and the cost of the purchase, supervision, protection, inspection, installation, operation maintenance, control, and use of the parking meters installed hereunder, and the special fund in which such fees shall be placed shall be devoted exclusively to those purposes.

2) All penalty fees collected hereunder shall be deposited to the same purpose. Any monies over and above that required to provide maintain and operate said parking meters and all monies collected from said mechanical parking devices, shall be deposited with the Clerk-Treasurer of the town to the credit of said town in a special fund, which said special fund shall be disbursed and paid out only under the orders and directions of the Council as provided for and for the purposes as set out in Chapter 23 of the Acts of the General Assembly of the State for the year of 1949.

Section 14. It shall be the duty of the Council to designate some person or persons to make regular collections of the monies deposited in said parking meters and to deliver said monies to the Clerk-Treasurer of said town. It shall be the duty of the said Clerk-Treasurer to count the money and place it in

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a special fund to be known as the "Parking Meter Fund" which fund shall be used exclusively for the purposes specified in Section 12 and 13 of the article and as provided for in Chapter 23 of the Acts of the General Assembly of the state of Indiana for the year 1949. Such person or persons making said collection shall be bonded in the sum of \$1,000 to insure the faithful performance of his or her duties.
(Ord. 279, passed - -)

Parking and Meters

ARTICLE 6: PARKING RESTRICTIONS

Section 1. As used in this article, the following terms shall have the following meanings:

- 1) **ALLEY.** A public way within a block, generally giving access to the rear of lots or buildings, and not used for general traffic circulation.
- 2) **CURB.** The lateral boundary of the roadway whether such curb is marked by curbing construction or not so marked.
- 3) **DRIVER.** Every person who drives or is in actual physical control of a vehicle.
- 4) **INTERSECTION.** The area embraced within the prolongation of the property lines of two or more streets which join at an angled whether not such streets cross.
- 5) **PARK.** To stand a vehicle whether occupied or not, for a period of time greater than is reasonably necessary for the actual loading and unloading.
- 6) **RIGHT-OF-WAY.** The privilege of the immediate use of the roadway.
- 7) **SIDEWALK.** The portion of a street between the curb line or roadway and the adjacent property line designated for pedestrian use.
- 8) **STOP.** When required, complete cessation of movement.
- 9) **STREET** or **HIGHWAY.** The entire width between property lines or every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular traffic.
- 10) **TRAFFIC.** Pedestrians, ridden or herded animals, vehicles and other conveyances, whether single or together, while using any highway for the purpose of travel.
- 11) **VEHICLE.** Every device in, upon or by which any person or property is or may be transported or drawn upon a highway except devices moving by human power or used exclusively upon stationary reels or tracks.

Parking Restrictions

12) ***YIELD RIGHT-OF-WAY***. When required by an official sign, means the act of granting the privilege of the immediate use of the intersecting roadway to traffic within the intersection and two vehicles approaching from the right or left, provided that when the roadway is clear the vehicle may proceed into the intersection.

Section 2. The driver of a vehicle on a street which is not a preferential street shall stop at an intersection with preferential street and shall yield the right of way to vehicles on the preferential street which have entered the intersection or which are approaching so close on a preferential street as to constitute an immediate hazard.

Section 3. The following streets are designated as preferential:

- 1) South Street at its intersection with Cleveland Street, Lewis Street, Jefferson Street, Marshall Lane and Judge Street;
- 2) Mechanic Street at its intersection with Jefferson Street and Judge Street;
- 3) Spring Street at its intersection with Park Lane, Harrison Street, John Street, Lewis Street, Jefferson Street, Judge Street, Cold Springs Road and Lester Street;
- 4) Indiana Avenue at its intersection with Jefferson Street and Judge Street;
- 5) Turner Street at its intersection with Harrison Street;
- 6) Church Street at its intersection with Judge Street;
- 7) Grove Street at its intersection with Cavins Street;
- 8) Cavins Street at its intersection with Judge Street;
- 9) Judge Street at its intersection with Grove Street;
- 10) Sunset Drive at its intersection with Lee Street;
- 11) Park Lane at its intersection with Indiana Avenue;
- 12) Harrison Street at its intersection with Indiana Avenue;
- 13) Cleveland Street at its intersection with Indiana Avenue and David Drive;
- 14) John Street at its intersection with Mechanic Street, Indiana Avenue, Douglas Street, Duncan Street, and Cavins Lane;
- 15) Lewis Street at its intersection with Mechanic Street, Stark Street, Gilliland Street and Post Street;

Parking Restrictions

16) Seminary Street at its intersection with South Street, Mechanic Street, Spring Street, Indiana Avenue, Mill Street, Duncan Street and Davis Street;

17) Franklin Street at its intersection with South Street, Spring Street, Indiana Avenue, Mill Street, Duncan Street, North Street and Davis Street;

18) Cold Springs Road at its intersection with Mechanic Street, Indiana Avenue and Church Street;

19) Main Street at its intersection with Park Lane, Harrison Street, Cleveland Street, John Street, Lewis Street, Seminary Street, Jefferson Street, Judge Street, Cold Springs Road, Eastview Drive, Nancy Avenue and Lester Street;

20) Washington Street at its intersection with South Street, Mechanic Street, Spring Street, Indiana Avenue, Church Street, Franklin Street, Cavins Street, Honeysuckle Lane, Sand Road, Laura Lane, Davis Street, North Street and Duncan Street;

21) Shyla Lane at its intersection with Cleveland Street and Forrest Drive;

22) Locust Street at its intersection with Forrest Drive, Kennedy Drive and Wilson Drive;

23) Lincoln Road at its intersection with Locust Drive;

24) Laura Lane at its intersection with Hoosier Lane, Hillside Drive and Dogwood Lane;

25) First Street at its intersection with AB@ Street;

26) Gilliland Street at its intersection with Jefferson Street;

27) Judson Street at its intersection with Jefferson Street and Washington Street;

28) Jefferson Street at its intersection with Duncan Street, Davis Street and North Street;

29) Mill Street at its intersection with Jefferson Street and Washington Street;

30) Davis Street at its intersection with John Street, Osborne Lane and Cleveland Street; and

31) Main Street and Washington Street are each preferential streets.
(Ord.12-88, passed 7-6-2-1985; Ord. 2001-10, passed 7-5-2001; Ord. 2001-14, passed 11-7-2001)

Section 4. It shall be unlawful to operate any vehicle on any street or alley designated as a one-way street or alley by article in any direction other than that so designated.

Section 5. The following streets are designated as one-way streets:

Parking Restrictions

1) John Street, between Main Street and Turner Street. Vehicular traffic on this portion of John Street shall proceed in a northerly direction; and

2) West South Street between South John Street and South Cleveland Street. Vehicular traffic on this portion of West South Street shall proceed only in a westerly direction.
(Ord. 2008-07, passed 11-18-2008)

Section 6.

1) All traffic shall stop at the following intersections of streets:

- a) Cleveland Street and Turner Street;
- b) John Street and Turner Street;
- c) Franklin Street and South Street;
- d) Franklin Street and North Street;
- e) David Drive and Cleveland Drive;
- f) Spring Street and Harrison Street;
- g) South Street and John Street; and
- h) Franklin Street and Mechanic Street.

2) The following is designated as a three-way stop intersection: South Lewis Street intersecting with Railroad Street.
(Ord. 2001-15, passed 11-7-2001; Ord. 2008-07, passed 11-18-2008)

Section 7. The driver of a vehicle shall stop in obedience to a stop sign at an intersection where a stop sign is erected at one or more entrances thereto, and shall proceed cautiously yielding to the vehicles not so obliged to stop which are within the intersection or approaching so close as to constitute an immediate hazard, unless traffic at such intersection is controlled by a police officer on duty in which event the directions of the police officer shall be complied with.

Section 8. The Street Commissioner or any other person designated by the Town Council President shall post or cause to be posted suitable signs for all such preferential streets, one-way streets, and stop intersections.

Section 9. A vehicle being operated in either a westerly or easterly direction on Davis Street shall only proceed at the intersection with Seminary Street by making a right turn.

Parking Restrictions

Section 10. Any person, firm or corporation violating any of the provisions of this article commits a Class C infraction.
(Ord. 2000-06, passed - -)

Parking Restrictions

ARTICLE 7: PARKING ON SIDEWALKS

Section 1.

1) *Definitions.* Whenever in this section, the following terms are used, they shall have the meaning respectively ascribed to them in this section.

a) **OPERATOR.** Every individual who shall operate a vehicle as the owner thereof or as the agent, employee or permittee of the owner.

b) **PARKING.** The standing of a vehicle, whether such vehicle is occupied or not.

c) **PERSON.** Any individual, firm, copartnership or corporation.

d) **ROADWAY.** The portion of a street between the regularly established curb lines.

e) **SIDEWALK.** The portion of a street between the curb lines and the adjacent property lines.

f) **STREET.** The word "street" shall mean any public street, avenue, road, boulevard, highway or other public place located in the town and established for the use of vehicles.

g) **VEHICLE.** Any device by which any person or property may be transported upon a public highway, except those operated upon rails and permanent tracks.

Section 2. It shall be unlawful for any person or operator to park all or any part of a vehicle upon any sidewalk in the town. Additionally, it shall be unlawful for any person or operator to park all or any part of a vehicle in a space designated as a No Parking space, whether indicated by a No Parking sign, by yellow paint upon the adjacent curb or otherwise clearly designated as a No Parking space.
(Ord. 2012-01, passed 4-4-2012)

Section 3. Any person or operator who shall violate any of the provisions of this article shall be fined in any sum not exceeding \$10 for each and every such violation.
(Ord. 294, passed - -)

Parking on Sidewalks

ARTICLE 8: PARKING OF TRUCKS

Section 1. Trucks, trailers, buses or other motor vehicles with a rated load capacity of over one ton shall not be parked for periods of more than two hours at any one time on the public streets of said town at any place in the residential district thereof where parking is not regulated by meters.

Section 2. Any person, firm or corporation violating any of the provisions of this article shall be guilty of a misdemeanor and upon conviction of such violation shall be fined in an amount not exceeding \$10 for each violation.

Section 3. The continuing violation of this article by any person, firm or corporation shall be deemed a nuisance in which case the provisions of this article may be enforced additionally by injunction.
(Ord. 73-103, passed - -)

Parking of Trucks

ARTICLE 9: PARKING ON CERTAIN STREETS

Section 1. As used in this article, the following terms shall have the following meanings.

- 1) **ALLEY.** A public way within a block, generally giving access to the rear of lots or buildings and not used for general traffic circulation.
- 2) **BICYCLE.** Any two or three wheeled vehicle powered by human muscle power only.
- 3) **CROSSWALK.** The portion of the roadway included within the prolongation of the sidewalk lines at street intersections.
- 4) **CURB.** The lateral boundary of the roadway, whether such curb is marked by curbing construction or not as marked.
- 5) **DRIVER.** Every person who drives or is in actual physical control of a vehicle.
- 6) **INTERSECTION.** The area embraced within the prolongation of the property lines of two or more streets which join at an angle, whether or not such streets cross.
- 7) **PARK.** To stand a vehicle, whether occupied or not, for a period of time greater than is reasonably necessary for the actual loading and unloading.
- 8) **PEDESTRIAN.** Any person afoot.
- 9) **RIGHT-OF-WAY.** The privilege of the immediate use of the roadway.
- 10) **SIDEWALK.** The portion of a street between the curb line or roadway and the adjacent property line designated for pedestrian use.
- 11) **STOP.** When required, complete cessation of movement.
- 12) **STREET** or **HIGHWAY.** The entire width between property lines or every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular traffic.
- 13) **TRAFFIC.** Pedestrians, ridden or herded animals, vehicles and other conveyances whether single or together while using any highway for the purpose of travel.

Parking on Certain Streets

14) **VEHICLE.** Every device in, upon or by which any person or property is or may be transported or drawn upon a highway except devices moving by human power or used exclusively upon stationary reels or tracks.

Section 2. At any time, it shall be unlawful to permit any vehicle to stand in any of the following places, except in compliance with the directions of a policeman:

- 1) In any intersection;
- 2) Within 15 feet of a fire hydrant;
- 3) Within 20 feet of the driveway entrance to the Fire Department station;
- 4) On any sidewalk;
- 5) On any place where official signs prohibit parking;
- 6) On the west side of Washington Street between North Street and Spring Street;
- 7) On the west side of Washington Street between Main Street and Indiana Avenue;
- 8) On the east side of Washington Street between Indiana Avenue and Cavins Street;
- 9) On the south side of West Main Street between the east curb of North Harrison Street to a point 130 feet east;
- 10) On the south side of West Main Street between the west curb line of John Street to a point 130 feet west;
- 11) On the north side of West Main Street between the west curb line of John Street to a point 90 feet west;
- 12) On the north side of West Main Street between the east curb of John Street to a point 75 feet east;
- 13) On the south side of west Main Street between John Street and Lewis Street;
- 14) On the north side of West Main Street between Seminary Street and Jefferson Street;
- 15) On the south side of East Main Street between the east curb of Cold Springs Road and a point 135 feet east;
- 16) On the south side of East Main Street between the west curb of Cold Springs Road and a point 175 feet west;

Parking on Certain Streets

- 17) On the north side of East Main Street between the west curb of Cold Springs Road at a point 70 feet west;
 - 18) On the north side of East Main Street between the west curb of Cold Springs Road at a point 195 feet east;
 - 19) On the south side of Indiana Avenue between Judge Street and Cold Springs Road;
 - 20) On the west side of Lewis Street between Main Street and Turner Street;
 - 21) On the east side of John Street between Main Street and Turner Street;
 - 22) On the west side of Jefferson Street between Mechanic Street and South Street;
 - 23) On either side of Eastview Avenue;
 - 24) On the west side of Judge Street between Main Street and Spring Street;
 - 25) On the east side of Seminary Street between the railroad and Railroad Street;
 - 26) On the west side of Judge Street between Main Street and Indiana Avenue;
 - 27) On the south side of East Spring Street between South Washington and Judge Street;
 - 28) On West Main Street from Jefferson Street to the western boundary of the town limit;
 - 29) On East Main Street from Judge Street to the eastern boundary of the town limit;
 - 30) On the south side of South Street from Washington Street to Seminary Street;
 - 31) On the south side of South Street from Lewis Street to John Street; and
 - 32) On the south side of Mechanic Street from South Seminary Street to John Street.
- (Ord. 95-2, passed 5-3-1995; Ord. 2000-05, passed 7-5-2000; Ord. 2003-02, passed 1-24-2003; Ord. 2008-04, passed 8-5-2008)

Section 3. No vehicle shall be parked with the left side of such vehicle next to the curb, except on one-way streets, and it shall be unlawful to stand or park any vehicle in a street other than parallel with the curb and with the two right wheels of the vehicle within 12 inches of the regularly established curb line, except upon those streets which have been marked for angle parking. Vehicles shall be parked at the angle to the curb indicated by such marks.

Section 4. It shall be unlawful to park any vehicle upon any street for the purpose of displaying it for sale or to park any vehicle upon any business street from which vehicle merchandise is peddled.

Parking on Certain Streets

Section 5. It shall be unlawful for the driver of a vehicle to stand a passenger vehicle for a period of time longer than is necessary for the loading or unloading of passengers, not to exceed three minutes, and for the driver to stand any freight carrying vehicles for a period of time longer than is necessary to load or unload and deliver materials, not to exceed 30 minutes, in any place designated by the Town Council President and the Council as a loading zone and marked as such.

Section 6. No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for the free movement of vehicular traffic and no person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property.

Section 7. The Marshal or any other person authorized by the Town Council President shall cause signs to be posted in all areas where parking is limited or prohibited, indicating such limitations or prohibitions.

Section 8.

1) It is unlawful for any person to park or leave standing any vehicle in a stall or space designed for physically handicapped persons if immediately adjacent to and visible from such stall or space there is posted a sign known as the international wheelchair symbol consisting of a profile view of a stylized wheelchair with occupant in white on a blue background, unless the driver of or a passenger in the car is disabled.

2) As used in this article, **ADISABLED@** means either having a physical condition requiring the use of a wheelchair, artificial limb, cane or walker or having a physical disease making it difficult or impossible to walk more than 25 feet without shortness of breath or danger of impairment of health. A certificate by a person licensed to practice the healing arts in this state shall be acceptable by the town as evidence under this article.

Section 9. It shall be unlawful for any person to park or allow to be parked any registered vehicle in their name or operated or controlled by them during the first full weekend in October or date designated for Apple Festival on the following streets:

- 1) Thursday through Saturday:
 - a) Lee Street to Sunset Drive;
 - b) Harrison Street from West Main Street to West Spring Street; and
 - c) South Park Lane from West Main Street to Lee Street.
- 2) Friday through Sunday; West Spring Street from South Franklin Street to Lee/South Park Lane;
- 3) Saturday during 5K and car show:

Parking on Certain Streets

- a) South Franklin Street from West Main Street to Mechanic Street; and
 - b) West Spring Street from South Washington Street to South Franklin Street, allowing traffic to businesses.
- 4) Sunday:
- a) South Franklin Street from intersection of West Spring Street to Mill Street; and
 - b) Cleveland Street from West Main Street to West Spring Street.
- (Ord. 2012-06, passed 9-17-2012)

Section 10. Any person, firm or corporation violating any of the provisions of this article commits a Class C infraction.

Parking on Certain Streets

ARTICLE 10: TOWING OF VEHICLES

Section 1. Any vehicle found on the public streets of the town in violation of existing traffic and parking ordinances at a time when there are then existing against the owner of said vehicle one or more traffic or parking violation tickets unpaid for a period of more than 48 hours from the time of issuance, may be towed away at the direction of any police officer of said town and impounded until all of said existing violations are paid in full.

Section 2. Any person who shall violate the provisions of this article shall be required to pay the costs of such towing and storage.

Section 3. No right of action shall accrue in favor of any such owner against any person, firm or corporation for removing any such vehicle as provided in this article.
(Ord. 359, passed - -)

Towing of Vehicles

ARTICLE 11: ENCROACHMENT STRUCTURE UPON PUBLIC PROPERTY

Section 1.

1) Any person desiring to erect or construct an encroachment structure or desiring to maintain an existing encroachment structure upon public property must first obtain an encroachment permit therefor.

2) An encroachment permit may be obtained by filing a written application with the Clerk-Treasurer on a form supplied through the office of the Clerk-Treasurer. The application shall state the name and address of the owner of the adjacent real property benefitted by the encroachment and shall be accompanied by a legal description of the adjacent real property benefitted by the encroachment, a one-sheet plot plan illustrating the proposed structure and a written justification as to the need for the encroachment.

Section 2. Each applicant for an encroachment permit shall, at the time of filing the application, pay a non-refundable application fee of \$50.

Section 3. The Clerk-Treasurer shall refer the application to the Council for action at its next scheduled meeting.

Section 4. Encroachment structures include any power, pole, poleline, pipe, pipeline, fence, billboard, stand, a built porch or any other object or structure which is placed in, upon, under or over any portion of any public street, public alley, public highway or other public property.

Section 5. If, at any time, it is determined by the Council that the encroachment structure has been detrimental to the health, safety or welfare of the community or the surrounding property, interferes with access to any public place or if a public works project or development required removal of the encroachment, the encroachment permit granted hereunder shall be revoked by the Council upon providing the permittee 30 days notice thereof.

Section 6. A violation of this article shall be a Class C infraction.
(Ord. 34-84, passed - -)

Encroachment Structure upon Public Property

ARTICLE 12: RESERVED

Railroads

ARTICLE 13: PUBLIC AND PRIVATE SEWERS AND DRAINS

Section 1. Definitions. Unless otherwise defined herein, terms shall be as adopted in the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and American Water Works Association, and the Water Pollution Control Federation and as set forth in 40 C.F.R. part 136. Waste constituents and characteristics shall be measured by *Standard Methods* unless a mutually agreed upon acceptable alternative method is adopted or in such other method established by state or federal regulatory agencies. Monitoring and metering will be conducted by customarily accepted method.

1) **BENEFICIAL USES.** These uses include, but are not limited to domestic, municipal, agricultural and industrial use, power generation, recreation, aesthetic enjoyment, navigation, and the preservation and enhancement of fish, wildlife and other aquatic resources or reserves, and other uses, both tangible or intangible, as specified by state or federal law.

2) **BIOCHEMICAL OXYGEN DEMAND (or BOD)** of sewage, sewage effluent, polluted waters or industrial wastes shall mean the quantity of dissolved oxygen in milligrams per liter required during stabilization of the decomposable organic matter by aerobic biochemical action under standard laboratory procedures for five days at 20°C. The laboratory determinations of **BOD** shall be made in accordance with procedures set forth in *Standard Methods*, therein and conventionally referred to as **BOD5**.

3) **BUILDING DRAIN.** The lowest horizontal piping of a building drainage system that receives the discharge from soil pipes, waste pipes and other drainage pipes inside a building and conveys it to a point outside of the building.

4) **TOWN.** The Town of Bloomfield, Indiana.

5) **CHEMICAL OXYGEN DEMAND (or COD)** of sewage, sewage effluent, polluted waters or industrial wastes is a measure of the oxygen equivalent of that portion of the organic matter in a sample that is susceptible to oxidation by a strong chemical oxidant. The laboratory determination shall be made in accordance with procedures set forth in *Standard Methods*.

6) **COMBINED SEWER.** A sewer that carries storm, surface or ground water runoff in addition to sewage.

7) **COMPATIBLE POLLUTANTS.** Wastewater having or containing:

a) Measurable biochemical oxygen demand;

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- b) Suspended solids;
 - c) pH;
 - d) Fecal coliform bacteria; or
 - e) Additional pollutants identified or defined in the town=s National Pollutant Discharge Elimination System (NPDES) permit or by the State or Board.
- 8) **CONSTITUENTS AND CHARACTERISTICS (of WASTEWATER).** The chemical, physical, bacteriological and radiological properties, including volume, flow rate and such other properties that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.
- 9) **COUNCIL.** The Town Council of the Town of Bloomfield. It is the governing body of the sewerage system of the town, which system is a public utility.
- 10) **EFFLUENT.** The water, together with any wastes that may be present, flowing out of a drain, sewer, receptacle or outlet
- 11) **GARBAGE.** Any solid wastes from the preparation, cooking or dispensing of food or from the handling, storage or sale of produce.
- 12) **INCOMPATIBLE POLLUTANTS.** Any pollutants that are not compatible pollutants.
- 13) **INDUSTRIAL WASTES.** Any solid, liquid or gaseous substance or form of energy discharged, permitted to flow into or enter the sewerage system or ground from an industrial, manufacturing, commercial or business process or from the development, recovery or processing of any natural resource carried on by any person and shall further mean any waste from an industrial user, but not including sanitary sewage or storm water.
- 14) **INFILTRATION.** The water entering the sewerage system directly or via private sewers, building drains and building sewers connected therewith from the ground through such means as, but not limited to, defective pipe joints, connections or manhole walls.
- 15) **INSPECTOR.** A person authorized by the Council or the Superintendent to perform inspection duties assigned by them or him or her.
- 16) **LATERAL SEWER.** The extension from the building drain to the sewerage system or other place of disposal.
- 17) **MAJOR CONTRIBUTOR.** A user discharging or introducing into the sewerage system:
- a) A flow of more than 50,000 gallons per average workday;

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- b) A toxic pollutant in toxic amounts as defined in 33 U.S.C. 1317 (' 307 U.S. Pub. L. No. 92-500) as now adopted or as hereafter amended;
- c) Any substance having significant impact, either singly or in combination with other contributors, on the wastewater treatment plant or the quality of its effluent; or
- d) Any substance unusual or unique in quality or quantity requiring special attention or processing in order to effect proper wastewater treatment.
- 18) **MAY.** That the act referred to is both permissible and approved.
- 19) **NPDES PERMIT.** National Pollutant Discharge Elimination System permit now or hereafter held by the Town and setting forth conditions for the discharge of any pollutants or combination of pollutants.
- 20) **NUISANCE.** Any substance that is injurious to health or offensive to the senses or an obstruction to the free use of property so as to interfere with the comfort or enjoyment of life or property.
- 21) **PERSON.** Any natural person or public or private corporation, association, society, group, firm or any other entity whatever.
- 22) **pH.** The conventional scientific degree of acidity or alkalinity.
- 23) **POLLUTION.** An alteration of the quality of water by waste, contaminants or pollutants to a degree that renders such water unfit for beneficial uses.
- 24) **PUBLIC SEWER.** A sewer constructed, installed, maintained, operated or owned by the Town. A county drain installed for the purpose of carrying surface water run-off and subsoil drainage shall not be considered nor used as a **PUBLIC SEWER** under this definition.
- 25) **RECEIVING SEWER SYSTEM.** The Bloomfield Municipal Sewer System.
- 26) **SANITARY SEWAGE.** Sewage such as and having the characteristics of domestic sewage from dwellings (including apartment houses and hotels), office buildings, factories or institutions, free from storm, ground and surface water and industrial wastes.
- 27) **SEWER.** A pipe or conduit laid for carrying sewage or other liquids and solids suspended or entrained therein.
- 28) **SEWERAGE SYSTEM.** The network of publically owned sewers and appurtenances used for collection, transporting, and pumping wastewater to the treatment plant.
- 29) **SHALL.** The act referred to is mandatory.
- 30) **SHREDDED GARBAGE.** Garbage that is shredded to such a degree that all particles will

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be carried freely in suspension under the conditions normally prevailing in the sewerage system, with no particle being greater than one-half inch in dimension.

31) **SUPERINTENDENT.** The Superintendent subject to the control of the Council in all matters of the Sewer Department

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

33) **TOWN.** The Town of Bloomfield, Indiana.

34) **USER.** A person who introduces into or discharges into, including both the owner and occupant of real estate from which is introduced or discharged into the sewerage system, any substance whatever.

35) **WASTE.** Sanitary sewage and any and all other waste substances, liquid, solid, gaseous or radioactive, associated with human habitation or of human or animal origin or from any producing, processing, manufacturing or industrial operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for purposes of, disposal.

36) **WASTEWATER.** The water-carried waste from residences, business buildings, institutions and industrial establishments, singular or in any combination, together with such ground, surface and storm waters as may be present.

37) **WASTEWATER TREATMENT PLANT.** Any arrangement of devices and structures used by the town for treatment and disposing of sewage, sludge, and other sewage constituents and products.

Section 2. *By-laws and regulations of the Town Council.* The Council may adopt and enforce such reasonable regulations not in conflict herewith as it may deem necessary for the safe, economical and efficient management of the town's sewerage system and for the construction and use of building (or house) lateral sewers and connections to the sewerage system, which regulations may include limitations of or prohibition of introduction of storm water, surface water, and ground water into the sewerage system.

Section 3. *Damaging, defacing, and the like of sewerage works property.* A person shall not maliciously, willfully or recklessly break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment that is a part of the town sewerage system.

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Section 4. *Right of entry of superintendent and inspector to any premises.* The Superintendent, inspector or other duly authorized employees of the town, upon reasonable notice to any person who is an owner, tenant or occupant of any real estate, is empowered to enter, upon presentation of proper credentials, all premises for the purposes of inspection, observation, measuring, sampling and testing water, sewage, and industrial waste.

Section 5. *Failure to comply with the terms of this article*

1) *Accidental discharges.*

a) A user shall notify the Superintendent immediately upon accidentally discharging chemicals, corrosive substances or anything deleterious to the sewerage system or treatment process or wastewaters in violation of this article, to enable counter measures to be taken by the town to minimize damage to the sewerage system and treatment processes.

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

c) Such notification will not relieve users of liability for any expense, loss or damage to the sewerage system, treatment process, any fines or penalties imposed by the Council which expense, loss or damage shall be paid for by the user.

d) A notice shall be furnished and permanently posted advising designated responsible employees to call the Superintendent in case of accidental discharge in violation of this article.

2) *Continued failure to meet wastewater admissibility requirements of the terms of major contributor permits.* The Council shall have the following methods of recourse in the event of repeated or willful failure by a user to meet the wastewater admissibility requirements of this article. In addition, the town shall have and the Council may exercise all other legally available remedies:

a) *Submission of time schedule.* When the town finds that a discharge of wastewater has been taking place in violation of the admissibility requirements prescribed in Section 5 of this article or the provisions of a major contributor permit, the town may require the user to submit for approval a detailed time schedule of specific actions, acceptable to the Council, which the user shall take in order to prevent or correct a violation of requirements.

b) *Issuance of cease and desist orders.* When the town finds that a discharge of wastewater has taken place or is likely to take place in violation of the admissibility requirements of Section 5 of this article or of a major contributor permit, the Council may issue an order to cease and desist, and may direct that the user not complying with such requirements:

i) Comply forthwith;

ii) Comply with a time schedule set forth by the Council; or

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iii) Take appropriate remedial or preventive action.

3) *Injunction.* When the town finds that a discharge of wastewater is in violation of the admissibility requirements of Section 5 of this article or the provisions of a major contributor permit or otherwise causes or threatens to cause a condition of pollution or nuisance, the Council, on behalf of the town, may petition any court of proper jurisdiction for the issuance of a preliminary or permanent injunction or both, as may be appropriate, in restraining the continuance of such a discharge.

4) *Termination of service.* The town may revoke any major contributor permit or terminate or cause to be terminated wastewater service in whole or in part if a violation of any provision of this article or the major contributor permit is found to exist or if a discharge causes or threatens to cause a condition of pollution or nuisance as defined in this article or causes the town to violate the terms of its NPDES permit or any state or federal law or regulation.

5) *Administrative appeals.* Any user affected by any decision, action or determination, including cease and desist orders, made by the Superintendent, interpreting or implementing the provisions of this article, any permit issued herein or any regulation of the Council adopted pursuant hereto, may file with the Council a written request for review and reconsideration within ten days of such a decision, action or determination, setting forth in detail the facts supporting the user's request for reconsideration. The appeal, if reasonably possible, shall be heard by the Council within 30 days from the date of filing. The Superintendent's decision, action or determination shall remain in effect during such period of reconsideration, unless the Council otherwise determines on request of the user.

6) *General penalties: continuing violations.* The commission of any act prohibited by this article or by lawful order of the Superintendent or lawful order or regulation of the Council or the failure to perform without lawful order of the Superintendent or lawful order or regulation of the Council shall be a punishable violation of this article for which, unless there is another specific penalty provided, the penalty shall be a fine of not less than \$10 nor more than \$500. In the case of discharges into the sewerage system in violation of this article, each day of violation constitutes a separate offense.

7) *Falsifying of information.* A person shall not knowingly make or submit to the town a false statement, representation, record, report, plan or other document required to be filed hereunder or under a duly adopted regulation of the Council or voluntarily filed with the intent that the town rely thereon or falsify, tamper with or knowingly render inaccurate any monitoring, testing, measuring or timing device required or installed under their regulations.

Section 6. *Connection to sewerage system.*

1) *Privies, septic tanks, cesspools and the like.* Except as otherwise provided by the Council, the town or the state or any of its agencies, a person shall not construct or maintain a privy, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

2) *Required use of sewers.*

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a) The owner of all residential, commercial and industrial or other buildings or property used for human occupancy, employment or recreation situated within the town hereby is required to install suitable toilet facilities therein and to connect such facilities to a public sewer or a private sewer facility. Such connection shall be made to a public sewer except where there is no public sewer within 300 feet of such owner=s residence or business, as measured from the sewer line and the owner=s residence or business.

b) If a connection is made to a private sewage system as permitted herein and a public sewer later comes within this distance, a connection shall be made to the public sewer and the connection to the private sewage facility shall be abandoned.

c) It shall be a violation of this article not to make the connection required herein within 90 days after written notice to do so has been given to the owner by the town. Such notice may be given by delivery or by certified mail to the owner=s last known address. It shall be the responsibility of the user to bring the sewer line to the owner=s residence or business and it shall be the user=s responsibility to pay for the connection to the public sewer.

2) *Construction of building (or house) lateral sewers.* The size, shape, alignment, materials or construction of a building (or house) lateral sewer and the methods to be used in excavating, placing the pipe, jointing, testing and backfilling the trench shall conform to the requirements of the building and plumbing codes and other applicable rules and regulations of the town.

3) *Determining major contributors.* Each commercial and industrial user shall supply the town with information about expected wastewater constituents and characteristics to be used in determining whether or not the user will be a major contributor.

4) *Separate sewer requirements.* A separate and independent building (or house) lateral sewer shall be provided for every building (or house); except where one building (or house) stands at the rear of another on an interior lot and no private sewer is available or cannot be constructed to the rear building (or house) through an adjoining alley, court, yard or driveway. In such cases, the building (or house) lateral sewer from the front building (or house) may be extended to the rear building (or house) and the whole considered as one building (or house) lateral sewer.

5) *Use of old building (or house) lateral sewer for a new building (or house).* Old building (or house) lateral sewers may be used in connection with new buildings (or houses) only when they are determined, upon examination and test by the inspector, to meet all requirements of this article. Inspection fees shall be borne by the owner or occupant of the building or house.

6) *Elevation and location of building (or house) lateral sewer.* Whenever reasonably possible, the building (or house) lateral sewer shall be brought to the building (or house) at an elevation below the basement floor. In all buildings (or houses) in which any building (or house) drain is too low to permit gravity flow to the appropriate public sewer, wastewater carried by such building (or house) drain shall be lifted by an appropriate means and discharged to the building (or house) lateral sewer.

7) *Connection of downspouts, drains and the like.* No person shall connect, continue to

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connect or reconnect roof downspouts, footing drains, areaway drains, driveways, parking lots or other sources of surface runoff or groundwater to a building (or house) lateral sewer or building (or house) drain that is in turn connected directly or indirectly to the sewerage system.

8) *Inspection; supervision of connection.* The applicant for the building (or house) lateral sewer permit shall notify the Council or its designated representative when a building (or house) lateral sewer is ready for inspection and connection to the sewerage system. The inspection shall take place before the lateral sewer is covered. The connection shall be made under the supervision of the inspector or his or her representative using materials and techniques conforming to the requirements of the Council.

9) *Extensions outside of the town.* A person shall not directly or indirectly make any connections with or openings into the sewerage system for the purpose of serving any areas outside the corporate boundaries of the town without first securing a specific resolution of the Council describing the real estate and property to be served and authorizing such connection.

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

11) *Right to prohibit new connections.* The town shall have the right to prohibit new connections when the excess capacity of the sewerage system is deemed insufficient by the Council to accommodate the expected flow, BOD and/or suspended solids loading from the prospective sewer user.

Section 7. Private wells

1) *Registration of wells.* Every owner or occupant of real estate within the corporate limits of the town or real estate from which there is a lateral sewer into the sewerage system, on a form provided by the Council, shall report the existence of such well to the Clerk-Treasurer. The information furnished on such form by the owner or occupant shall include, among other items, the name of the owner and occupant of such real estate, the location on said real estate of such well, the size of the well pipe, the size (voltage, amperage and horsepower where ascertainable) of the well pump motor, and the purpose for which the well water is used by the owner, occupant or others.

2) *Inspection of wells.* The Council may direct the Superintendent, inspector or any other employee to enter upon private property for the purpose of inspecting to determine the existence of private wells, to oversee or to direct the installation of metering or timing devices and to read such meters and devices.

3) *Well digging.* Hereafter, a person shall not dig or drive a well within the town limits without first making application therefor to the Council, which application shall be on a form approved by the Council, showing all pertinent data regarding size and flow. The application shall be signed by both the installer of the well (the contractor or other person doing the work) and the owner or his or her agent (other than the installer). The failure to file such an application shall be a violation of this article.

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Section 8. Wastewater admissibility.

1) *Major contributor permits.*

a) Any industrial user and any other user on demand of the Council shall provide the town with sufficient information to determine if he or she is a major contributor.

b) Any user determined to be a major contributor shall be required to obtain a permit that describes the wastewater constituents and characteristics allowed and that sets forth the applicable surveillance schedule and the monitoring requirements the user shall be subject to in order to discharge into the sewerage system.

c) A major contributor permit shall be valid for four years unless processing changes are made that, in the opinion of the Superintendent or Council, alter the wastewater constituents and characteristics significantly. In the event of such a change, a new application shall be filed accordingly.

d) A permit may be renewed without reapplication at the end of four years at the discretion of the town.

e) Nothing in a major contributor permit shall constitute an exception to the prohibitions and limitations on wastewater admissibility as set forth herein. Major contributors are subject to all applicable fees, rates, and charges set forth in Section 5 of this article.

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

a) *Fees.* Permit fees for major contributors shall be as follows:

<i>Initial Major Contributor Permit</i>	<i>Fee</i>
Industries connected to sewerage works prior to the effective date of this article	\$100
Industries connected to sewerage works after the effective date of the article	\$1,000

3) *Surveillance of major contributors.* To establish a feasible surveillance schedule, the following classes of major contributors are formed:

<i>Minimum Class</i>	<i>Qualifications</i>	<i>Surveillance Schedule</i>
A	Flow 1,000 gallons per day (0.1 MGD) and greater per average work day	Quarterly
B	Flow from 0.05 MGD to 0.1 MGD per average work day or discharge with constituents or characteristics that result in	Semiannually

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	major contributor classifications	
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4) The surveillance period normally will be for a period of seven consecutive days but can be of longer or shorter duration at the discretion of the Council or Superintendent. In cases where the surveillance period extends for a greater number of consecutive days than seven, the town shall have the prerogative of selecting the seven consecutive days of its choice for establishing rates and charges as provided for in Section 7(3) of this article.

5) *Surveillance survey charge.* The charge for each surveillance survey shall be \$100 per day with a maximum charge for seven days of \$700.

6) *Monitoring of major contributors.*

a) A major contributor shall install at its own expense:

i) A suitable control manhole, together with such necessary appurtenances in or on each building lateral sewer to facilitate observation, sampling and measurement of the wastewater; and

ii) Such sampling devices as may be reasonably necessary, all unless otherwise instructed by the town. A user may be required by the town to install such manholes to verify the user=s status either as a major contributor or otherwise. Such manholes and sampling and testing devices shall be constructed and maintained to the town=s satisfaction at the expense of the user but shall be under the control of the town.

b) The town may provide monitoring equipment during a surveillance period for control manholes. Unless otherwise specified by the town, monitoring equipment shall include a device for automatically measuring flow and a device for automatically taking a composite sample of wastewater during a 24-hour period.

7) *Limitations on point of discharge.* No person shall discharge any substance directly into a manhole or other opening in the sewerage system other than through the approved building (or house) lateral sewer, except in accordance with the terms of this article or by express permission of the Council.

8) *Special agreements.* Special agreements and arrangements between the town and any person may be established by the Council within the terms and intent of this article when, in the opinion of the Council, unusual or extraordinary circumstances compel special terms and conditions whereby an unusual wastewater may be accepted for treatment, subject to payment of applicable fees.

9) *Admissibility - prohibitions on discharges.* No person shall discharge to the sewerage system wastes that cause, threaten to cause or are capable of causing either alone or by interaction with other substances:

a) A fire or explosion;

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- b) Obstruction of flow in the sewerage system or injury to the system or damage to the wastewater collection, treatment or disposal facilities;
- c) Danger to life or safety of personnel;
- d) A nuisance or hindrance of the effective maintenance or operation of the sewer system, such as through having an unusually strong or unpleasant odor;
- e) Air pollution by the release of toxic or unusually malodorous gases or malodorous gas-producing substances; or
- f) A failure to meet any limitations imposed by the treatment facilities of the Bloomfield Wastewater Treatment Plant.

10) *Admissibility - prohibition of unpolluted waters.* Unpolluted water, including, but not limited to town water, cooling water, process water or blowdown from cooling towers or evaporative coolers shall not be discharged through direct or indirect connection to the sewerage system for purposes of diluting wastewater in order to reduce sewer rates or charges of the user. Limitations on the amount of unpolluted water that is discharged shall be part of a major contributor=s permit.

11) *Admissibility - limitations on radioactive wastes.* No person shall discharge or cause to be discharged any radioactive waste into the sewerage system.

12) *Admissibility - limitations on the use of garbage grinders.* Only properly shredded garbage may be discharged into the sewerage system.

13) *Admissibility - limitations on wastewater strength.* All constituents and characteristics that singly or in combination may damage structures or interfere with treatment process include, but are not necessarily limited to, the constituents and characteristics, with maximum concentration shown below.

14) No person shall discharge any wastewater with:

- a) A BOD5 concentration in excess of 250 mg/l (milligrams per liter), except in the case of a major contributor;
- b) A suspended solids concentration in excess of 250 mg/l;
- c) A temperature higher than 150°F (65.5°C); and/or
- d) A pH lower than 6.0 or higher than 9.0.

15) No person shall discharge any wastewater containing concentration in excess of:

- a) 0.2 mg/l cadmium;
- b) 2.0 mg/l cooper;

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- c) 1.0 mg/l cyanide;
 - d) 2.0 mg/l lead;
 - e) 1.0 mg/l mercury;
 - f) 2.0 mg/l nickel;
 - g) 2.0 mg/l silver;
 - h) 2.0 mg/l total chromium;
 - i) 4.0 mg/l zinc;
 - j) 200 mg/l oil and grease (animal or vegetable origin);
 - k) 100 mg/l oil and grease (mineral or petroleum origin); and/or
 - l) 1.0 mg/l phenolic compounds which cannot be removed by the town=s wastewater treatment process.
- 16) No person shall discharge any wastewater that will cause the town to violate any conditions of its NPDES permit.
- 17) *Grease, oil and sand interceptors.* Interceptors shall be provided at:
- a) All restaurants; and
 - b) All industrial or commercial enterprises when, in the opinion of the town, they are necessary to contain grease, flammable wastes or sand and other harmful inert materials. All interceptors shall be approved by the town and shall be readily and easily accessible for cleaning and inspection.
- 18) *Liability for maintenance of pretreatment and other equipment.* Pretreatment or flow-equalizing facilities provided for any waters or wastes shall be maintained continuously in satisfactory and effective operation by the user at his, her or its expense and shall be open at all reasonable times to inspection and testing by the town.
- 19) *Right to reject waste.* The town shall have the right to reject waste and prohibit the introduction of rejected waste into the sewerage system or the town may require pretreatment of the waste when the strength or character of the waste could cause damage to or interfere with the operation of the sewerage system.
- 20) *Surcharge for strength of waste.* The town shall have the right to impose a surcharge for waste discharged into the sewerage system whose strength or character is such that the introduction of

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such waste into the sewerage system may cause additional costs to the system.

21) *Repeal of conflicting provisions.* All the provisions of any ordinance previously or now in existence and regulations that may be in conflict with this article hereby are repealed as of the date this article takes effect.

22) *Validation clause.* The invalidity of any section, sentence, clause or provision in this article shall not affect the validity of any other section, sentence, clause or provisions of this article that can be given effect without such invalid part or parts.

23) *General provisions.* The provisions of this article shall be in full force and effect from and after its passage and signing by the Town Council President.
(Ord. 2001-04, passed 4-4-2001)

Public and Private Sewers and Drains

ARTICLE 14: DRAINING OF SURFACE WATER

Section 1. It shall be unlawful for any person, firm or corporation to drain surface water, water from a natural stream or overflow water from a natural stream into the sanitary sewer system of the town.

Section 2. It shall be unlawful for any person, firm or corporation to have connected, to connect or permit to be connected a drain of any kind to the sanitary sewer system of the town which drain conducts or drains surface water, water from a natural stream or overflow water from a natural stream into the sanitary sewer system of said town.

Section 3. Surface water shall include, but not be limited to, rain water which falls on the roofs of buildings.

Section 4. Each day that water is unlawfully drained in the sanitary sewer system of said town as set out in Section 1 shall constitute a separate offense.

Section 5. Each day that a drain is unlawfully connected to the sanitary sewer system of said town shall constitute a separate offense.
(Ord. 306, passed - -)

Section 6. Any person, firm or corporation violating any of the provisions of this article commits a Class C infraction.
(Ord. 38-84, passed - -)

Draining of Surface Water

ARTICLE 15: SEWER RATES

Section 1. Unless the context specifically indicates otherwise, the meaning of the following terms as used in this article or as used in the rules and regulations adopted by the Council to implement the provisions of this article shall be those meanings set forth in this Section 1. However, if the terms used in this article are not set forth in this Section 1, then the meaning set forth in this title under Article 13, which is the Use Ordinance.

1) **BIOCHEMICAL OXYGEN DEMAND (or BOD).** Of sewage, sewage effluent, polluted waters or industrial wastes, the quantity of dissolved oxygen in milligrams per liter required during stabilization of the decomposable organic matter by aerobic biochemical action under standard laboratory procedures for five days at 20°C. The laboratory determinations of **BOD** shall be made in accordance with procedures set forth in *Standard Methods*, therein and conventionally referred to as **BOD**.

2) **CHEMICAL OXYGEN DEMAND (or COD)** of sewage, sewage effluent, polluted waters or industrial wastes is a measure of the oxygen equivalent of that portion of the organic matter in a sample that is susceptible to oxidation by a strong chemical oxidant. The laboratory determination shall be made in accordance with procedures set forth in *Standard Methods*.

3) **COMMERCIAL USER.** Any establishment involved on a commercial enterprise, business or service that based in a determination by the town discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

4) **COUNCIL.** The Town Council of the Town of Bloomfield. It is the governing body of the sewerage system of the town, which system is a public utility.

5) **SEWAGE.** The water-carried wastes from dwellings and commercial structures, singular or in any combination, together with such ground, surface and storm waters as may be present.

6) **SEWAGE WORKS.** All facilities for collecting, transporting, pumping, treating and disposing of sewage.

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

Sewer Rates

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

9) **TOWN.** The Town of Bloomfield, Indiana.

Section 2. Every person whose premises are served by said sewage works shall be charged for the service provided. The following residential and commercial rates for the use and service of the sewerage system are established.

1) *Residential rate.* Each residential user located inside of the town limits and that has at least one direct or indirect connection of any kind to the sewerage system shall be assessed a residential sewage use and service rate of \$40 per month. Each residential user located outside of the town limits and that has at least one direct or indirect connection of any kind to the sewerage system shall be assessed a residential sewage use and service rate of \$50 per month. The monthly charge shall be collected from the owner of each dwelling unit or units.

2) *Commercial rates.* Each commercial user that has at least one direct or indirect connection of any kind to the sewerage system shall be assessed a monthly commercial sewage use and service rate as follows:

Car wash	\$293
Day care facility	\$40
Green corrections	\$405
Green County jail	\$640
Health care facility	\$773
Landry or laundromat	\$450
Metal technologies	\$420
Public school corporation	\$ 2,000
Sleepy Hollow Motel	\$375
Theater	\$125

User with a business at home with no employees	\$50
User with a business at home with employees	\$74
User with 0-9 employees	\$74

Sewer Rates

User with 10-29 employees	\$96
User with 30-80 employees	\$181
User with 81 or more employees	\$533

3) The monthly charge shall be collected from owner of each commercial unit.

4) Rates for sewerage services shall be billed monthly, in advance of use, and shall be due and payable on or before the fifteenth day of the month after billing. Any rate not paid by the due date shall be considered delinquent.

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

6) In addition, the town shall have the right to bring a civil action to recover any delinquent rates together with a penalty of 10% and a reasonable attorney=s fee. It shall also have the right, as provided by the statutes of the state, to foreclose any lien established under the provision of the above division 5, with recovery of the rate, a penalty of 10% and a reasonable attorney=s fee.

7) a) The rates will be billed to the owner of the property, regardless of whether the property is occupied by tenant(s), unless the owner of the property submits a written request to the town that the tenant(s) be billed directly. Even if the owner provides such written request and the town bills the tenant(s) directly, the town reserves the right to transfer any delinquent tenant balances to the account of the property owner without providing any notification.

b) A property owner=s submission of the written request in no way relieves the property owner of the responsibility to pay all delinquent tenant balances and in no way limits the town=s ability to enforce payment of unpaid balances through the filing of a lien and/or the filing of a civil action pursuant to divisions 5 and 6 of this section. Additionally, if the owner of the property and the occupant of the property have entered into a contract for the purchase of the property, then the town may bill the contract purchaser/occupant, rather than the owner of the property provided that the owner of the property submits the above-referenced written request to the town.

c) The town=s direct billing of a contract purchaser/occupant, rather than the record property owner, in no way relieves the record property owner of its obligation to pay any delinquent balances and in no way limits the town=s ability to do any of the following:

i) Transfer any delinquent balances to the property owner without providing notification; or

ii) Enforce the payment of delinquent balances through the filing of a lien and/or the filing of a civil action pursuant to divisions 5 and 6 of this section.

Sewer Rates

8) Use of the sewerage system without paying the rates described in this Section 2 shall also be deemed unauthorized use of the sewerage system. Unauthorized use of the sewerage system shall result in a fine in the amount of \$50, and the unauthorized user also shall be responsible for paying the monthly usage fee as heretofore described in this Section 2, for each and every month of unauthorized use.

Section 3. Strength of waste surcharge.

1) The admission into the public sewers of any waters or waste having a five-day BOD greater than 250 parts per million by weight of suspended solids or:

- a) Where BOD cannot be determined, a chemical oxygen demand of 250 parts per million by weight of suspended solids;
- b) Containing more than 250 parts per million by weight of suspended solids; or
- c) Having an average daily flow greater than 2% of the average daily sewage flow of the town, shall be subject to a surcharge, in addition to the regular sewer charges.

2) Where necessary, the owner shall provide, at his or her expense, such preliminary treatment as may be necessary to:

- a) Reduce the BOD to 250 parts per million and suspend solids to 250 parts per million by weight;
- b) Reduce objectionable characteristics or constituents; or
- c) Control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Council and no construction of such facilities shall be commenced until such approvals are obtained.

3) The rate of surcharge shall be as follows:

For biochemical demand (BOD)	\$0.25 per pound
For chemical oxygen demand (COD) where BOD cannot be determined	\$0.25 per pound
For suspended solids	\$0.25 per pound
For average daily flow greater than 2% of the average daily sewage flow of the town	\$2 per gallon above the average daily flow of the town

Sewer Rates

Section 4. A connection charge of \$100 per connection shall be made for any connection made to the town=s sewerage system after the enactment of this article.

Section 5. The Council, in accordance with the statutes of the state, shall make and enforce whatever by-laws, rules and regulations it may deem necessary for the safe, economical and efficient management of the town=s sewage works, for the regulation, collection, and refunding of the user charges for sewerage service and in general for the implementation of the provisions of this article.

Section 6. *Validity.*

1) All the provisions of this article, previous or now in existence, and regulations conflicting with this article, except conflicting and non-conflicting provisions that can be changed, modified or terminated only upon approval by an authority other than the Council, hereby are repealed as of the effective date of this article.

2) The invalidity of any section, sentence, clause or provision in this article shall not affect the validity of any other section, sentence, clause or provision of this article that can be given effect without such invalid part or parts.

3) The provisions of this article shall be in full force and effect from and after July 7, 2009.
(Ord. 2009-07, passed - -)

Sewer Rates

ARTICLE 16: SEWER PENALTIES AND VIOLATIONS

Section 1.

1) Any person found to be violating any provision of Article 13, the sewer use ordinance of the town, shall be served by the town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2) Any person who shall continue any violation beyond the time limit provided for in Section 1 shall be guilty of a misdemeanor and in conviction thereof shall be fined in an amount not exceeding \$500 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

3) Any person violating any of the provisions of Article 13 is liable to the town for any expense, loss or damage, including but not limited to reasonable attorney fees, occasioned by the town by reason of such violation.

Section 2. All ordinances or parts of ordinances in conflict herewith hereby are repealed. The invalidity of any section, clause, sentence or provision of this article shall not affect the validity of any other part of this article which can be given effect without such invalid part or parts.

Section 3. This article shall be in full force and effect from and after its passage and publication as provided by law.
(Ord. 2001-05, passed 4-4-2001)

Sewer Penalties and Violations

ARTICLE 17: SIDEWALK MAINTENANCE

Section 1. *Responsibility of adjacent property owners or occupants to maintain and repair public sidewalks.* It shall be the responsibility of any owner or occupant of real estate within the geographical limits of the town to maintain and repair all public sidewalks running through or abutting upon the real estate, in a fashion and with specifications that are acceptable to the Council.

Section 2. *Responsibility of adjacent property owners or occupants to remove ice and snow from public sidewalks.* It shall be the responsibility of any owner or occupant of real estate within the geographical limits of the town to promptly remove all ice and snow that accumulates from all public sidewalks running through or abutting upon the real estate.

Section 3. *Failure to maintain and repair; notice.* If any owner or occupant of real estate located within the geographical limits of the town fails to perform the duties set forth in Section 1 of this article, the Clerk-Treasurer shall prepare and serve or cause to be served upon such owner or occupant a written notice that the sidewalk is out of repair and that the sidewalk shall be repaired by such owner or occupant within ten days from the date that notice was served upon the owner or occupant.

Section 4. *Repair by town; payment of cost.*

1) If the Clerk-Treasurer has issued a written notice as described under Section 3 of this article and the owner or occupant of the real estate within the geographical limits of the town has not repaired the sidewalk, the town council may cause the sidewalk to be repaired. The actual cost incurred by the town in making such repair shall be set forth in a certified statement by the Clerk-Treasurer. The certified statement of such costs shall be served upon the owner or occupant of the real estate. The certified statement shall contain a legal description or a commonly known address of the premises, the expenses and costs incurred, the date(s) the sidewalk was repaired and a notice that the town claims a lien for this amount.

2) The owner or occupant shall pay the actual cost incurred by the town in making such repair within 30 days from the date that the certified statement of costs is served upon such owner or occupant. If the owner or occupant of the real estate fails to pay the costs within the time prescribed, a certified copy of the statement of costs shall be delivered to the Greene County Auditor=s Office. The Auditor shall place the amount shown on such certificate on the tax duplicate against such real estate and the amount shall be collected when taxes are collected. When collected, such amount shall be disbursed to the town for deposit in the General Fund.

Section 5. Penalties. Violations outlined in this article are punishable as Class C infractions pursuant to I.C. 34-28-5-4, which allows for a judgment of up to \$500. The payment of a penalty for the violation of any provision of this article shall not excuse the violation or permit it to continue. A separate offense shall be deemed committed each day such violation occurs or continues.

Section 6. Foreclosure of lien. Real estate subject to a lien for unpaid sidewalk repair charges shall be sold for nonpayment of the same and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in equity in the name of the town. The Town Attorney hereby is authorized and directed to institute such proceedings, in the name of the town, in any court having jurisdiction over such matter.

Section 7. Procedure for appeal. Any owner or occupant that wishes to appeal the notice of violation or certified statement of costs under this article shall file a written appeal to the Clerk-Treasurer within five days of the notice of violation or certified statement of costs being served upon the owner or occupant. The Town Council shall conduct a hearing thereon within 30 days of the written appeal being filed with the Clerk-Treasurer. The owner or occupant appealing shall have the opportunity to present evidence to the Town Council at such hearing.

Section 8. The provisions of this article shall be in full force and effect from and after the date of publication as required by I.C. 5-3-1.
(Ord. 2001-05, passed 4-4-2001)

TITLE VI: RECREATION, CULTURE AND COMMUNITY ACTIVITIES

[Reserved]

TITLE VII: DRUG-FREE WORKPLACE POLICY

Article

- 1. STATEMENT OF PURPOSE AND POLICY**
- 2. ADMINISTRATION OF POLICY**

ARTICLE 1: STATEMENT OF PURPOSE AND POLICY

Section 1. Employees are an extremely valuable resource for the operation of the town of Bloomfield, Indiana (hereinafter, the Town). The health and safety of its employees is a serious concern to the town. Drug or alcohol use may pose a serious threat to employee health and safety. It is therefore the policy of the town to prevent substance use or abuse from having an adverse effect on its employees. The town maintains that the work environment is safer and more productive without the presence of alcohol, illegal or inappropriate drugs in the body or on town property. Furthermore, employees have a right to work in an alcohol and drug-free environment and to work with employees free from the effects of alcohol and drugs. Employees who abuse alcohol or use drugs are a danger to themselves, their co-workers and the town's assets. The town is committed to maintaining a drug-free workplace. All employees are advised that remaining drug-free is a condition of continued employment with the town.

Section 2. This policy applies to all employees of the town. The use, possession, sale, purchase or transfer of unauthorized or illegal drugs or substances, or the abuse of legal drugs on town property, while on town business, or while operating town vehicles and equipment, is prohibited. Ingestion of products that contain hemp oil will not be an acceptable explanation for testing positive for marijuana. Drinking alcoholic beverages during working hours or having any measurable amount of alcohol in his or her system during working hours is prohibited, whether on or off town property. Working hours include all breaks. Off-duty use of drugs and alcohol is prohibited to the extent it affects an employee's attendance or performance and his or her ability to pass required alcohol and controlled substance tests. Any violation of this policy is grounds for termination as an employee of the town and for prosecution.

Section 3. Since physician directed use of drugs can affect behavior and performance, employees are encouraged to advise their supervisor whenever they are taking drugs for medical reasons. When such drug use adversely affects job performance or safety, the employee should notify his or her supervisor so that it can be determined if reasonable accommodations can be made while the employee is utilizing the medication.

Section 4. The town retains the sole right to change, amend or modify any term or provision of this policy without notice. This policy supersedes all prior policies and statements relating to alcohol or drugs. Neither this policy nor any of its terms are intended to create a contract of employment or to contain the terms of any contract of employment.

(Ord. 2000-007, passed 9-6-2000)

Statement of Purpose and Policy

ARTICLE 2: ADMINISTRATION OF POLICY

Section 1. *Prohibitions.*

1) *Alcohol prohibitions.* This policy prohibits any alcohol misuse that could affect any employee=s performance to include:

- a) Alcohol use while at work;
- b) Testing positive at 0.04 or greater as this is considered a positive test;
- c) Use during eight hours following an accident or until he or she undergoes a post accident test; and
- d) Refusal to take a required test.

2) An employee found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall be removed from work for 24 hours. This does not constitute a positive test, however, documentation of this test constitutes written warning that town policy has been violated and the next occurrence could result in discipline of the employee.

3) *Drug prohibitions.* This policy prohibits any drug use that could affect any employee=s performance to include:

- a) Use of any drug, except by doctor=s prescription and then only if the doctor has advised the employee that the drug will not adversely affect the employee=s ability to perform his or her job duties;
- b) Testing positive for drugs;
- c) Refusing to take a required test;
- d) The ingestion of products that contain hemp will not be an acceptable explanation for testing positive for marijuana; and

Administration of Policy

e) Diluted test results will not be acceptable. If the Medical Review Officer (M.R.O.) issues a negative test result with notation that the specimen was dilute (low creatinine and low specific gravity), the employee or prospective employee may be asked to submit another specimen for testing. The employee will receive instructions on fluid intake to prevent a subsequent collection from being dilute and it will be the responsibility of the employee to provide a valid specimen.

Section 2. *Employee applicant and current employee testing.*

1) *Applicant testing.* All employees will be required to submit to and pass a urine drug test as a condition of employment. Offers of employment are made contingent upon passing the town's medical review including the drug test. Employee applicants who have received firm employment offers are to be cautioned against giving notice at their current place of employment, or incurring any costs associated with accepting employment with the town until after medical clearance has been received. Employee applicant drug testing shall follow the collection, chain-of-custody and reporting procedures as set forth in 49 C.F.R. part 40 for Department of Transportation testing.

2) *Employee testing.* Under all circumstances, when an employee is directed to provide either a breath test or urine sample in accordance with these procedures, he or she must immediately comply as instructed. Refusal will constitute a positive result and the employee will be immediately removed from duty and will be subject to further discipline or termination as appropriate.

Section 3. *Testing requirements.* The following situations will require testing:

1) Suspicion based testing and reasonable suspicion. If a employee is having work performance problems or displaying behavior that may be alcohol or drug related, or is otherwise demonstrating conduct that may be in violation of this policy where immediate supervisor action is necessary, a supervisor, with the concurrence of the alcohol and drug program administrator, will require that employee to submit to a breath test and/or urinalysis.

2) The following conditions are signs of possible alcohol or drug use (not all inclusive):

- a) Abnormally dilated or constricted pupils;
- b) Glazed stare - redness of eyes (sclera);
- c) Flushed face;
- d) Change of speech (i.e., faster or slower);
- e) Constant sniffing;
- f) Increased absences;
- g) Redness under the nose;

Administration of Policy

- h) Sudden weight loss;
- i) Needle marks;
- j) Change in personality (i.e., paranoia);
- k) Increased appetite for sweets;
- l) Forgetfulness, performance faltering and poor concentration;
- m) Borrowing money from co-workers or seeking as advance of pay or other unusual display of need for money;
- n) Constant fatigue or hyperactivity;
- o) Smell of alcohol;
- p) Slurred speech;
- q) Difficulty walking;
- r) Excessive, unexplained absences;
- s) Dulled mental processes; and
- t) Slowed reaction rate.

3) Supervisors must take action if they have reason to believe one or more of the above listed conditions are indicated and that the substance abuse is affecting an employee=s job performance or behavior in any manner. A supervisor observing such conditions will take the following actions immediately:

- a) Confront the employee involved and keep under direct observation until the situation is resolved;
- b) Secure the alcohol and drug program administrator=s concurrence to observations; job performance and town policy violations must be specific;
- c) After discussing the circumstances with the supervisor, the alcohol and drug program administrator will arrange to observe or talk with the employee. If he or she believes, after observing or talking to the employee, that the conduct or performance problem could be due to substance abuse, the employee will be immediately required to submit to a breath test or urinalysis. If the employee refuses to submit to testing for any reason, the employee will be informed that continued refusal will result in discipline consistent with refusing to test.
- d) Employees will be asked to release any evidence relating to the observation for further

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testing. Failure to comply may subject the employee to subsequent discipline or suspension from job duties. All confiscated evidence will be receipted for with signatures of both the receiving supervisor as well as the provider.

4) The supervisor shall, within 24 hours or before the results of the controlled substance test are released, document the particular facts related to the behavior or performance problems and present such document to the alcohol and drug program administrator.

5) The alcohol and drug program administrator will ensure that the employee is transported to an appropriate collection site and thereafter to the employee=s residence or, where appropriate, to a place of lodging. Under no circumstances will that employee be allowed to continue to drive a town vehicle or his or her own vehicle until a confirmed negative test result is received.

6) If, during the course of employment, the employee acknowledges a substance abuse problem and requests assistance, the problem may be treated as if it were an illness, subject to the provisions set forth below:

a) The decision to seek diagnosis and accept treatment for the substance abuse problem is the responsibility of the employee;

b) The diagnosis and prescribed treatment of the employee=s condition will be determined by health care professionals designated by the alcohol and drug program administrator in conjunction with the employee=s physician; and

c) The employee might be placed on medical leave for a predetermined period recommended by those medical professionals if the substance abuse professional determines that such action is appropriate.

7) *Post accident testing.* All employees are required to provide a breath test and a urine specimen to be tested for the use of alcohol or controlled substances as soon as practicable after a qualifying accident. The employee shall remain readily available for such testing or may be deemed by the alcohol and drug program administrator to have refused to submit to testing. No alcohol may be consumed for eight hours after the accident or until a test is conducted. If the employee is seriously injured and cannot provide a specimen at the time of the accident, he or she shall provide the necessary authorization for obtaining hospital reports and other documents that would indicate whether there was any alcohol or controlled substances in his or her system. A drug and alcohol test may be required following any incident listed below:

a) Any incident involving injury, death or property damage;

b) Any accident where the employee receives a citation under state or local law for a moving violation arising from the accident; and/or

c) Any incident in which an employees involvement or actions could have caused or contributed to the cause of the incident/accident.

Administration of Policy

8) *Random testing.* The town will conduct random testing for all employees as follows:

- a) A town wide selection process that removes discretion in selection from any supervisory personnel will be adopted by the town;
- b) The random testing, once begun, will provide for alcohol and drug testing of at least the minimum percentage required for Department of Transportation covered employees;
- c) The random testing will be reasonably spaced over any 12-month period; and
- d) Once notified, an employee must proceed immediately to the assigned collection site.

9) *Return to duty testing.* Before an employee returns to duty after testing positive for either alcohol or drugs, the employee must undergo a return to duty alcohol test with a result of less than 0.02 BAC or receive a confirmed negative result from a controlled substance urinalysis test. Follow-up testing will also be required after a return to duty test. These requirements are outlined in Section 5.

Section 4. *Collection of breath and urine specimens and laboratory analysis.*

1) *Breath alcohol testing.* Breath alcohol testing will be conducted either on-site or at a pre-arranged location by a qualified breath alcohol technician using the same criteria outlined in 49 C.F.R. part 40 for Department of Transportation testing. Refusal to complete and sign the testing form or refusal to provide a proper breath sample will be considered a positive test and the employee will be removed from a safety sensitive function until resolved.

2) *Specimen collection.* Specimen collection will be conducted in accordance with applicable state and federal law. The collection procedures will be designed to ensure the security and integrity of the specimen provided by each employee and those procedures will strictly follow federal chain of custody guidelines. Moreover, every reasonable effort will be made to maintain the dignity of each employee submitting a specimen for analysis in accordance with these procedures.

3) *Laboratory analysis.* Only a laboratory certified by the Department of Health and Human Services to perform urinalysis for the detection of the presence of controlled substances will be retained by the town. The laboratory will be required to maintain strict compliance with federally approved chain of custody procedures, quality control, maintenance and scientific analytical methodologies.

Section 5. *Consequences; testing positive and appeal of test results.* An employee testing positive for alcohol or drug use is subject to disqualification. The following procedures will take place in the event of a positive test:

1) An employee testing positive for the first time will be placed on three day unpaid suspension. During those three days, the employee will be required to contact a qualified substance abuse professional, schedule an appointment and complete the following steps:

Administration of Policy

- a) Complete an evaluation with a substance abuse professional;
 - b) Complete any rehabilitation recommendations made by the substance abuse professional;
 - c) Obtain written confirmation from the substance abuse professional of satisfactory completion of all recommendations and a request for a return to duty test;
 - d) Complete a return to duty test that is issued with a negative result; and
 - e) As a condition of continued employment the employee will be required to submit to a minimum of six unannounced follow-up tests in the next 12 months after returning to work. Failure to complete this step will constitute voluntary termination.
- 2) If the employee tests positive a second time, the employee will be terminated.
- 3) Refusing to take a test will constitute voluntary termination. A refusal may be defined as any of the following circumstances:
- a) Not providing a breath sample or urine specimen as directed;
 - b) Neglecting to sign the appropriate control forms;
 - c) Using alcohol within eight hours of an accident or until a breath test has been performed;
 - d) Engaging in conduct that clearly obstructs the testing process; and
 - e) A report by the medical review officer that the urine specimen was adulterated, substituted or not consistent with normal human urine.
- 4) Any employee testing positive for the presence of a controlled substance will be contacted by the town's medical review officer. The employee will be allowed to explain and present medical documentation to explain any permissible use of a drug. All such discussions between the employee and the medical review officer will be confidential. The town will not be a party to, or have access to matters discussed between the employee and the medical review officer. If medically supportable reasons exist to explain the positive result, the medical review officer will report the test result to the town as a negative.
- 5) In addition to testing for drugs, the laboratory measures each specimen for specific gravity, creatinine, pH and tests for specific adulterants (items that the donor adds to the urine at the time of collection for the purpose of beating the drug test). The findings of the lab on these items can be reported as adulterated, substituted, or specimen not consistent with human urine. Any of these findings, if reported by the medical review officer, constitutes a refusal to test, which carries the same consequences as a positive result. In these specific circumstances the medical review officer will inform the employer that the right to have the split specimen tested by the donor is withdrawn. Therefore, neither

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a test of the split specimen, nor a retest of the primary specimen is offered to the donor.

6) *Donor=s right to retest of specimen.* Within 72 hours after the employee has been notified of a positive test result for drugs, he or she may request a test of the split sample. This request must be made to the medical review officer, who will then make arrangements to have the split portion of the specimen transferred to a different SAMHSA laboratory for analysis. If a different result is detected by the subsequent laboratory, the test will be canceled by the medical review officer and the town alcohol and drug program administrator will be notified. Any fees associated with testing the split specimen will be the responsibility of the donor.

Section 6. Confidentiality.

1) Under no circumstances, unless required or authorized by law, will alcohol or drug testing information or results for any employee or applicant be released without written request from the applicable employee.

2) Employees are entitled, upon written request, to obtain copies of any records pertaining to the employee=s use of alcohol or controlled substances, including any records pertaining to his or her alcohol or controlled substance tests.

3) Collection of breath and urine samples must always be documented and sealed with a tamper-proof sealing system in the presence of the employee, to ensure that all tests can be correctly traced to the employee.

4) Drug test analysis from the Department of Health and Human Services approved laboratory will be forwarded directly to the medical review officer assigned by the alcohol and drug program administrator.

5) Alcohol test results will be forwarded by the medical review officer to the alcohol and drug program administrator for confidential record keeping.

Section 7. Designation of Alcohol and Drug Program Administrator. The town=s alcohol and drug program administrator designated to monitor, facilitate and answer questions pertaining to these procedures is the Town Council President.

Section 8. Definitions.

1) **ALCOHOL.** The intoxicating agent in an alcoholic beverage, ethyl alcohol or other low molecular weight alcohols including methyl and isopropyl alcohol.

2) **ALCOHOL CONCENTRATION.** The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under this part.

3) **COLLECTION SITE.** A place where individuals present themselves for the purpose of providing breath, body fluid or tissue samples to be analyzed for specified controlled substances. The site must possess all necessary personnel, materials, equipment, facilities and supervision to provide for

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the collection, security, temporary storage and transportation or shipment of the samples to a laboratory.

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- 4) ***CONTROLLED SUBSTANCE.*** The meaning assigned by 21 U.S.C. ' 802 and includes all substances listed on Schedule I through V as they may be revised from time to time (21 C.F.R. part 1308).
- 5) ***DRUG.*** Any substance (other than alcohol) that is a controlled substance as defined in this section and 49 C.F.R. part 40.
- 6) ***MEDICAL REVIEW OFFICER.*** A licensed medical doctor or D.O. with knowledge of drug abuse disorders that is employed or used by a motor carrier to conduct drug testing in accordance with this part.
- 7) ***RANDOM SELECTION PROCESS.*** Alcohol and drug tests are unannounced; that every employee will be in the random pool and subject to random testing at any time he or she is at work.
- 8) ***REASONABLE CAUSE OR REASONABLE SUSPICION.*** The actions, appearance or conduct of an employee are indicative of the use of alcohol or drugs.
(Ord. 2000-007, passed 9-6-2000)

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