

## WINAMAC, INDIANA CODE OF ORDINANCES

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5

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## ADOPTING ORDINANCES

### ORDINANCE 5 OF 2004

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

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2004 supplement to the code of ordinances of the Town of Winamac, which supplement contains all ordinances of a general and permanent nature enacted since the prior codification of the Code of Ordinances of the Town of Winamac; and

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

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

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

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

SECTION 1

Winamac, IN Code of Ordinances

That the 2004 supplement to the Code of Ordinances of the Town of Winamac as submitted by American Legal Publishing Corporation of Cincinnati, Ohio and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2

Such supplement shall be deemed published as of the day of its adoption and approval by the Town Council and the Clerk-Treasurer of the Town of Winamac is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk-Treasurer.

SECTION 3

This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of the Town of Winamac, and shall take effect at the earliest date provided by law.

PASSED AND ADOPTED by the Town Council of the Town of Winamac on this 12th day of April, 2004.

Kenneth McFarland /s/ Jason Hague

/s/

Ken McFarland, Council President Jason Hague

DeAnna Pletka /s/ Jack Winters

/s/

DeAnna Pletka  
Jack Winters

Rudy DeSabatine /s/

Rudy DeSabatine

Attest: Judy Heater /s/

Judy Heater Clerk-Treasurer

**TITLE I: GENERAL PROVISIONS**

Chapter

**10. RULES OF CONSTRUCTION; GENERAL PENALTY**

**CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY**

Section

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- 10.05 Rules of interpretation; definitions
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### **§ 10.01 TITLE OF CODE.**

All ordinances of a permanent and general nature of the town, as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections, shall be known and designated as the “Winamac Town Code,” for which designation “code of ordinances,” “codified ordinances” or “code” may be substituted. Code title, chapter and section headings do not constitute any part of the law as contained in the code.

### **§ 10.02 INTERPRETATION.**

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

### **§ 10.03 APPLICATION TO FUTURE ORDINANCES.**

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

### **§ 10.04 CONSTRUCTION OF CODE.**

(A) This code is a codification of previously existing laws, amendments thereto and newly enacted laws. Any previously existing law or amendment thereto reenacted by this code shall continue in operation and effect, as if it had not been repealed by this code. All rules and regulations adopted under laws reenacted in this code shall remain in full force and effect unless repealed or amended subsequent to the enactment of this code.

(B) Any appropriation repealed and reenacted by this code is continued only for the period designated in the original enactment of that appropriation.

(C) The numerical order and position of sections in this code does not resolve a conflict between two or more sections.

(D) Any irreconcilable conflict between sections shall be resolved by reference to the dates that the sections were originally enacted. The section most recently enacted supersedes any conflicting section or division.

(E) All references within a section of this code to any section of previously existing laws refer to the numbers in the original enactment.

(F) (1) The numerical designations and descriptive headings assigned to the various titles, chapters, subchapters or sections of this code, as originally enacted, or as added by amendment, are not law, and may be altered by the compilers of this or any subsequent codification, in any official publication, to more clearly indicate its content. These descriptive headings are for organizational purposes only and do not affect the meaning, application or construction of the law they precede.

(2) Each note following a section of this code is for reference purposes only and is not a part of the section.

(G) All references to any section of this code refer to all subsequent amendments to that section unless otherwise provided.

(I.C. 1-1-1-5)

#### **§ 10.05 RULES OF INTERPRETATION; DEFINITIONS.**

(A) *Rules of interpretation.* This code shall be construed by the following rules unless the construction is plainly repugnant to the legislative intent or context of the provision.

(1) Words and phrases shall be taken in their plain, ordinary and usual sense. Technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(2) Words imputing joint authority to three or more persons shall be construed as imputing authority to a majority of persons unless otherwise declared in the section giving the authority.

(3) Where a section requires an act to be done which, by law, an agent or deputy may perform in addition to the principal, the performance of the act by an authorized deputy or agent is valid.

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

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

**COUNTY.** Pulaski County, Indiana.

**HIGHWAY.** Bridges, roads and streets unless otherwise expressly provided.

**MONTH.** One calendar month.

**PERSON.** Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER**, as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

**PRECEDING** and **FOLLOWING**. When referring to sections or divisions in this code, the sections or divisions next following or next preceding that in which the words occur unless some other section is designated.

**TOWN**. Winamac, Indiana.

**WRITTEN** and **IN WRITING**.

(a) Printing, lithographing or other modes of representing words and letters.

(b) Where the written signature of a person is required, the terms mean the proper handwriting of the person or the person's mark.

**YEAR**. One calendar year unless otherwise expressly provided.

(I.C. 1-1-4-5)

### **§ 10.06 SEVERABILITY.**

(A) If any section of this code now enacted or subsequently amended or its application to any person or circumstances is held invalid, the invalidity does not affect other sections that can be given effect without the invalid section or application.

(B) Except in the case of a section or amendment to this code containing a nonseverability provision, each division or part of every section is severable. If any portion or application of a section is held invalid, the invalidity does not affect the remainder of the section unless:

(1) The remainder is so essentially and inseparably connected with and so dependent upon the invalid provision or application that it cannot be presumed that the remainder would have been enacted without the invalid provision or application; or

(2) The remainder is incomplete and incapable of being executed in accordance with the legislative intent without the invalid provision or application.

(C) This section applies to every section of this code regardless of whether a section was enacted before or after the passage of this code.

(D) The repeal of a section stating that the provisions of a section are severable as provided in division (B) above does not affect the operation of division (B) with respect to that section.

(I.C. 1-1-1-8)

### **§ 10.07 REFERENCE TO OTHER SECTIONS.**

Whenever, in one section, reference is made to another section hereof, reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

### **§ 10.08 REFERENCE TO OFFICES; NAME DESIGNATIONS.**

(A) *Reference to offices.* Reference to a public office or officer shall be deemed to apply to any office, officer or employee of the town exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

(B) *Name designations.* Whenever any ordinance or resolution of the Council refers to any board, bureau, commission, division, department, officer, agency, authority or instrumentality of any government, and that name designation is incorrectly stated; or at the time of the effective date of that ordinance or subsequent thereto, the rights, powers, duties or liabilities placed with that entity are or were transferred to a different entity; then the named board, bureau, commission, department, division, officer, agency, authority or instrumentality, whether correctly named in the ordinance at its effective date or not, means that correctly named entity, or the entity to which the duties, liabilities, powers and rights were transferred. (I.C. 1-1-6-1)

#### **§ 10.09 ERRORS AND OMISSIONS.**

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

#### **§ 10.10 REASONABLE TIME.**

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be a Saturday, Sunday or a state holiday, it shall be excluded.

#### **§ 10.11 REPEAL OR MODIFICATION OF CODE SECTION.**

When a section of this code is repealed which repealed a former section or law adopted prior to the enactment of this code, the former section or law is not revived unless it so expressly provides. The repeal of any section shall not extinguish or release any penalty, forfeiture or liability incurred under the section unless the repealing section so expressly provides. The section shall be treated as still remaining in force for the purposes of sustaining any proper action or prosecution for the enforcement of the penalty, forfeiture or liability.

(I.C. 1-1-5-1)

## **§ 10.12 LIMITATION PERIODS.**

The running of any period of limitations or any requirement of notice contained in any law, whether applicable to civil causes or proceedings, to the prosecution of offenses or for the recovery of penalties and forfeitures, contained in a law repealed and reenacted by this code shall not be affected by the repeal and reenactment. All suits, proceedings and prosecutions for causes arising or acts committed prior to the effective date of this code may be commenced and prosecuted with the same effect as if this code had not been enacted.

### ***Statutory reference:***

*Periods of limitation, see I.C. 1-1-1-7*

## **§ 10.13 ORDINANCES UNAFFECTED.**

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

## **§ 10.14 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.**

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to the indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

## **§ 10.15 SECTION HISTORIES; STATUTORY REFERENCES.**

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the most recent three amending ordinances, if any, are listed following the text of the code section.

*Example:* (Ord. 10, 1960, passed 5-13-60; Am. Ord. 15, 1970, passed 1-1-70; Am. Ord. 20, 1980, passed 1-1-80; Am. Ord. 25, 1985, passed 1-1-85)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute.

*Example:* (I.C. 36-5-2-2) (Ord. 10, 1980, passed 1-17-80; Am. Ord. 20, 1985, passed 1-1-85)

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

*Example:*

§ 39.01 PUBLIC RECORDS AVAILABLE.

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

***Statutory reference:***

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

(C) If a section of this code is derived from the previous code of ordinances of the town published in 1994 and subsequently amended, the 1994 code section number shall be indicated in the history by “(‘94 Code, § \_\_\_\_).”

**§ 10.16 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES.**

(A) All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred or proceedings begun prior to the effective date of this code.

(B) The liabilities, proceedings and rights are continued. Punishments, penalties or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway rights-of-way, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

**§ 10.99 GENERAL PENALTY.**

Any person, firm or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding \$2,500. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

***Statutory reference:***

*Power to prescribe fines up to \$2,500 granted, see I.C. 36-1-3-8(a)(10)*

**TITLE III: ADMINISTRATION**

Chapter

- 30. TOWN GOVERNMENT; DISTRICTS
- 31. PERSONNEL REGULATIONS
- 32. TOWN EMPLOYEES AND OFFICIALS
- 33. COMMISSIONS AND DEPARTMENTS
- 34. PURCHASING PROCEDURE
- 35. TOWN POLICIES

**CHAPTER 30: TOWN GOVERNMENT; DISTRICTS**



Section

- 30.01 Voting districts; membership
- 30.02 Definition
- 30.03 Elections

**§ 30.01 VOTING DISTRICTS; MEMBERSHIP.**

(A) The town shall be divided into three districts, which shall be known as the First District, the Second District and the Third District.

(B) The Town Council shall consist of five Council members who shall be elected by the registered voters of the whole town.

(C) Council members shall be elected to represent the following districts:

- (1) Council seat one: First District;
- (2) Council seat two: Second District;
- (3) Council seat three: Third District;
- (4) Council seat four: elected at large; and
- (5) Council seat five: elected at large.

(D) The Council member elected to fill Council seat one shall be a resident of the First District.

(E) The Council member elected to fill Council seat two shall be a resident of the Second District.

(F) The Council member elected to fill Council seat three shall be a resident of the Third District.

(G) The Council member elected to fill Council seat four shall be a resident of any one of the three districts.

(H) The Council member elected to fill Council seat five shall be a resident of any one of the three districts.

( '94 Code, § 3-2-1) (Am. Ord. 9 of 2014, passed 6-9-2014)

**§ 30.02 DEFINITION.**

(A) *First District.* Commencing on the north corporate boundary line of the town where it intersects the west corporate boundary line of the town, thence south along the west corporate boundary to the midpoint of the intersection of 11th Street and the west corporate boundary, thence east along the midline of 11th Street to the midpoint of the intersection of 11th Street and Monticello Street, thence north along the midline of Monticello Street to the midpoint of the intersection of Monticello Street and Highway 14, thence east along the midline of Highway 14 to the east corporate boundary of the town, thence north following the east corporate boundary to the north corporate boundary, thence west along the north corporate boundary to the place of beginning.

(B) *Second District.* Commencing on the west corporate boundary of the town where it intersects the midpoint of 11th Street thence east along the midline of 11th Street to the midpoint of the intersection of 11th Street and Monticello Street, thence north along the midline of Monticello Street to the midpoint of the intersection of Monticello Street and Highway 14,

thence east along the midline of Highway 14 to the east corporate boundary of the town, thence southerly following the east corporate boundary line to that point where the east corporate boundary intersects Old State Road 14, thence westerly along Old State Road 14 to the midpoint of the intersection of Washington Street and Riverside Drive, thence westerly along the midline of Washington Street to the midpoint of the intersection Washington Street and Market Street, thence northerly along the midline of Market Street to the midpoint of the intersection of Market Street and Jefferson Street, thence southwesterly following the midline of Jefferson Street to the midpoint of the intersection of Jefferson Street and Short Street, thence northerly along the midline of Short Street to the intersection of the midpoint of Short Street and Main Street, thence west along the midline of Main Street to the intersection of Main Street and the west corporate boundary thence north along the west corporate boundary to the place of beginning.

(C) *Third District.* Commencing on the west corporate boundary of the town where it intersects the midpoint of Main Street, thence south along the west corporate boundary to the south corporate boundary of the town, thence easterly following the south corporate boundary to the intersection of the east corporate boundary of the town, thence north along the east corporate boundary to the point where the east corporate boundary intersects the midline of Old State Road 14, thence westerly along the midline of Old State Road 14 to the midpoint of the intersection of Washington Street and Riverside Drive, thence westerly along the midline of Washington Street to the midpoint of the intersection Washington Street and Market Street, thence northerly along the midline of Market Street to the midpoint of the intersection of Market Street and Jefferson Street thence southwesterly following the midline of Jefferson Street to the midpoint of the intersection of Jefferson Street and Short Street, thence northerly along the midline of Short Street to the intersection of the midpoint of Short Street and Main Street, thence west along the midline of Main Street to the intersection of Main Street and the west corporate boundary which is the place of beginning.

(<sup>94</sup> Code, § 3-2-2) (Am. Ord. 5, 2002, passed 6-13-2002; Am. Ord. 3 of 2005, passed 9-12-2005; Am. Ord. 2 of 2012, passed 5-14-2012)

### **§ 30.03 ELECTIONS.**

(A) It would be in the best interest of the town to provide for town elections to occur during an election year so that town elections will occur during even-numbered general election years when elections for federal, state, and other local offices occur.

(B) It will save the town money in election expenses to hold its elections during an even-numbered general election year since, pursuant to I.C. 3-5-3-11, when a town election coincides with a general election, the county election board may not assess the town for the cost of the town's election.

(C) District Town Council members and the Town Clerk-Treasurer elected to office in the November election in 2015, or holding over in office following the 2015 municipal election under Article 15, Section 3 of the Constitution of the State of Indiana, shall serve a term of one year.

(D) After 2015, the district Town Council members and the Town Clerk-Treasurer shall next stand for election in 2016.

(E) The district Council members and the Town Clerk-Treasurer elected in 2016 shall serve a four- year tem and each subsequent district Town Council member and Town Clerk-Treasurer elected thereafter shall serve a four-year term as provided by law. (Ord. 13 of 2014, passed 9-8-2014)

## **CHAPTER 31: PERSONNEL REGULATIONS**

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Section

31.01 Employee Handbook adopted by reference

### **§ 31.01 EMPLOYEE HANDBOOK ADOPTED BY REFERENCE.**

The Employee Handbook, as it may be amended hereafter, is hereby adopted by reference as if set out in full herein. Copies of the Employee Handbook are available for public inspection in the office of the Town Clerk-Treasurer during normal business hours. (Ord. 20 of 2013, passed 12-9-2013)

## **CHAPTER 32: TOWN EMPLOYEES AND OFFICIALS**

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Section

32.01 Assistant Town Manager

### **§ 32.01 ASSISTANT TOWN MANAGER.**

(A) (1) There is hereby created the position of Assistant Town Manager for the town.

(2) The Assistant Town Manager shall assist the Town Manager in the orderly operation and management of the town and the municipal utilities operated by the town and shall have other duties and responsibilities as delegated to the person by the acting and appointed Town Manager from time to time.

(3) The Assistant Town Manger shall be appointed by the Town Council, but shall be responsible to the Town Manager for the faithful performance of his or her duties.

(B) (1) The Assistant Town manager shall be paid the annual sum as set by Council from time to time and prorated by the number of weeks employed by the town.

(2) The salary of the Assistant Town Manager shall be paid with the same frequency as other employees of the town.

(3) The Assistant Town Manager shall be eligible for the same benefits as all other town employees.

(4) The Assistant Town Manager's salary shall be paid one-fourth from the Wastewater Utility Fund, one-fourth from the Water Utility Fund and one-half from the Electric Utility Fund.

(Ord. 9, 1998, passed 8-10-1998)

## **CHAPTER 33: COMMISSIONS AND DEPARTMENTS**

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### Section

- 33.01 Economic Development Commission
- 33.02 Volunteer Fire Department; service charges
- 33.03 Department of Parks and Recreation

### ***Cross-reference:***

*Town Tree Committee, duties, see § 94.01*

*Water, Light and Sewage Committee, see § 50.01*

### **§ 33.01 ECONOMIC DEVELOPMENT COMMISSION.**

(A) There is hereby created a department of development, which shall be known as the Department of Development, which Department shall be controlled by the Commission known as the Economic Development Commission.

(<sup>94</sup> Code, § 2-1)

- (B) (1) The Economic Development Commission shall consist of three members.  
(2) Appointees shall serve terms of four years, with each term to expire on

February 1.

(3) Any vacancies occurring on the Commission shall be filled by appointment by the authority having made the appointment in which the vacancy occurs and the appointment shall be made for the completion of any unexpired term.

(4) Commissioners shall serve without compensation, but the Town Council may provide in the Development Department budget for reimbursement of travel, telephone and other expenses incurred by the Commissioners in the performance of their duties.

(5) The appointing authorities shall make their appointments in the manner prescribed by law and shall furnish certificates of appointment for each person appointed and the appointees shall qualify, as required by law.

(<sup>94</sup> Code, § 2-2)

(C) (1) The Commission shall meet within 30 days after its creation and shall, at that first meeting, elect the President, Vice-President and Secretary and shall immediately undertake the duties imposed upon the Commissioners by law. The Commission shall hold reorganization meetings during February of each year and the Commission and its members shall have all the powers and duties imposed by statute and this section and by amendments to either the statute or ordinance.

(2) The Commission may adopt by-laws and rules as are not prohibited by law and as are found desirable to facilitate the conduct of its business and the accomplishment of its purpose.

(94 Code, § 2-3)

(D) Any Commissioner having a financial interest in, or having been employed by, any firm or corporation contracting or negotiating with the Commission shall disclose his or her interest to the Commission and the disclosures shall be made a part of the records of the Commission. Any contract or agreement in which a Commissioner has a financial interest or any contract or agreement with any firm or corporation in which a Commissioner has direct financial interest shall be void from its inception unless the nature of that financial interest has been made a part of the record of the Commission. No Commissioner shall vote on any matter in which he or she has a financial interest.

(94 Code, § 2-4)

### **§ 33.02 VOLUNTEER FIRE DEPARTMENT; SERVICE CHARGES.**

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

**DEPARTMENT.** The Town Volunteer Fire Department.

**FIRE MARSHALL.** The State Fire Marshall.

**OWNER.** The person who holds the legal title to a parcel of ground as recorded in the records of the County Recorder's Office in which the property is located, or in the cases of a motor vehicle, the owner of record in the Bureau of Motor Vehicles.

**RESPONSIBLE PARTY.** The definition as set out in I.C. 13-11-2-191.

**SCHEDULE OF FEES.** The State Fire Marshall's recommended schedule of fees.

**SERVICES.** Any response by the Department for the purpose of extinguishing, containing or cleaning up after any fires, accidents or hazardous material incidents.

**TOWN.** Winamac, Indiana.

**VEHICLE.** Any device in, upon or by which a person or property is, or may be, transported or drawn upon a road or highway.

(B) (1) The schedules of charges for the services provided by the Department shall be as follows:

(a) For initial response with a fire engine, a fire truck or a fire apparatus, including a hazardous material unit or a fire rescue unit dispatched on a fire or hazardous material incident: \$250 per response vehicle, except command/control vehicles, which is \$100 per vehicle;

(b) For each hour or fraction thereof as on-scene assistance: \$150 per response unit and \$50 per command/control vehicle;

(c) For expendable materials such as absorption materials, emulsifiers or other agents used in cleanup operations: the actual replacement cost of those materials; and

(d) For collection of debris, chemicals, fuel or contaminated materials resulting from a spill: the actual cost of removal and disposal at an authorized location.

(2) The Department shall charge the owner of a vehicle or a responsible party that is involved in a hazardous material or fuel spill or chemical or hazardous material related fire on a public highway where the Department assisted in extinguishing, containing or cleanup of the incident.

(C) (1) The Department shall bill the property owner or responsible party for payment of the services charged, as determined above, as follows:

(a) The bill for charges shall be in writing and submitted to the property owner or responsible party within 30 days after the services are provided.

(b) If the service provided was for an event that requires a fire incident report, a copy of the report shall be included in the form prescribed by the State Fire Marshall.

(2) The Department shall not bill any property owner for the charges if the property owner has sent written notice to the Department refusing service to the owner's property prior to the provision of the services.

(D) (1) Upon receipt of the billings, the owner or the agent of the owner shall remit payment of the service fees directly to the Department.

(2) All service fees collected under this section by the Department shall be deposited in a separate fund upon receipt and shall be used by the Department only as follows:

(a) To purchase equipment, buildings and property for firefighting, fire protection or other emergency services as approved by the town; and

(b) To pay principal and interest on a loan.

(E) The Department shall submit a written report to the town before April 1 of each year indicating the amount of service charges collected for the previous calendar year and specifically documenting how the funds, if any, were expended.

(Ord. 8, 1996, passed 9-24-1996)

### **§ 33.03 DEPARTMENT OF PARKS AND RECREATION.**

(A) Under the provisions of I.C. 36-10-3, there is hereby created the municipal Department of Parks and Recreation.

(B) The Park and Recreation Board shall be composed of four members appointed by the Town Council President on the basis of their interest in and knowledge of parks and recreation. No more than two members shall be of the same political party.

(C) Each new appointment shall be made by the Town Council President for a term of four years. All terms expire on the first Monday in January, but a member shall continue in office until his or her successor is appointed. If an appointment for a new term is not made by the executive by the first Monday in April, the incumbent shall serve another term. If a vacancy occurs, the executive shall appoint a new member for the remainder of the unexpired term.

(D) At its first regular meeting in each year, the Board shall elect the President and Vice-President. The Vice-President shall have authority to act as the President of the Board during the absence or disability of the President. The Board may select the Secretary from within or without its own membership.

(E) The Board shall have the power to perform all acts necessary to acquire and develop sites and facilities and to conduct the programs as are generally understood to be park and recreation functions. In addition, the Board shall have all the powers listed in I.C. 36-10-3 *et seq.*

(F) The Board shall prepare and submit an annual budget in the same manner as other departments of town government, as prescribed by the State Board of Accounts. The Board may accept gifts, donations and subsidies for park and recreation purposes.

(Ord. 9, 1996, passed 11-11-1996)

## CHAPTER 34: PURCHASING PROCEDURE

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Section

- 34.01 Designation of agency and agent
- 34.02 Supplies manufactured in the United States
- 34.03 Notices, requests for proposals and the like

### § 34.01 DESIGNATION OF AGENCY AND AGENT.

- (A) The Town Council is hereby designated to be the purchasing agency for the town.
  - (B) The Town Council hereby appoints the Town Manager to serve as the purchasing agent for the town.
- (Ord. 8, 1998, passed 7-13-1998)

### § 34.02 SUPPLIES MANUFACTURED IN THE UNITED STATES.

- (A) All supplies purchased by the town are to be manufactured in the United States, except as specified herein.
  - (B) Supplies specified for purchase by the town may be purchased if not manufactured within the United States if the town determines:
    - (1) The needed supplies are not manufactured in the United States in reasonably available quantities;
    - (2) The prices of the supplies manufactured in the United States exceeds by an unreasonable amount the price of available and comparable supplies manufactured elsewhere;
    - (3) The quality of the supplies manufactured in the United States is substantially less than the quality of comparably priced available supplies manufactured elsewhere; or
    - (4) The purchase of supplies manufactured in the United States is not in the public interest.
- (Ord. 8, 1998, passed 7-13-1998)

### § 34.03 NOTICES, REQUESTS FOR PROPOSALS AND THE LIKE.

- (A) All matters concerning notices, requests for proposals and invitations to bid shall be as follows:
  - (1) *Invitation to bid.* All notices of invitation for bids shall be published in accordance with I.C. 5-3-1. The purchasing agent shall schedule the publication of notice to provide a reasonable amount of time for preparation and submission of bids. The notice shall be published two times, at least one week apart. The second publication must occur at least ten days prior to the date bids will be opened.
  - (2) *Request for proposal.* All notices of requests for proposals shall be published in accordance with I.C. 5-3-1. The purchasing agent shall schedule the publication of

notice to provide a reasonable amount of time for preparation and submission of proposals. The notice shall be published two times, at least one week apart. The second publication must occur at least seven days prior to the date proposals will be opened.

(3) *Requests for specifications.* All notices of requests for proposals shall be published in accordance with I.C. 5-3-1. The purchasing agent shall schedule the publication of notice to provide a reasonable amount of time for preparation and submission of proposals. The notice shall be published two times, at least one week apart. The second publication must occur at least seven days prior to the date proposals will be opened.

(4) *Electronic notices.* Whenever a notice or other material, including specifications, an invitation for bids, requests for proposals or requests for specifications, is sent by mail, the purchasing agent may also send the notice or other material by electronic means, provided that the transmission of the information is at least as efficient as mailing the information.

(B) All matters concerning receiving offers shall be as follows:

(1) *Opening of offers.* Bids received in response to an invitation for bids must be opened publicly in the presence of at least one or more witnesses at the time and place designated in the invitation for bids. Proposals received in response to a request for proposals must be opened so as to avoid disclosure of the contents to competing offerors during the process of negotiation. Proposals received in response to a request for specifications may be opened as specified in the request for specifications.

(2) *Electronic receipt of offers.* The purchasing agent may receive electronic offers in response to an invitation to bid, request for proposals or request for specifications. An electronic offer may only be received if:

(a) The solicitation includes the procedure for the electronic transmission of the offer; and

(b) The purchasing agency receives the offer on a fax machine or other system with a security feature that protects the contents of an electronic offer with the same degree of protection as provided to an offer not transmitted electronically.

(3) *Correction and withdrawal of bids.* An offeror may correct inadvertent errors in a bid up to the time at which bids will be opened by supplementing the erroneous bid and submitting a revised bid. A bidder may not supplement and inadvertently erroneous bid after the time at which the bids were opened. A bidder may withdraw a bid containing inadvertent errors up to the time at which bids will be opened and for a period of not more than 24 hours after the time at which bids were opened.

(4) *Cancellation of solicitation.* When the purchasing agent makes a written determination that it is in the town's best interests, the purchasing agent may cancel a solicitation or reject all offers, provided that the solicitation included information concerning the procedure for cancellation.

(C) The purchasing agent may purchase supplies with an estimated cost of less than \$25,000 on the open market without inviting or receiving quotes.

(Ord. 8, 1998, passed 7-13-1998)

## CHAPTER 35: TOWN POLICIES

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Section

35.01 ADA policy

**§ 35.01 ADA POLICY.**

(A) *In general.* In accordance with the requirements of title II of the Americans with Disabilities Act of 1990 (“ADA”), the town will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

(1) *Employment.* The town does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under title I of the ADA.

(2) *Effective communication.* The town will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in town programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

(3) *Modifications to policies and procedures.*

(a) The town will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in the town, even where pets are generally prohibited.

(b) Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the town should contact the office of the Town Manager, 120 W. Main St, Winamac, IN 46996, 574-946-3451; as soon as possible but no later than 48 hours before the scheduled event.

(c) The ADA does not require the town to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

(d) Complaints that a program, service, or activity of the town is not accessible to persons with disabilities should be directed to the Town Manager, 120 W. Main St, Winamac, IN 46996, 574-946-3451.

(3) The town will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

(B) *Grievance procedure.*

(1) This grievance procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 (“ADA”). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the town. The town’s personnel policy governs employment-related complaints of disability discrimination. (See § 31.01.)

(2) The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filing complaints, such as personal

interviews or an audio recording of the complaint will be made available for persons with disabilities upon request.

(3) The complaint should be submitted by the grievant and/or his or her designee as soon as possible but no later than 60 calendar days after the alleged violation to the ADA Coordinator/Town Manager 120 W. Main Street Winamac, IN 46996 574-946-3451.

(4) Within 15 calendar days after receipt of the complaint, the ADA Coordinator/Town Manager or his or her designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, the ADA Coordinator/Town Manager or his or her designee will respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio recording. The response will explain the position of the town and offer options for substantive resolution of the complaint.

(5) If the response by the ADA Coordinator/Town Manager or his or her designee does not satisfactorily resolve the issue, the complainant and/or his or her designee may appeal the decision within 15 calendar days after receipt of the response to the Town Council.

(6) Within 35 calendar days after receipt of the appeal, the Town Council or their designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the Town Council or their designee will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

(7) All written complaints received by the ADA Coordinator/Town Manager or his or her designee, appeals to the Town Council or their designee, and responses from these two offices will be retained by the town for at least three years.

(Ord., passed 8-13-2012; Am. Ord., passed 8-13-2012)

***Cross-references:***

*ADA complains from town employees, see § 31.01*

## **TITLE V: PUBLIC WORKS**

Chapter

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

### **CHAPTER 50: GENERAL PROVISIONS**

Section

- 50.01 Water, Light and Sewage Committee
- 50.02 Superintendent; duties
- 50.03 Examination and inspection
- 50.04 Rules governing consumers and other persons

- 50.05 Running of fixtures when not in use
- 50.06 Use from public water fixtures
- 50.07 Turning on or reopening of service
- 50.08 Service pipes
- 50.09 Meter deposits
- 50.10 Underground locates

**§ 50.01 WATER, LIGHT AND SEWAGE COMMITTEE.**

The Town Council shall have power to do and perform acts as may be necessary for the prudent and efficient management and protection of the works not inconsistent with the rules, regulations and laws pertaining thereto. They shall examine the accounts of water, light and sewage, as audited by the Superintendent. The accounts shall show all moneys received, also the disbursements made, debts contracted, to whom, for what and when paid, with voucher for every disbursement.

(<sup>94</sup> Code, § 10-3-1)

**§ 50.02 SUPERINTENDENT; DUTIES.**

(A) The Superintendent of the water, light and sewage plant shall have immediate charge and control of the work, and it shall be the duty of the Superintendent to see that the rules and regulations provided by the Town Council are properly executed; that the conditions of all contracts in relation to the plant are fully complied with; that assessments for water rents, electric light and sewage rents are duly made, collected and paid into the Town Treasury; to audit the accounts, claims, receipts and disbursements monthly and submit the same to the Town Council with explanations as will enable them to act advisedly thereon. He or she shall keep at his or her office a full and complete record of all permits issued for taking water, light and sewage. He or she shall purchase the fuel and other necessities including all repairs necessary for the operation of the plant and shall submit all bills approved by him or her to the Town Council.

(B) He or she shall keep a correct record of all the records, books and blanks as may be necessary to keep a correct account of all receipts and disbursements and make a monthly report thereof to the Town Council and perform other duties as the Town Council may require.

(<sup>94</sup> Code, § 10-3-2)

**§ 50.03 EXAMINATION AND INSPECTION.**

The Superintendent shall have free access, at all reasonable hours, to all parts of the premises to which water is supplied to make necessary examination and inspection.

(<sup>94</sup> Code, § 10-3-3)

**§ 50.04 RULES GOVERNING CONSUMERS AND OTHER PERSONS.**

All consumers must keep their service pipe and all fixtures connected therewith in good repair and protected from frost at their own expense and must prevent all unnecessary waste of water.

(94 Code, § 10-3-4)

**§ 50.05 RUNNING OF FIXTURES WHEN NOT IN USE.**

No consumer or other person shall permit any tap, hydrant, hose, water closet, urinal, bath, faucet or other fixture to keep running when not in use.

(94 Code, § 10-3-5)

**§ 50.06 USE FROM PUBLIC WATER FIXTURES.**

No consumer or other person shall take any water for private use from any public hydrant, plug, street washer, draw-cock, hose, pipe or fountain furnished for fire purposes or other public use, without the consent of the Water, Light and Sewage Committee and permit therefor having been received and paid for.

(94 Code, § 10-3-6)

***Cross-reference:***

*Opening of fire hydrants, see § 53.03*

**§ 50.07 TURNING ON OR REOPENING OF SERVICE.**

No consumer or other person, whose water service shall have been turned off for any reason, shall turn on the water or reopen the service or permit the same to be done by any person, except by order of the Superintendent.

(94 Code, § 10-3-7)

**§ 50.08 SERVICE PIPES.**

(A) All service pipes must be placed at least 42 inches below the grade and where the service pipes are laid in gravel or stony ground, the trench must be excavated to a depth of 48 inches, then filled with six inches of loose top soil, the pipe laid and covered with one foot of top soil and the remainder of the trench filled in with material excavated. In refilling trenches, the earth shall be laid in layers not less than four inches in depth and each layer shall be thoroughly tamped so as to prevent after settling. The pavement, flagging and entire surface of the street and gutter shall be restored to as good condition as it was before it was taken up and all rubbish shall be removed immediately after the completion of the work.

(B) No excavation in any street or public place shall be left open overnight unless thoroughly protected by barricades and red lights kept burning at same and any licensed plumber failing to protect his or her work shall be personally liable on his or her bond for all loss and damage occasioned thereby.

(C) Meters must be placed where secure from frost and convenient to be read and the pipes connecting to be joined at each end of the meter by means of a square faced union. Working room must be left all around the meter and a stop or wastecock inserted where the service pipe enters the building.  
(<sup>94</sup> Code, § 10-3-8)

#### **§ 50.09 METER DEPOSITS.**

The town, as owner and operator of the Electric Department and Water Department, herein establishes the following rates for electric and water meter deposits:

(A) A water deposit in the sum of \$125 shall be collected at the time of commencement of town water service.

(B) An electric deposit in the sum of \$125 shall be collected at the time of commencement of town electric service.

(C) Where electric service provided to a commercial establishment or where electric heat is utilized, an electric deposit in the sum of \$225 shall be collected at the time of commencement of town electric service.

(<sup>94</sup> Code, § 10-5) (Am. Ord. 7 of 2004, passed 6-14-2004; Am. Ord. 3 of 2009, passed 2-9-2009; Am. Ord. 9 of 2013, passed 5-13-2013)

#### **§ 50.10 UNDERGROUND LOCATES.**

(A) *Definitions.* The terms as defined in I.C. 8-1-26-2 through 8-1-26-12 are hereby included by reference.

(B) *Locating underground sanitary and storm sewer lines.* Due to the inability to located the most common types of underground facilities used in the construction of sanitary sewer lines and storm sewer lines, the town will only locate our main lines. Service lines from the main line to the property line will only be located if an appropriate tracer wire is available and will only be located from the property line to the main line. At no time will the service line be traced from the property line into private property. It will be the responsibility of the property owner and/or the person doing the work to locate all other service lines located on private property.

(C) *Locating underground water lines.* The town will locate our water mains. Where possible, we will locate service lines from the main to either a curb stop, water meter, or the property line, whichever is in closest proximity to the water main. At no time will the service line be traced from the property line into private property. It will be the responsibility of the property owner and/or the person doing the work to locate all other service lines located on private property.

(D) *Locating underground electric lines.* The town will locate our underground primary electric lines. We will only locate those secondary service wires that the town has installed and maintains. It will be the responsibility of the property owner and/or the person doing the work to locate all other secondary service wires.

(E) *Damage to underground utilities.* The town will not be responsible for damage to any underground utilities on private property.

(Ord. 9 of 2008, passed 6-9-2008)

## CHAPTER 51: GARBAGE

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### Section

51.01	Definitions
51.02	Residential service
51.03	Business service
51.04	Authorized containers; fees
51.05	Improper disposal
51.06	Recyclable items
51.07	Yard waste
51.08	Restriction
51.99	Penalty

### § 51.01 DEFINITIONS.

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

**BULK ITEMS.** Those large items of personal property which includes, but is not limited to furniture, mattresses, carpeting, tires, televisions and non-Freon appliances.

**BRUSH.** Leaves; hedge, shrub, bush or tree trimmings; limbs or sticks from trees, bushes, shrubs, hedges, whether dead or alive, and other organic matter normally associated with garden maintenance.

**BUSINESS.** A commercial, religious and/or governmental entity.

**CONTAINER.** Only approved, provided **CONTAINERS** will be collected.

**RECEPTACLE.** Any trash/garbage container or dumpster.

**RECYCLABLE ITEMS.** Items collected and processed by the county recycling center.

**RECYCLING RECEPTACLE.** Any receptacle issued by the contractor for the disposal of recyclable items.

**RUBBISH.** Unacceptable waste, including but not limited to crates, barrels, building materials, lumber, concrete, metals, shavings, Freon-containing appliances, liquids, liquid and water wastes which are normally disposed of in a sanitary sewer, hazardous waste, rocks, ashes and/or animal carcasses.

**TOWN.** Winamac, Indiana.

**TOWN-OWNED RECEPTACLE.** Any receptacle located on town property, town parks or on public sidewalks.

**TRASH or GARBAGE.**

(1) Non-decaying solid and semi-solid items, except for rubbish, bulk items and yard wastes;

(2) Waste resulting from handling, preparation, cooking for consumption of food; and

(3) Waste from the handling, storage and sale of produce.

**YARD WASTE.** Grass cuttings and trimmings.

(Ord. 5 of 2014, passed 4-14-2014)

#### **§ 51.02 RESIDENTIAL SERVICE.**

(A) The contractor will provide pickup and collection of trash and garbage weekly and recycling every other week on a scheduled basis in accordance with the provisions for containers and fees, as provided hereafter in this chapter.

(B) It shall be the responsibility of the owner or occupier of each residence within the town to ensure that the property is free from trash, garbage and/or rubbish and to keep the sidewalks and alleys adjacent to the property free of trash, garbage, rubbish and/or yard waste, except as otherwise provided.

(C) All trash/garbage must be placed in a container.

(Ord. 5 of 2014, passed 4-14-2014) Penalty, see § 51.99

#### **§ 51.03 BUSINESS SERVICES.**

(A) It shall be the responsibility of the owner or manager of each business within the town to insure that the business property is free from trash, garbage and/or rubbish and to keep the sidewalks on the property free of trash, garbage and rubbish, and to ensure that all trash, garbage and rubbish is removed from the premises on a regularly scheduled basis.

(B) The town will provide for the pickup of one container of business trash and garbage per week day, excluding holidays, provided that the business is accessible by town garbage collection equipment.

(C) All trash/garbage must be placed in a plastic bag and placed in a container.

(Ord. 5 of 2014, passed 4-14-2014) Penalty, see § 51.99

#### **§ 51.04 AUTHORIZED CONTAINERS; FEES.**

(A) Each residence shall be allowed a maximum of one container of garbage and/or trash per week to be collected by the contractor at no charge provided that the residence is accessible by contractor's garbage collection equipment.

(B) Each additional bag must be purchased from the town at the Clerk/Treasurer's Office. Each bag shall cost \$2.

(C) Containers must be placed at the curb except for the alley running north and south between Market Street on the west, Monticello Street on the east, and starting at Madison Street on the north and ending on Main Street on the south and the alley running north and south between Market Street on the east and Logan Street on the west starting at Pearl Street on the north and ending at Main Street on the south, where they shall be placed at the alley. Containers shall be so located so as to not be easily upset. The containers must be placed not earlier than 5:00 p.m. the evening preceding the pickup day.

(D) Any container in excess of the one authorized herein, which is not a special bag as required herein, shall not be picked up by the contractor.  
(Ord. 5 of 2014, passed 4-14-2014) Penalty, see § 51.99

#### **§ 51.05 IMPROPER DISPOSAL.**

(A) It shall be unlawful to dispose of trash, garbage, rubbish or yard waste by burial or cremation.

(B) Rubbish will not be collected by the contractor and disposal remains the sole responsibility of the owner or occupier of the property.

(C) Broken glass, needles and other sharp or otherwise dangerous objects must be placed in a non-permeable receptacle prior to placement for collection.  
(Ord. 5 of 2014, passed 4-14-2014) Penalty, see § 51.99

#### **§ 51.06 RECYCLABLE ITEMS.**

(A) The contractor shall provide one contractor-owned recycling receptacle for each residence and business for the disposal of recyclable items.

(B) The contractor will collect recyclable items every other week.

(C) The recyclable items, once collected, shall become subject to the control of the contractor.

(D) Recycling shall be subject to guidelines as implemented by the county recycling center.  
(Ord. 5 of 2014, passed 4-14-2014)

#### **§ 51.07 YARD WASTE.**

(A) Yard waste will not be collected by the town. It will be the responsibility of the property owner or lawn care service firm to remove all yard waste and properly dispose of it.

(B) During fall leaf collection, leaves shall be raked to the curb in the street, except for Highway 35 where leaves are placed in the alley. Leaves shall not extend more than four feet into the roadway and shall be raked clear of utility poles and mailboxes. Leaves need to be kept separate from other materials.

(C) The town will collect brush. Brush is to be placed in the alley for collection.

(D) If a private tree firm is used, all brush will be the responsibility of the property owner or tree service firm to remove and properly dispose.  
(Ord. 5 of 2014, passed 4-14-2014) Penalty, see § 51.99

#### **§ 51.08 RESTRICTION.**

(A) It is unlawful for any person or business to use the container of another person or business or any town-owned receptacle for the disposal of trash, garbage, rubbish or yard waste.



It shall be the responsibility of the owner or occupier of the property of the location violated to notify the police of the violation.

(B) It shall be unlawful for any person to willfully upset or overturn or take any receptacle or container for trash or garbage.

(C) Each day that the violation shall occur shall constitute a separate violation for which the owner or occupier of the property shall be subject to a fine as set out in § 51.99. (Ord. 5 of 2014, passed 4-14-2014) Penalty, see § 51.99

**§ 51.99 PENALTY.**

(A) Any person who violates this chapter or permits any other person to commit a violation of this chapter shall be subject to a fine of \$50.

(B) Any owner or occupier of a premises who fails to maintain the property in accordance with this chapter shall be subject to a fine of \$50. (Ord. 5 of 2014, passed 4-14-2014)

**CHAPTER 52: ELECTRICITY**

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Section

- 52.01 Rates and charges
- 52.02 Terms of payment
- 52.03 Non-payment of bills

**Cross-reference:**

*Meter deposits, see § 50.09*

**§ 52.01 RATES AND CHARGES.**

(A) The rate for monthly electric usage by a residential service class (Rate R) user shall be:

<i>Residential Service - Rate "R"</i>	<i>Existing Rate</i>	<i>Rate Effective with Passage</i>
Customer charge (per monthly bill):		
Urban	\$7.60	\$10.00
Rural	\$13.10	\$15.00
Energy rate (per kWh)	\$0.05851	\$0.10862

(B) The rate for monthly electric usage by a commercial service class (Rate C) user shall be:

<i>Commercial Service - Rate "C"</i>	<i>Existing Rate</i>	<i>Rate Effective with Passage</i>

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Customer charge (per monthly bill):		
Single-phase	\$13.10	\$15.00
Three-phase	\$16.40	\$25.00
Energy rate (per kWh)	\$0.06641	\$0.11420

(C) The rate for monthly electric usage by a commercial power service class (Rate CP) user shall be:

<b><i>Commercial Power Service - Rate "CP"</i></b>	<b><i>Existing Rate</i></b>	<b><i>Rate Effective with Passage</i></b>
Customer charge (per monthly bill):	\$27.30	\$45.00
Demand charge (per kWh)	\$8.00	\$8.00
Transformer owner discount (per kW)	(\$0.38)	(\$0.38)
Energy rate (per kWh)	\$0.02522	\$0.05900

(D) The rate for monthly electric usage by a power service class (Rate P) user shall be:

<b><i>Power Service - Rate "P"</i></b>	<b><i>Existing Rate</i></b>	<b><i>Rate Effective with Passage</i></b>
Customer charge (per monthly bill):	\$38.20	\$75.00
Demand charge (per kVA)	\$8.00	\$10.00
Transformer owner discount (per kVA)	(\$0.38)	(\$0.38)
Energy rate (per kWh)	\$0.02522	\$0.05900

(E) The rate for monthly electric usage by a large power service class (Rate LP) user shall be:

<b><i>Power Service - Rate "LP"</i></b>	<b><i>Existing Rate</i></b>	<b><i>Rate Effective with Passage</i></b>
Customer charge (per monthly bill):	\$273.00	\$350.00
Demand charge (per kVA)	\$8.30	\$13.50
Transformer owner discount (per kVA)	(\$0.38)	(\$0.38)
Energy rate (per kWh)	\$0.02522	\$0.05840

(F) The rate for monthly electric usage by a municipal service class (Rate M) user shall be:

<b><i>Municipal Service - Rate "M"</i></b>	<b><i>Existing Rate</i></b>	<b><i>Rate Effective with Passage</i></b>
Customer charge (per monthly bill):		
Single-phase	\$13.10	\$15.00
Three-phase	\$16.40	\$25.00
Energy rate (per kWh)	\$0.06641	\$0.11420

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(G) The rate for monthly electric usage for security and street lighting shall be in accordance with the following schedule:

<i>Security and Street Lighting</i>	<i>Existing Rate</i>	<i>Rate Effective with Passage</i>
Monthly charge (per fixture):		
175 watt mercury vapor	\$6.30	\$6.60
250 watt mercury vapor	\$9.65	\$9.90
400 watt mercury vapor	\$13.15	\$13.40
70 watt high pressure sodium	\$5.65	\$5.90
100 watt high pressure sodium	\$6.20	\$6.45
150 watt high pressure sodium	\$6.75	\$7.00
250 watt high pressure sodium	\$11.25	\$11.50
400 watt high pressure sodium	\$14.00	\$14.25
1,000 watt high pressure sodium	\$27.85	\$28.10
300 watt incandescent	\$6.55	\$6.85
65 watt LED		\$3.50
142 watt LED		\$3.50
Additional charge for lamp with pole	\$2.30	\$3.00

(Am. Ord. 5, 1998, passed 6-8-1998; Am. Ord. 1, 2003, passed 1-13-2003; Am. Ord. 11 of 2008, passed 8-11-2008; Am. Ord. 12 of 2014, passed 9-8-2014)

**§ 52.02 TERMS OF PAYMENT.**

All bills not paid before the due date as stated on such bills shall be subject to the collection or deferred payment charge of 10% of that part of the delinquent amount which does not exceed \$3 plus 3% of any delinquent amount in excess of \$3.

(Ord. 1, 2003, passed 1-13-2003; Am. Ord. 11 of 2008, passed 8-11-2008; Am. Ord. 12 of 2014, passed 9-8-2014)

**§ 52.03 NON-PAYMENT OF BILLS.**

Whenever the service is disconnected for non-payment of the bill, or whenever, for any reason beyond the control of the utility, a reconnection of service is required by any customer more often than once in a 12-month period, a charge of \$25 shall be assessed.

(Ord. 1, 2003, passed 1-13-2003; Am. Ord. 11 of 2008, passed 8-11-2008; Am. Ord. 12 of 2014, passed 9-8-2014)

**CHAPTER 53: WATER**

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Winamac, IN Code of Ordinances

Section

- 53.01 Rates and charges
- 53.02 Restriction of residential groundwater usage
- 53.03 Opening of fire hydrants
- 53.04 Discontinuance of water service

- 53.99 Penalty

**Cross-reference:**

*Lawn sprinkling meters, see § 54.56*  
*Meter deposits, see § 50.09*

**§ 53.01 RATES AND CHARGES.**

(A) The rate for monthly consumption per 1,000 gallons of water usage is hereby amended in accordance with the following chart:

<b><i>Inside Corporate Town Boundaries</i></b>		
(1)	First 5,000 gallons	\$6.92
(2)	Next 10,000 gallons	5.78
(3)	Next 20,000 gallons	4.65
(4)	Next 40,000 gallons	3.50
(5)	Over 75,000 gallons	2.28

<b><i>Outside Corporate Town Boundaries</i></b>		
(Outside corporate town boundaries rates and charges are approximately 14.9% higher than the rates and charges for customers inside the corporate town boundaries.)		
(1)	First 5,000 gallons	\$7.95
(2)	Next 10,000 gallons	6.64
(3)	Next 20,000 gallons	5.34
(4)	Next 40,000 gallons	4.02
(5)	Over 75,000 gallons	2.62

(B) The minimum monthly rate for meter size is in accordance with the following chart:

<b><i>Inside Corporate Town Boundaries</i></b>	
<b><i>Meter Size</i></b>	<b><i>Monthly Minimum Charge</i></b>
5/8" to 3/4"	\$17.55
1"	\$43.60
1 1/4"	\$71.30
1 1/2"	\$95.10

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<b><i>Inside Corporate Town Boundaries</i></b>	
<b><i>Meter Size</i></b>	<b><i>Monthly Minimum Charge</i></b>
2"	\$174.15
3"	\$394.95
4"	\$711.60
6"	\$1,581.40

<b><i>Outside Corporate Town Boundaries</i></b> (Outside corporate town boundaries rates and charges are approximately 14.9% higher than the rates and charges for customers inside the corporate town boundaries.)	
<b><i>Meter Size</i></b>	<b><i>Monthly Minimum Charge</i></b>
5/8" to 3/4"	\$20.25
1"	\$50.05
1 1/4"	\$81.90
1 1/2"	\$109.25
2"	\$200.05
3"	\$453.75
4"	\$817.60
6"	\$1,817.00

(C) The annual fire protection service hydrant rental rate is hereby amended in accordance with the following chart:

<b><i>Inside Corporate Town Boundaries</i></b>	
Private - per hydrant, per annum	\$709.60
<b><i>Outside Corporate Town Boundaries</i></b> (Outside corporate town boundaries rates and charges are approximately 14.9% higher than the rates and charges for customers inside the corporate town boundaries.)	
Private - per hydrant, per annum	\$815.30

<b><i>Public Hydrant Surcharge</i></b>	
<b><i>Size of Meter</i></b>	<b><i>Charge per Month</i></b>
Single family residential structure	\$6.65
5/8" to 3/4"	6.65
1"	16/63
1 1/2"	33.25
2"	53.20
3"	99.75
4"	166.25

6"	332.50
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(D) The annual sprinkler connection rate is in accordance with the following chart:

<i>Inside Corporate Town Boundaries</i>	
<i>Sprinkler Connection Size</i>	<i>Annual Rate</i>
2 inch	\$175.00
4 inch	751.00
6 inch	1,579.35
8 inch	2,778.65
10 inch	4,348.65

<i>Outside Corporate Town Boundaries</i>	
(Outside corporate town boundaries rates and charges are approximately 14.9% higher than the rates and charges for customers inside the corporate town boundaries.)	
<i>Sprinkler Connection Size</i>	<i>Annual Rate</i>
2 inch	\$201.08
4 inch	862.65
6 inch	1,814.65
8 inch	3,192.65
10 inch	4,996.55

(E) The connection fee for a 3/4-inch water tap will be \$700. For a 1-inch and larger water tap, the connection fee will be based on the actual time and materials required to make the tap.

(Ord. 9, 1997, passed 7-14-1997; Am. Ord. 6, 2002, passed 7-8-2002; Am. Ord. 7, 2003, passed 9-2-2003; Am. Ord. 2 of 2010, passed 7-12-2010; Am. Ord. 1 of 2013, passed 2-11-2013; Am. Ord. 6 of 2014, passed 6-9-2014; Am. Ord. 14 of 2014, passed 10-13-2014; Am. Ord. 15 of 2014, passed 10-13-2014)

**§ 53.02 RESTRICTION OF RESIDENTIAL GROUNDWATER USAGE.**

(A) Private wells are not permitted and customers are required to connect to the city water utility.

(B) Any existing well must be disconnected from the system under the house; disconnection of the well will be done at the owner’s expense and must be inspected to the satisfaction of the utility Superintendent.

(C) Cross connections between the utility system and any other source of water supply is absolutely prohibited. When the utility furnishes water service to any firm, corporation, person, or persons using or being connected to another source of water supply, the utility will require that the rules of the State Board of Health be followed.

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(D) Any use of private wells in conflict with this section shall constitute a violation of this section and shall constitute up to a \$2,500 fine, with each day constituting a separate violation and fine of up to \$2,500.

(E) The city may require testing of private wells at any time at the expense of the customer.

(F) This section and the restrictions contained herein are limited to the area enclosed by the following boundary lines:

- (1) Northern boundary line: Roberts Ditch.
- (2) Eastern boundary line: Highway 35.
- (3) Southern boundary line: Highway 14.
- (4) Western boundary line: Town of Winamac's corporate boundary.

(G) The town shall provide written notice to the Indiana Department of Environmental Management at least 60 days before the amendment or repeal of this section and no later than 30 days after the passage, amendment or repeal of this section. Written notice shall be sent to the following address:

IDEM, Office of Land Quality  
Remediation Services Branch  
Attn: Branch Chief  
IGCN Suite 1101  
100 N. Senate Avenue  
Indianapolis, IN 46204-2251

(Ord. 6 of 2007, passed 9-10-2007; Am. Ord. 19 of 2012, passed 12-10-2012)

**§ 53.03 OPENING OF FIRE HYDRANTS.**

(A) *Violation.* Whoever injures, destroys or permits to be injured or destroyed any meter, pipe, hydrant, curb box, shut-off valve at any curb box, any other kind of valve or other apparatus belonging to the Winamac Municipal Water Works Utility or whoever prevents a water meter from duly registering the quantity of water supplied or in any way interferes with its proper action or just registration, or whoever, without the consent of Winamac Municipal Water Works Utility by its proper officers, diverts any water from any pipe line or fire hydrant of Winamac Municipal Water Works Utility or otherwise uses or causes to be used, without the consent of Winamac Municipal Water Works Utility, any water distributed by Winamac Water Works Utility, or whoever attempts any of the above, shall be guilty of a violation.

(B) *Exceptions.* The following entities are exempt from this section:

- (1) Employees of the town while engaged in work activities for the town.
- (2) Members of the Winamac Volunteer Fire Department while engaged in firefighting activities, training activities, maintenance of firefighting equipment, or otherwise engaged in public safety activities.
- (3) Members of other fire departments while assisting the Winamac Volunteer Fire Department in any of its activities.

(Ord. 13 of 2012, passed 11-12-2012) Penalty, see § 53.99

**§ 53.04 DISCONTINUANCE OF WATER SERVICE.**

(A) Except for the following cases arising from theft, vandalism, or damage the utility shall give at least seven days' prior written notice, either mailed to such customer at his or her address as shown upon the utility's records or personally delivered to him or her where a person is on the premises, advising the customer of the reason for the proposed discontinuance of service, and stating that service shall be discontinued if the reason continues to be uncorrected at the conclusion of seven days; and further providing that the customer may request an administrative hearing to be held prior to discontinuance of service. The administrative hearing shall be held before the Winamac Town Manager or his or her designee. At the conclusion of the administrative hearing, the Town Manager or his or her designee shall have the authority, based on good cause, to affirm, modify, or reverse the order to discontinue service. The Town Manager or his or her designee shall provide the decision of the hearing in writing.

(B) In cases provided for in theft, vandalism, or damage, the utility may discontinue service without notice.

(Ord. 13 of 2013, passed 8-12-2013)

**§ 53.99 PENALTY.**

(A) Except as otherwise provided in this section, any person in violation of any of the terms or provisions of this chapter shall be subject to the penalty provided in § 10.99.

(B) (1) Any person in violation of any of the terms or provisions of § 53.03 shall be fined in an amount of not less than \$50 no more than \$2,500. Each day that such violation shall occur shall constitute a separate violation for which the person shall be subject to a fine.

(2) Civil penalties for violation(s) of § 53.03 shall be payable through the Winamac Clerk- Treasurer's office located at 120 W. Main Street, Winamac, IN 46996 within 30 days.

(Ord. 13 of 2012, passed 11-12-2012)

## **CHAPTER 54: SEWERS**

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Section

*General Provisions*

- 54.01 Definitions
- 54.02 Compliance required
- 54.03 Damaging sewage works
- 54.04 Violations—general
- 54.05 Industrial pretreatment; violations; penalties

*Use Regulations*

- 54.15 Connection and use
- 54.16 Installation and connection
- 54.17 Discharge of water and waste
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- 54.20 Observation, sampling and measurement of waste
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### *Administration and Enforcement*

- 54.35 Enforcement; by-laws and regulations
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### *Rates and Charges*

- 54.50 Definitions
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- 54.52 Quantity of water; discharges
- 54.53 Billing
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- 54.55 Enforcement
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## GENERAL PROVISIONS

### § 54.01 DEFINITIONS.

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

***BOD*** or ***BIOCHEMICAL OXYGEN DEMAND***. The quantity of 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 degrees Celsius. The laboratory determinations of ***BOD*** shall be made in accordance with procedures set forth in Standard Methods, therein and conventionally referred to as ***BOD<sub>5</sub>***.

***BUILDING DRAIN***. The part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of a building and conveys it to the building sewer beginning three feet outside the building wall.

(1) ***SANITARY BUILDING DRAIN***. A building drain which conveys sanitary or industrial sewage only.

(2) ***STORM BUILDING DRAIN***. A building drain which conveys stormwater or other clearwater drainage, but no wastewater.

***BUILDING SEWER***. The extension from the building drain to the public sewer or other place of disposal. A ***BUILDING SEWER*** is also called "house connection."

(1) ***SANITARY BUILDING SEWER***. A building sewer which conveys sanitary or industrial sewage only.

(2) ***STORM BUILDING SEWER***. A building sewer which conveys stormwater or other clearwater drainage, but no sanitary or industrial sewage.

***CLEARWATER DISCHARGE***. Uncontaminated cooling water.

**COMBINED SEWER.** A sewer intended to receive both wastewater and storm or surface water.

**COMPATIBLE POLLUTANT.** Biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus additional pollutants identified in the NPDES permit if the treatment works was designed to treat the pollutants, and in fact does remove the pollutants to a substantial degree. The term “substantial degree” is not subject to precise definition, but generally contemplates removals in the order of 80% or greater. Minor incidental removals in the order of 10% to 20% are not considered substantial. Examples of the additional pollutants which may be considered compatible include:

- (1) Chemical oxygen demand;
- (2) Total organic carbon;
- (3) Phosphorus and phosphorus compounds; and
- (4) Nitrogen and nitrogen compounds, fats, oils and greases of animal or

vegetable origin, except as prohibited where these materials would interfere with the operation of the treatment works.

**CONTROL AUTHORITY (“CA”).** The commissioner of the Indiana Department of Environmental Management.

**COUNCIL.** The Town Council or any duly authorized officials acting in its behalf.

**DEBT SERVICE COSTS.** The average annual principal and interest payments on all proposed revenue bonds or other long-term capital debt.

**EASEMENT.** An acquired legal right for the specific use of land owned by others.

**EXCESSIVE STRENGTH SURCHARGE.** An additional charge which is billed to users for treating sewage wastes with an average strength in excess of normal domestic sewage.

**FECAL COLIFORM.** Any of a number of organisms common to the intestinal tract of humans and animals, whose presence in sanitary sewage is an indicator of pollution.

**FLOATABLE OIL.** Oil, fat or grease in a physical state, such that will separate by gravity from wastewater by treatment in a pretreatment facility approved by the town.

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

**INCOMPATIBLE POLLUTANT.** Any pollutant that is not defined as a compatible pollutant, including non-biodegradable dissolved solids.

**INDIRECT DISCHARGER.** A nondomestic discharger introducing pollutants into the Winamac POTW, regardless of whether the discharger is within the governmental jurisdiction of the permittee.

**INDUSTRIAL USER.** An indirect discharger.

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

**INFILTRATION.** The water entering a sewer system, including building drains and sewers, from the ground, through such means as, but not limited to defective pipes, pipe joints, connections or manhole walls.

**INFILTRATION/INFLOW.** The total quantity of water from both infiltration and inflow without distinguishing the source.

**INFLOW.** The water discharge into a sewer system, including building drains and sewers, from such sources as, but not limited to roof leaders, cellar, yard and area drains, foundation drains, unpolluted cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers and combined sewers, catch basins, storm

waters, surface run-off, street wash waters or drainage. **INFLOW** does not include, and is distinguished from, “infiltration.”

**INSPECTOR.** The person or persons duly authorized by the town through its Council to inspect and approve the installation of building sewers and their connection to the public sewer systems.

**INTERFERENCE.** A discharge that, alone or in conjunction with a discharge or discharges from other sources, does one of the following:

- (1) Inhibits or disrupts the Winamac POTW, its treatment processes or operations, its sludge processes, or its selected sludge use or disposal methods.
- (2) Causes a violation of requirement of the Winamac POTW’s NPDES permit, including an increase in the magnitude or duration of a violation.
- (3) Prevents the use of the Winamac POTW’s sewage sludge or its sludge disposal method selected in compliance with the following statutory provisions, regulations, or permits issued thereunder or more stringent state or local regulations.

- (a) Section 405 of the Clean Water Act (33 U.S.C. 1345).
- (b) The Solid Waste Disposal Act (SWDA) (42 U.S.C. 6901),

including:

- A. Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA); and
- B. The rules contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA (42 U.S.C. 6941).
- (c) The Clean Air Act (42 U.S.C. 7401).
- (d) The Toxic Substances Control Act (15 U.S.C. 2601).

**MAY.** The act referred to is permissive.

**NORMAL DOMESTIC SEWAGE.**

- (1) Wastewater or sewage having an average daily concentration as follows:
  - (a) BOD not more than 200 mg/l; and
  - (b) SS not more than 200 mg/l.
- (2) As defined by origin, wastewater from segregated domestic and/or sanitary conveniences as distinct from wastes from industrial processes.

**NPDES PERMIT.** A permit issued under the national pollutant discharge elimination system for discharge of wastewater to the navigable waters of the United States pursuant to Section 402 of P.L. 92-500 (33 USC 1342).

**OPERATION AND MAINTENANCE COSTS.** All costs, direct and indirect, necessary to provide adequate wastewater collection, transport and treatment on a continuing basis and produce discharges to receiving waters that conform with all related federal, state and local requirements. These costs include replacement.

**OTHER SERVICE CHARGES.** Tap charges, connection charges, area charges and other identifiable charges other than user charges, debt service charges and excessive strength surcharges.

**OUTLET.** Any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or groundwater.

**PASS-THROUGH.** A discharge proceeding through a POTW into waters of the state in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, are a cause of violation of any requirement of the POTW’s NPDES permit, including an increase in the magnitude or duration of a violation.

**PERSON.** Any individual, firm, company, association, society, corporation, group or other entity.

**pH.** The reciprocal of the logarithm of the hydrogen ion concentration. The concentration is the weight of hydrogen ions in grams per liter of solution.

**PRETREATMENT.** The treatment of industrial sewage from privately owned industrial sources prior to introduction into a public treatment works.

**PRETREATMENT REQUIREMENTS.** Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user, including applicable load limits.

**PRETREATMENT STANDARDS.** The state pretreatment standards located at 327 IAC 5-16 through 5-21 are hereby incorporated.

**PRIVATE SEWER.** A sewer which is not owned by a public authority.

**PROPERLY SHREDDED GARBAGE.** The wastes from the preparation, cooking and dispensing of food that has been shredded to a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

**PUBLICLY OWNED TREATMENT WORKS (“POTW”).** The town’s sewage treatment and collection facilities including the sewers within the rights-of-ways and easements owned by the town, and the treatment facilities. It does not include sewers on private property serving individual homes or industrial dischargers.

**PUBLIC SEWER.** A sewer which is owned and controlled by the public authority and will consist of the following increments:

(1) **COLLECTOR SEWER.** A sewer whose primary purpose is to collect wastewater from individual point of the discharge.

(2) **INTERCEPTOR SEWER.** A sewer whose primary purpose is to transport wastewater from collector sewers to a treatment facility.

(3) **FORCE MAIN.** A pipe in which wastewater is carried under pressure.

(4) **PUMPING STATION.** A station positioned in the public sewer system at which wastewater is pumped to a higher level.

**REPLACEMENT COSTS.** The expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which the works were designed and constructed.

**SANITARY SEWER.** A sewer which carries sanitary and industrial wastes, and to which storm, surface and ground water are not intentionally admitted.

**SEWAGE.** The combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, including polluted cooling water. The most common types of sewage are:

(1) **INDUSTRIAL SEWAGE.** A combination of liquid and water-carried wastes, discharged from any industrial establishment and resulting from any trade or process carried on in that establishment. This shall include the wastes from pretreatment facilities and polluted cooling water.

(2) **SANITARY SEWAGE.** The combination of liquid and water-carried wastes discharged from toilet and other sanitary plumbing facilities.

**SEWAGE WORKS.** The structures, equipment and processes to collect, transport and treat domestic and industrial wastes and dispose of the effluent and accumulated residual solids.

**SEWER.** A pipe or conduit for carrying sewage.

**SHALL.** The act referred to is mandatory.

**SIGNIFICANT INDUSTRIAL USER (“SIU”).**

- (1) Industrial users subject to categorical pretreatment standards under 327 IAC 5-18-10.
- (2) An industrial user that:
- (a) Discharges an average of 25,000 gallons per day or more of process wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater) to the POTW;
  - (b) Contributes a process waste stream that makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
  - (c) Is designated as a significant industrial user by the control authority on the basis that the industrial user has a reasonable potential to:
    - 1. Adversely affect the POTW’s operation;
    - 2. Violate a pretreatment standard; or
    - 3. Violate a requirement of 327 IAC 5-19-3.
- (3) The control authority may, on its own initiative or in response to a petition received from an industrial user or the POTW and in accordance with 327 IAC 5-19-3(6), determine that an industrial user is not a **SIGNIFICANT INDUSTRIAL USER** if it does not meet (2)(c) above.

**SLUG.** Any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than ten minutes more than three times the average 24 hours concentration of flows during the normal operation and shall adversely affect the collection system.

**STANDARD METHODS.** The laboratory procedures set forth in the latest edition, at the time of analysis of “Standard Methods for the Examination of Water and Wastewater,” prepared and published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

**STORM SEWER.** A sewer for conveying water, ground water or unpolluted water from any source and to which sanitary and/or industrial wastes are not intentionally admitted.

**SUPERINTENDENT.** The Superintendent of the municipal sewage works of the town or his or her authorized deputy, agent or representative.

**SUSPENDED SOLIDS.** Solids that either float on the surface of, or are in suspension in, water, sewage or other liquids and which are removable by laboratory filtering under standard laboratory procedure.

**TOTAL SOLIDS.** The sum of suspended and dissolved solids.

**TOWN.** Winamac, Indiana, acting by and through the Town Council.

**TOXIC AMOUNT.** Concentrations of any pollutant or combination of pollutants, which upon exposure to or assimilation into any organism will cause adverse effects, such as cancer, genetic mutations and physiological manifestations, as defined in standards issued pursuant to Section 307(a) of P.L. 92-500 (33 USC 1317(a)).

**UNPOLLUTED WATER.** Water of quantity equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.

**USER CHARGE.** A charge levied on users of the wastewater treatment works for the cost of operation and maintenance of the works, pursuant to Section 203(b) of P.L. 92-500.

**USER CLASS.** The division of wastewater treatment customers by source, function, waste characteristics and process or discharge similarities, i.e., residential, commercial, industrial, institutional and governmental in the user charge system.

**VOLATILE ORGANIC MATTER.** The material in the sewage solids transformed to gases or vapors when heated at 55°C for 15 to 20 minutes.

**WATERCOURSE.** A natural or artificial channel for the passage of water either continuously or intermittently.

(Ord. 16 of 2007, passed 12-10-2007)

## **§ 54.02 COMPLIANCE REQUIRED.**

All provisions of this chapter and limits set herein shall comply with any applicable state and/or federal requirements now, or projected to be, in effect.

(Ord. 16 of 2007, passed 12-10-2007)

## **§ 54.03 DAMAGING SEWAGE WORKS.**

No unauthorized person shall maliciously, willfully or negligently break, damage, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the municipal sewage works. Any person violating this section shall be subject to immediate arrest under charge of disorderly conduct.

(Ord. 16 of 2007, passed 12-10-2007) Penalty, see § 10.99

## **§ 54.04 VIOLATIONS—GENERAL.**

(A) Any persons found to be violating this chapter, shall be subject to a penalty not to exceed \$50 per month, per billing account. This surcharge shall be imposed beginning the month immediately following passage and adoption of this chapter by the Town Council.

(B) There shall be a moratorium upon the requirement for payment of the penalty by the persons for a period of six months from the time of enactment of this chapter, as set forth. Further, any person who has, pursuant to this section, consented to the inspection of their respective premises within 90 days of the date of adoption of this chapter, shall not be liable for payment until the inspection has been accomplished and the person given the opportunity to bring the premises into compliance within the time frame set out herein.

(C) Any person may avoid liability for payment of the surcharge established, upon a showing that he or she is in compliance with all provisions of this chapter, which showing shall consist of the following procedures and conditions as to each building or appurtenance connected to the sanitary sewer.

(1) Each person shall, as to each building or appurtenance so connected to the sanitary sewer, execute a grant of permission to the town, to come upon the property and within the premises thereon, of the persons to inspect and/or perform sewer tests as may be deemed necessary by the town to verify the compliance hereinbefore referred to.

(2) The grant of permission, set forth herein, shall be deemed to include periodic inspections and/or tests as may be determined to be necessary by the town to maintain, ensure and monitor compliance with the provisions of this chapter.

(3) The inspection shall be made upon reasonable notice of at least 48 hours. There shall be no fee charged for the inspection.

(4) If, upon the initial inspection contemplated to verify compliance, a person is in fact not found to be in compliance, the person shall be given 14 days from the date of the inspection to so comply.

(D) In the event, a person is found to be in compliance as heretofore set forth, and upon subsequent inspection is found not to be in compliance, the person shall be liable for payment of an amount equal to the sum of the months since adoption of this chapter, multiplied by the monthly penalty in effect during the period as the case may be. The liability shall be reduced to 50% of the amount if the person complies within a period of ten days after notice by the town, of his or her noncompliance a second or subsequent time, then the person shall be liable for a sum equal to \$50, plus an amount equal to the sum of the months since adoption of this chapter multiplied by the monthly penalty in effect during the period as the case may be.

(E) The Town Council has determined that the measures heretofore set out are a reasonable means of ensuring compliance with this chapter and are further necessary to protect and ensure the health, safety and welfare of the citizens and surrounding areas. Any person found to be violating any provision of this chapter, except provisions noted, shall be served by the town with written notices stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, permanently cease all violations.

(F) Any person violating any of the provisions of this chapter shall become liable to the town for any expense, loss or damage occasioned by the town by reason of the violation. (Ord. 16 of 2007, passed 12-10-2007)

#### **§ 54.05 INDUSTRIAL PRETREATMENT; VIOLATIONS; PENALTIES.**

For the purpose of this chapter, the town has the legal authority to:

(A) Develop and enforce specific limits on prohibited substances;

(B) Enter the premises of any industrial user to conduct inspections, surveillance, record review, and/or monitoring, as necessary to determine compliance with this chapter and, if applicable, any effective industrial wastewater pretreatment permit;

(C) Accept or deny any new or increased discharges from any indirect discharger;

(D) Immediately halt or prevent any discharge of pollutants to the POTW which reasonably appears to present an imminent endangerment to the health or welfare of the public, the environment, and/or which threatens to interfere with the operation of the POTW;

(E) Require compliance with all applicable pretreatment standards and requirements by indirect dischargers;

(F) Impose fees, if necessary, to offset the cost incurred by the permittee for administering the pretreatment program requirements established in Part III of NPDES Permit # IN0020516;

(g) Impose, as a maximum fine, at least \$1,000 per day, per violation, in accordance with 40 CFR 403.8(f)(1)(vi)(A) and impose maximum fines up to \$2,500 per day, per violation

for a first violation and up to \$7,500 per violation per day for subsequent violations in accordance with I.C. 36-1-3-8(a)(10)(B).  
(Ord. 16 of 2007, passed 12-10-2007)

## USE REGULATIONS

### § 54.15 CONNECTION AND USE.

(A) The connection to and use of public and private sewers and drains, the installation and connection of building sewers, and the discharge of waters and wastes into the public sewer system of the town and providing for violations thereof.

(B) All users shall be subject to the following:

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

(2) No person shall discharge or cause to be discharged to any sanitary sewer, either directly or indirectly, stormwater, surface water, ground water, roof run-off, subsurface drainage, cooling water, unpolluted water or unpolluted industrial process water. The town shall require the removal of unpolluted waters from any wastewater collection or treatment facility if the removal is cost-effective and is in the best interest of all users of those facilities.

(3) Stormwater, surface water, ground water, roof run-off, subsurface drainage, cooling water, unpolluted water or unpolluted industrial process water may be admitted to storm sewers which have adequate capacity for their accommodation. No person shall use the sewers, however, without the specific permission of the town.

(4) No new connection shall be made to any sanitary combined or storm sewer unless there is capacity available in all downstream sewers, lift stations, force mains and the sewage treatment plant, including capacity for BOD and suspended solids.

(5) No person shall place, deposit or permit to be deposited in any unsanitary manner on public or private property within the jurisdiction of the town any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this chapter and the NPDES permit.

(6) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

(7) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the town and abutting on any street, alley or right-of-way in which there is now located a public sanitary or combined sewer of the town is hereby required at his or her expense to install suitable toilet facilities therein, and to connect the facilities directly with the proper public sewer in accordance with the provisions of this chapter, within 60 days after date of official notice to do so, provided that the public sewer is within 300 feet of the property line.

(Ord. 16 of 2007, passed 12-10-2007) Penalty, see § 10.99



**§ 54.16 INSTALLATION AND CONNECTION.**

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

(B) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the Superintendent. A permit and inspection fee of \$50 shall be paid to the town at the time the application is filed.

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

(D) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the State Board of Health. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 20,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(E) At the time as a public sewer becomes available to a property served by a private sewage disposal system as provided, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

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

(G) When a public sewer becomes available, the building sewer shall be connected to the sewer within 60 days and the private sewage disposal system shall be cleaned of sludge and filled with clean

bank-run gravel or sand. No statement contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by a county health officer.

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

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

(a) For residential and commercial service; and

(b) For service to establishments producing industrial wastes.

(2) In either case (division (I)(1)(a) or (b) above), the owner or his or her agent shall make application on a special form furnished by the town. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the town. A permit and inspection fees of \$50 for a residential or commercial building sewer permit and \$100 for an industrial building sewer permit shall be paid to the Clerk/Treasurer at the time the application is filed.

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

(K) A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another or an interior lot and no private sewer is available or can be constructed to the rear of the building through an adjoining alley, courtyard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

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

(M) The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. FD-5 shall apply.

(N) The building sewer (lateral) shall be brought to the building below frost level. No sanitary sewage facilities shall be connected to this sewer that are not at an elevation above the top of the casting of the nearest sanitary manhole. Any facilities which are below such level must be connected by means of a lift station or other pumping facilities. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface run-off or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Except connection to combined sewers as controlled hereby.

(O) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. FD-5. All the connections shall be made gas-tight and water-tight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installations.

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

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

(R) All extensions of sewers to new developments or unsewered areas of the town shall be sanitary sewers. Construction of new combined sewers or extensions of existing combined sewers are not permitted. All plans and specifications for sewer extensions must have valid construction permits from the State Department of Environmental Management before construction commences.

(Ord. 16 of 2007, passed 12-10-2007)

#### **§ 54.17 DISCHARGE OF WATER AND WASTE.**

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

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- (1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;
- (2) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity either singly or by integration with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant;
- (3) Any waters or wastes having a pH lower than 6.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works or interfere with any treatment process; and/or
- (4) Solid or viscous substances in quantities or of a size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch, manure, hair and fleshings, entrails, paper, dishes, cups, milk containers and the like, either whole or ground by garbage grinders.

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

- (1) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit or 65 degrees Celsius;
- (2) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 degrees Fahrenheit and 150 degrees Fahrenheit or zero degrees Celsius and 65 degrees Celsius;
- (3) Any garbage that has not been properly shredded; (The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.)
- (4) Any waters or wastes containing strong acid, iron, pickling wastes or concentrated plating solutions whether neutralized or not;
- (5) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances or wastes exerting an excessive chlorine requirement, to a degree that any material received in the composite sewage at the sewage treatment works exceeds the limits established by the town for the materials;
- (6) Any waters or wastes containing phenols or other taste or odor producing substances, in concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies of jurisdiction of the discharge to the receiving waters;
- (7) Any radioactive wastes or isotopes of the half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations;

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- (8) Any waters or wastes having pH in excess of 9.5;
- (9) Materials which exert or cause:
  - (a) Unusual concentrations or inert suspended solids (such as, but not limited to Fullers earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to sodium chloride and sodium sulfate);
  - (b) Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions);
  - (c) Unusual BOD, chemical oxygen demand or chlorine requirements in the quantities as to constitute a significant load on the sewage treatment works; and/or
  - (d) Unusual volume of flow or concentration of wastes constituting “slug,” as defined herein.
- (10) Waters or wastes containing substances which are not amendable to treatment or reduction by the sewage treatment processes employed, or are amendable to treatment only to the degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (11) A pollutant from any source of nondomestic wastewaters that could pass through or cause interference with the operation or performance of the POTW.
- (12) A pollutant that could create a fire or explosion hazard in the POTW, including waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit (sixty degrees Celsius) using the test methods in 40 CFR 261.21.
- (13) Heat in an amount that could:
  - (a) Inhibit biological activity in the POTW and result in interference or damage to the POTW; or
  - (b) Exceed 40 degrees Celsius or 104 degrees Fahrenheit at the POTW treatment plant unless the commissioner, upon request of the POTW, approves alternate temperature limits.
- (14) Petroleum, oil, nonbiodegradable cutting oil, or products of mineral oil origin in an amount that could cause interference or pass through.
- (15) A pollutant that could result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (16) A trucked or hauled pollutant, except:
  - (a) With the permission of the POTW; and
  - (b) When introduced to the POTW at a discharge point designated by the POTW.
- (C) If any waters or wastes are discharged, or are proposed to be discharged, to the public sewers, which waters contain the substances or possess the characteristics enumerated in this chapter, and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:
  - (1) Require new industries (or other large users) or industries (or other large users) with significant increase in discharges to submit information on wastewater quantities characteristics and obtain prior approval for discharges;
  - (2) Reject the wastes in whole or in part for any reason deemed appropriate by the town;
  - (3) Require pretreatment of wastes to within the limits of normal sewage, as defined;

(4) Require control or flow equalization of such wastes so as to avoid any “slug” loads or excessive loads that may be harmful to the treatment works; or

(5) Require payment of a surcharge on any excessive flows or loadings discharged to the treatment works to cover the additional costs of having capacity for and treating the wastes.

(D) If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plant and equipment shall be subject to the review and approval of the Superintendent and the control authority and subject to the requirements of all applicable codes, articles and law.

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

(F) When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. The manhole, when required, shall be both accessible and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his or her expense, and shall be maintained so as to be safe and accessible at all times. Agents of the town, the State Water Pollution Control Agencies and the U.S. Environmental Protection Agency shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing.

(G) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of “Standard Methods of the Examination of Water and Wastewater,” published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole, except for applications of NPDES permits and report thereof which shall be conducted in accordance with rules and regulations adopted by the U.S. EPA (40 C.F.R. Part 136). In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards of life, limb and property. The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pHs are determined from periodic grab samples.

(H) No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the town for treatment, subject to payment therefor, by the industrial concern, at the rates as are compatible with the rate chapter.

(Ord. 16 of 2007, passed 12-10-2007)

#### **§ 54.18 PRETREATMENT.**

(A) Pretreatment of industrial wastes from major contributing industries prior to discharge to the treatment works is required and is subject to the rules and regulations adopted by the United States Environmental Protection Agency (EPA) (40 C.F.R. Part 403), and “Guidelines Establishing Test Procedures for Analysis of Pollutants” (40 C.F.R. Part 136), in addition to any more stringent requirements established by the town, and any subsequent state or federal guidelines and rules and regulations.

(B) *Pretreatment facilities.*

(1) Plans, specifications and any other pertinent information relating to the pretreatment or control facilities shall be submitted for approval of the town and the State Department of Environmental Management and no construction of the facilities shall be commenced until approval in writing, is granted.

(2) Where facilities are provided, they shall be maintained continuously in satisfactory and effective operating order by the town to determine that the facilities are being operated in conformance with applicable federal, state and local laws and permits. The owner shall maintain operating records and shall submit to the town a monthly summary report of the character of the influent and effluent to show the performance of the treatment facilities and for comparison against town monitoring records.

(Ord. 16 of 2007, passed 12-10-2007)

#### **§ 54.19 DISCHARGE OF UNPOLLUTED WATER.**

(A) Unpolluted water from air conditioners, cooling condensing systems or swimming pools shall be discharged to a storm sewer, to a combined sewer approved by the town and state or natural outlet approved by the state. Where a storm sewer, combined sewer or natural outlet is not available, the unpolluted water may be discharged to a sanitary sewer pending written approval by the town.

(B) Industrial cooling water, which may be polluted with insoluble oils or grease or suspended solids, shall be pretreated for removal of pollutants and the resultant clear water shall be discharged in accordance herewith.

(Ord. 16 of 2007, passed 12-10-2007)

#### **§ 54.20 OBSERVATION, SAMPLING AND MEASUREMENT OF WASTE.**

(A) The town may require users of the treatment works, other than residential users, to supply pertinent information of wastewater flows and characteristics. The measurements, tests and analyses shall be made at the users’ expense. If made by the town, an appropriate charge may be assessed to the user at the option of the town.

(B) The strength of wastewater shall be determined, for periodic establishment of charges provided for herein, from samples taken at the aforementioned structure at any period of time and of the duration and in the manner as the town may elect, or, at any place mutually agreed upon between the user and the town.

(C) Appropriate charges for sampling and analysis may be assessed to the user at the option of the town. The results of routine sampling and analysis by the user may also be used for determination of charges after verification by the town.

(Ord. 16 of 2007, passed 12-10-2007)

**§ 54.21 GREASE, OIL AND SAND INTERCEPTORS.**

Grease, oil and sand interceptors or traps shall be provided when, in the opinion of the town, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients, except that the interceptors or traps will not be required for private living quarters or dwelling units. All interceptors or traps shall be of a type and capacity approved by the town and shall be located so as to be readily and easily accessible for cleaning and inspection. They shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature and shall be of substantial construction, be gas-tight, water-tight and equipped with easily removable covers. Where installed, all grease, oil and sand interceptors or traps shall be maintained by the owner, at his or her expense, in continuously efficient operation at all times.

(Ord. 16 of 2007, passed 12-10-2007)

**§ 54.22 UNUSUAL FLOWS OR WASTES.**

Users of the treatment works shall immediately notify the town of any unusual flows or wastes that are discharged accidentally or otherwise to the sewer system.

(Ord. 16 of 2007, passed 12-10-2007)

**§ 54.23 INSPECTION, OBSERVATION, MEASUREMENT AND THE LIKE.**

(A) (1) The Superintendent, inspector and other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter all properties for the purpose of and in accordance with the provisions of this chapter.

(2) The Superintendent or his or her representative shall have the authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

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

(C) The Superintendent and other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter all private properties through which the town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the

sewage works lying within the easement, and shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.  
(Ord. 16 of 2007, passed 12-10-2007)

## **ADMINISTRATION AND ENFORCEMENT**

### **§ 54.35 ENFORCEMENT; BY-LAWS AND REGULATIONS.**

(A) (1) The town shall make and enforce by-laws and regulations as may be deemed necessary for the safe, economical and efficient management of the town's sewage system, pumping stations and sewage treatment works, for the construction and use of house sewers and connections to the sewage treatment works, for the construction and use of house sewers and connection to the sewage system, and for the regulation, collection, rebating and refunding of the rates and charges.

(2) No free service shall be provided to any user of the wastewater treatment facility.

(B) The town is hereby authorized to prohibit dumping of wastes into the town's sewage system which, in its discretion, are deemed harmful to the operation of the sewage treatment works of the town, or to require methods affecting pretreatment of the wastes to comply with the pretreatment standards included in the national pollutant discharge elimination system (NPDES) permit issued to the sewage works.  
(Ord. 16 of 2007, passed 12-10-2007)

### **§ 54.36 APPEAL PROCESS.**

The rules and regulations promulgated by the town, after approval by the Town Council shall, among other things, provide for an appeal procedure whereby a user shall have the right to appeal a decision of the administrator of the sewage system and user charge system to the Town Council and that any decision concerning the sewage system or user charges of the Town Council may be appealed to the circuit court of the county under the appeal procedures provided for in the State Administrative Adjudication Act.

(Ord. 16 of 2007, passed 12-10-2007)

### **§ 54.37 SEWER LIEN PROCEDURES.**

(A) All bills for sewage usage shall be paid in the Office of the Town Clerk-Treasurer on or before the fifteenth of each month, and any bill not paid by the fifteenth of the month shall be assessed a penalty of 10% of the amount of the sewage bill.

(B) (1) A sewer bill not paid within 30 days after the due date shall be considered delinquent. The customer may cure the delinquency by paying the delinquent fees together with the penalty. Delinquent payments and penalties may be collected through the small claims proceedings.



(2) If the delinquency is not cured within 30 days after becoming delinquent, the town may terminate water service to the customer if the municipality owns the water utility serving that customer.

(C) If the delinquent bill is for a property that is occupied by someone other than the owner, and if the owner of the property has requested in writing to be notified of any delinquencies on the property and provides an address to which the notifications are to be mailed, the town shall send notice within 20 days after the bill became 60 days delinquent to the owner.

(D) If an account is delinquent for 90 days, the town shall record a lien against the property. Twice each year, the Clerk-Treasurer shall prepare a list of all accounts which are at least 90 days delinquent and record that list with the County Recorder. This list must include:

- (1) The delinquent fees;
- (2) The penalty;
- (3) The service charge;
- (4) An amount to reimburse the municipality for recording the lien; and
- (5) An amount to reimburse the municipality for releasing the lien.

(E) In addition to all delinquent fees and penalties, the town may recover the recording and release fee paid to the County Recorder and a service charge of \$5. The town shall mail a notice to the owner of each property that a lien has been recorded against the property. Liens recorded after March 31 of each year will not be enforced until the next calendar year. The town shall release the lien when the town has been reimbursed for its cost and the Recorder has been paid for the recording of the release of lien.

(F) Prior to June 1 of each year, the town shall certify to the County Auditor all recorded liens that remain unpaid. This certification shall include those unpaid liens recorded between April 1 of the preceding year and April 1 of the current year. After certification to the County Auditor, the town may not accept payment of any fee, charges or penalties. The collection shall be solely through the Office of the County Treasurer. Upon certification, the County Auditor shall add a certification fee of \$15 in addition to the fees and charges already assessed. The total amount due, together with the \$15 certification fee, shall be added to the owner's property tax statement for November of that year. Upon collection by the county, the County Treasurer shall retain the certification fee and the service charge and all remaining fees and penalties shall be paid to the town at each semi-annual tax settlement.

(Ord. 16 of 2007, passed 12-10-2007)

## **RATES AND CHARGES**

### **§ 54.50 DEFINITIONS.**

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

**BOD or BIOCHEMICAL OXYGEN DEMAND.** The same as defined in the sewer use ordinance.

**COUNCIL.** The Town Council of Winamac or any duly authorized officials acting on its behalf.

**DEBT SERVICE COSTS.** The average annual principal and interest payments on all current and proposed revenue bonds or other long-term capital debt.

**EXCESSIVE STRENGTH SURCHARGE.** An additional charge which is billed to users for treating sewage wastes with an average strength in excess of “normal domestic sewage.”

**INDUSTRIAL WASTES.** The wastewater discharges from industrial, trade or business process as distinct from employee wastes or wastes from sanitary convenience.

**MAY.** The act referred to is permissive.

**NORMAL DOMESTIC SEWAGE.**

(1) For the purpose of determining surcharges, wastewater or sewage having an average daily concentration as follows:

- (a) BOD not more than 200 mg/l;
- (b) S.S. not more than 200 mg/l;
- (c) Phosphorous not more than 200 mg/l;
- (d) Ammonia not more than 20 mg/l.

(2) As defined by origin, wastewaters from segregated domestic and/or sanitary conveniences as distinct from wastes from industrial processes.

**NPDES or NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT.** The same meaning as defined in § 54.01 (the sewer use ordinance).

**OPERATION AND MAINTENANCE COSTS.** All costs, direct and indirect, necessary to provide adequate wastewater collection, transport and treatment on a continuing basis and produce discharges to receiving waters that conform with all related federal, state and local requirements. (These costs include replacement.)

**OTHER SERVICE CHARGES.** Tap charges, connection charges, area charges and other identifiable charges other than user charges, debt service charges and excessive strength surcharges.

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

**REPLACEMENT COSTS.** The expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which the works were designed and constructed.

**SHALL.** The act referred to is mandatory.

**SEWAGE.** The same meaning as defined in the sewer use ordinance.

**SEWER USE ORDINANCE.** A separate and companion enactment to this subchapter, which regulates the connection to and use of public and private sewers (codified herein as §§ 54.01 through 54.05, 55.15 through 54.23, and 54.35 through 54.37).

**SS or SUSPENDED SOLIDS.** The same meaning as defined in the sewer use ordinance.

**TOWN.** Winamac, Indiana, acting by and through the Town Council.

**USER CHARGE.** A charge levied on users of the wastewater treatment works for the cost of operation and maintenance of the works pursuant to Section 204(b) of P.L. 92-500.

**USER CLASS.** The division of wastewater treatment customers by source, function, waste characteristics and process or discharge similarities (i.e., residential, commercial, industrial, institutional and governmental in the user charge system).

(1) **COMMERCIAL USER.** Any establishment involved in a commercial enterprise, business or service which based on a determination by the town discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

(2) **GOVERNMENTAL USER.** Any federal, state or local governmental user of the wastewater treatment works.

(3) **INDUSTRIAL USER.** Any manufacturing or processing facility that discharges industrial waste to a publicly-owned treatment works.

(4) **INSTITUTIONAL USER.** Any establishment involved in a social, charitable, religious, and/or educational function which, based on a determination by the town discharges primarily segregated domestic waste or wastes from sanitary conveniences.

(5) **RESIDENTIAL USER.** A user of the treatment works whose premises or building is used primarily as a residence for one or more persons, including all dwelling units and the like.

(Ord. 16 of 2007, passed 12-10-2007; Am. Ord 3, passed 10-11-2010; Am. Ord. 3 of 2013, passed 2-11-2013; Am. Ord. 7 of 2014, passed 6-9-2014)

#### **§ 54.51 USER CHARGES; CLASSES.**

(A) Every person whose premises are served by said sewage works shall be charged for the services provided. These charges are established for each user class, as defined, in order that the sewage works shall recover, from each user and user class, revenue which is proportional to its use of the treatment works in terms of volume and load. User charges are levied to defray the cost of operation and maintenance (including replacement) of the treatment works. User charges shall be uniform in magnitude within a user class.

(1) User charges are subject to the rules and regulations adopted by the United States Environmental Protection Agency. Replacement costs, which are recovered through the system of user charges, shall be based upon the expected service life of the sewage works equipment.

(2) The various classes of users of the treatment works for the purposes of this subchapter, shall be as follows:

- (a) Residential;
- (b) Commercial;
- (c) Governmental;
- (d) Institutional; and
- (e) Industrial.

(B) For the use of and the services rendered by the sewage works, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with the town sewage system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly, into the sanitary sewerage system of the town. The rates and charts include user charges, debt service costs, excessive strength surcharges and other service charges, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows:

(1) The sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to the rates and charges, as the same is measured by the water there in use, plus a base charge based on the size of the water meter installed, except as

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herein otherwise provided. For the purpose of billing and collecting the charges for sewage service, the water meters shall be read monthly and the users shall be billed monthly (or period equaling a month). The water usage schedule on which the amount of the rates and charges shall be determined is as follows:

(a) PHASE I - EFFECTIVE JUNE 9, 2014:

All users - (Outside corporate town boundaries rates and charges are approximately 14.9% higher than the rates and charges for customers inside the corporate town boundaries.)

1. Inside corporate town boundaries:

A. Treatment rate - per 1,000 gallons of usage per month:

<i>User Charge</i>	<i>Debt Service</i>	<i>Total</i>
\$5.93	\$3.35	\$9.28

plus

B. Base rate - per month as follows:

<i>Base Rate</i>	<i>User Charge</i>	<i>Debt Service</i>	<i>Total</i>
5/8- or 3/4-inch water meter	\$6.65	\$10.50	\$17.15
1-inch water meter	\$10.35	\$26.25	\$36.60
1 1/4-inch water meter	\$14.15	\$42.10	\$56.25
1 1/2-inch water meter	\$18.55	\$60.95	\$79.50
2-inch water meter	\$28.90	\$105.15	\$134.05
3-inch water meter	\$61.10	\$241.85	\$302.95
4-inch water meter	\$105.60	\$431.10	\$536.70
6-inch water meter	\$231.80	\$967.40	\$1,199.20

2. Outside corporate town boundaries:

A. Treatment rate - per 1,000 gallons of usage per month:

<i>User Charge</i>	<i>Debt Service</i>	<i>Total</i>
\$6.81	\$3.85	\$10.66

plus

B. Base rate - per month as follows:

<i>Base Rate</i>	<i>User Charge</i>	<i>Debt Service</i>	<i>Total</i>
5/8- or 3/4-inch water meter	\$7.65	\$12.05	\$19.70
1-inch water meter	\$11.90	\$30.15	\$42.05
1 1/4-inch water meter	\$16.25	\$48.40	\$64.65
1 1/2-inch water meter	\$21.30	\$70.10	\$91.40
2-inch water meter	\$33.25	\$120.90	\$154.15

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<i>Base Rate</i>	<i>User Charge</i>	<i>Debt Service</i>	<i>Total</i>
3-inch water meter	\$70.25	\$278.10	\$348.35
4-inch water meter	\$121.40	\$495.80	\$617.20
6-inch water meter	\$266.55	\$1,112.50	\$1,379.05

(b) PHASE II - EFFECTIVE JANUARY 1, 2015

All users - (Outside corporate town boundaries rates and charges are approximately 14.9% higher than the rates and charges for customers inside the corporate town boundaries.)

1. Inside corporate town boundaries:

A. Treatment rate - per 1,000 gallons of usage per month:

<i>User Charge</i>	<i>Debt Service</i>	<i>Total</i>
\$6.23	\$3.52	\$9.75

plus

B. Base rate - per month as follows:

<i>Base Rate</i>	<i>User Charge</i>	<i>Debt Service</i>	<i>Total</i>
5/8- or 3/4-inch water meter	\$7.00	\$11.00	\$18.00
1-inch water meter	\$10.90	\$27.55	\$38.45
1 1/4-inch water meter	\$14.85	\$44.20	\$59.05
1 1/2-inch water meter	\$19.50	\$64.00	\$83.50
2-inch water meter	\$30.35	\$110.40	\$140.75
3-inch water meter	\$64.15	\$253.95	\$318.10
4-inch water meter	\$110.90	\$452.65	\$563.55
6-inch water meter	\$243.40	\$1,015.75	\$1,259.15

2. Outside corporate boundaries:

A. Treatment rate - per 1,000 gallons of usage per month:

<i>User Charge</i>	<i>Debt Service</i>	<i>Total</i>
\$7.16	\$4.04	\$11.20

plus

B. Base rate - per month as follows:

<i>Base Rate</i>	<i>User Charge</i>	<i>Debt Service</i>	<i>Total</i>
5/8- or 3/4-inch water meter	\$8.05	\$12.65	\$20.70
1-inch water meter	\$12.50	\$31.70	\$44.20

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<i>Base Rate</i>	<i>User Charge</i>	<i>Debt Service</i>	<i>Total</i>
1 1/4-inch water meter	\$17.05	\$50.85	\$67.90
1 1/2-inch water meter	\$22.40	\$73.60	\$96.00
2-inch water meter	\$34.90	\$126.95	\$161.85
3-inch water meter	\$73.75	\$292.05	\$365.80
4-inch water meter	\$127.45	\$520.60	\$648.05
6-inch water meter	\$279.90	\$1,168.10	\$1,448.00

(2) (a) For users of the sewage works that are unmetered water users or accurate meter readings are not available, the monthly charge shall be determined as an average of single-family dwelling units, except as herein provided. Sewage service bills shall be rendered once each month (or period equaling a month).

(b) The schedule on which the rates and charges shall be determined is as follows:

1. PHASE I - EFFECTIVE JUNE 9, 2014

A. Inside corporate town boundaries:

	<i>User Charge</i>	<i>Debt Service</i>	<i>Total</i>
<b>Residential:</b>			
Single-family residence/unit	\$33.40	\$25.50	\$58.90

B. Outside corporate town boundaries:

	<i>User Charge</i>	<i>Debt Service</i>	<i>Total</i>
<b>Residential:</b>			
Single-family residence/unit	\$38.40	\$29.30	\$67.70

2. PHASE II - EFFECTIVE JANUARY 1, 2015

A. Inside corporate town boundaries:

	<i>User Charge</i>	<i>Debt Service</i>	<i>Total</i>
<b>Residential:</b>			
Single-family residence/unit	\$35.05	\$26.80	\$61.85

B. Outside corporate town boundaries:

	<i>User Charge</i>	<i>Debt Service</i>	<i>Total</i>
<b>Residential:</b>			
Single-family residence/unit	\$40.30	\$30.80	\$71.10

(c) Unmetered non-residential single-family dwelling units shall be charged a rate to be determined by the town on an individual basis by applying the above metered rates to estimated usage and meter size.

(d) The connection fee for a four-inch or six-inch wastewater tap will be \$450. For an eight-inch and larger wastewater tap, the connection fee will be based on the actual time and materials required to make the tap, with a minimum of \$450.

(3) For the services rendered to the town, the town shall be subject to the same rates and charges hereinabove provided, or to charges and rates established in harmony therewith.

(4) In order to recover the cost of monitoring industrial wastes the town shall charge the user the actual cost of monitoring but no less than \$60 per sampling event. This charge will be reviewed on the same basis as all other rates and charges in this chapter. (Ord. 16 of 2007, passed 12-10-2007; Am. Ord. 3, passed 10-11-2010; Am. Ord. 3 of 2013, passed 2-11-2013; Am. Ord. 7 of 2014, passed 6-9-2014)

#### **§ 54.52 QUANTITY OF WATER; DISCHARGES.**

(A) The quantity of water discharged into the sewage system and obtained from sources other than the utility that serves the town shall be determined by the town in the manner as the town shall reasonably elect, and the sewage service shall be billed at the above appropriate rates, except as is hereinafter provided in this section. The town may make proper allowances in determining the sewage bill for quantities of water shown on the records to be consumed, but which are also shown to the satisfaction of the town that the quantities do not enter the sewage system.

(1) In the event a lot, parcel of real estate or building discharging sanitary sewage, industrial wastes, water or other liquids into the town sewage system, either directly or indirectly, is not a user of water supplied by the water utility serving the town and the water used thereon or therein is not measured by a water meter, or if measured by a water meter not acceptable to the town, then the amount of water used shall be otherwise measured or determined by the town. In order to ascertain the rate or charge provided in this chapter, the owner or other interested party shall at his or her expense, install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the town for the determining of sewage discharge.

(2) In the event a lot, parcel of real estate or building discharging sanitary sewage, industrial wastes, water or other liquids in the town's sewage system, either directly or indirectly, is a user of water supplied by the water utility serving the town, and in addition, is a user of water from another source which is not measured by a water meter or is measured by a meter not acceptable to the town, then the amount of water used shall be otherwise measured or determined by the town. In order to ascertain the rates or charges, the owner or other interested parties shall, at his or her expense, install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the town for the determination of sewage discharge.

(3) In the event two or more residential lots, parcels of real estate or buildings discharging sanitary sewage, water or other liquids into the town's sewage system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter,

then in each such case, for billing purposes, the quantity of water used shall be averaged for each user and the base charge and the flow rates and charges shall apply to each of the number of residential lots, parcels of real estate, or buildings served through the single water meter.

(4) In the event two or more dwelling units such as mobile homes, apartments or housekeeping rooms discharging sanitary sewage, water or other liquids into the town's sanitary sewage system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, and billing for service is rendered in a single monthly bill, then in such case, billing shall be for a single service in the manner set out elsewhere herein, except that the minimum bill shall not be less than the number of the dwelling units times base rate per month as shown below:

<b><i>PHASE I - EFFECTIVE JUNE 9, 2014</i></b>	
Inside corporate town boundaries	\$17.15
Outside corporate town boundaries	\$19.70
<b><i>PHASE II - EFFECTIVE JANUARY 1, 2015</i></b>	
Inside corporate town boundaries	\$18.00
Outside corporate town boundaries	\$20.70

(5) In order that domestic and residential users of sewage services shall not be penalized for the sprinkling of lawns during the months of June, July, August and September, the billing for sewage services for residents and/or domestic users for the months of June, July, August and September shall be based on the average water usage for the previous months of December, January, February and March. In the event the water usage for the previous months of December, January, February and March is greater than the water usage for the months of June, July, August and September, then the billing for sewage services shall be computed on the actual water used in the month for which the sewage service bill is being rendered. Domestic and/or residential sewage service, as applicable to the sprinkling rate, shall apply to each lot, parcel of real estate or building which is occupied and used as a residence. The sprinkling rate shall not apply to any premises which are partially or wholly used for commercial or industrial purposes. In the event a portion of the premises shall be used for commercial or industrial purposes, the owner shall have the privilege of separating the water service so that the residential portion of the premises is served through a separate meter, and in such case, the water usage as registered by the water meter serving the portion of the premises used for residential purposes would qualify under the sprinkling rate.

(6) In the event a lot, parcel of real estate or building discharging sanitary sewage, industrial waste, water or other liquids to the town's sewage system, either directly or indirectly, and uses water in excess of 10,000 gallons per month, and it can be shown to the satisfaction of the town that a portion of water as measured by the water meter or meters does not and cannot enter the sanitary sewage system, then the owner or other interested party shall, at his or her expense, install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the town for the determination of sewage discharge.



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(7) Where a metered water supply is used for fire protection as well as for other users, the town may, at its discretion, make adjustments in the user charge as may be equitable.

(B) In order that the rates and charges may reflect the costs of providing services rendered to users, the town shall base its charges not only on the volume, but also on strength and character of the stronger-than-normal domestic sewage and wastes which it is required to treat and dispose of. The town shall require the user to determine the strength and content of all sewage and wastes discharged, either directly or indirectly into the sewage system, in a manner and by the method as the town may deem practicable in order to determine the proper charge. The user shall furnish a central sampling point available to the town at all times.

(1) Normal sewage domestic waste strength should not exceed a biochemical oxygen demand of 200 milligrams per liter of fluid or suspended solids in excess of 200 milligrams per liter of fluid. Additional charges for treating stronger-than-normal domestic waste shall be made on the following basis:

(a) *Rate surcharge based upon suspended solids.* There shall be an additional charge as shown below for suspended solids received in excess of 200 milligrams per liter of fluid.

Phase I - effective June 9, 2014	\$0.34 per pound of suspended solids received in excess of 200 milligrams per liter of fluid
Phase II - effective January 1, 2015	\$0.36 per pound of suspended solids received in excess of 200 milligrams per liter of fluid

(b) *Rate surcharge based upon BOD.* There shall be an additional charge as shown below for BOD received in excess of 200 milligrams per liter of fluid.

Phase I - effective June 9, 2014	\$0.34 per pound of biochemical oxygen demand received in excess of 200 milligrams per liter of fluid
Phase II - effective January 1, 2015	\$0.36 per pound of biochemical oxygen demand received in excess of 200 milligrams per liter of fluid

(2) The determination of suspended solids, five-day biochemical oxygen demand contained in the waste shall be in accordance with the current edition of "Standard Methods for the Examination of Water, Sewage and Industrial Wastes," as written by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

(Ord. 16 of 2007, passed 12-10-2007; Am. Ord. 3, passed 10-11-2010; Am. Ord. 3 of 2013, passed 2-11-2013; Am. Ord. 7 of 2014, passed 6-9-2014)

**§ 54.53 BILLING.**

(A) The rates and charges shall be prepared, billed and collected by the town in the manner provided by law and ordinance.

(B) The rates and charges for all users shall be prepared and billed monthly. At the end of each year, each user shall be given a notice of the rates charged for operation, maintenance and replacement for that user for the previous year.

(C) The rates and charges may be billed to the tenant or tenants occupying the properties served, unless otherwise requested in writing by the owner, but the billing shall in no way relieve the owner from the liability in the event payment is not made as herein required. The owners of properties served, which are occupied by a tenant or tenants, shall have the right to examine the collection records of the town for the purpose of determining whether bills have been paid by the tenant or tenants, provided that the examination shall be made at the office at which the records are kept and during the hours that the office is open for business.

(D) As is provided by statute, all rates and charges not paid when due are hereby declared to be delinquent and penalty of 10% of the amount of the rates or charges shall thereupon attach thereto. The time at which the rates or charges shall be paid is now fixed at 15 days after the date of mailing of the bill.

(Ord. 16 of 2007, passed 12-10-2007; Am. Ord. 3, passed 10-11-2010; Am. Ord. 3 of 2013, passed 2-11-2013; Am. Ord. 7 of 2014, passed 6-9-2014)

#### **§ 54.54 STUDY OF SEWER USE AND RATES.**

(A) In order that the rates and charges for sewage services may remain fair and equitable and be in proportion to the cost of providing services to the various uses for user classes, the town shall cause a study to be made within a reasonable period of time following the first two years of operation, following the date on which the first goes into effect. The study shall include, but not be limited to, an analysis of the costs associated with the treatment of excessive strength effluent from industrial users, volume and delivery flow rate characteristics attributed to the various users or user classes, the financial position of the sewage works and the adequacy of its revenue to provide reasonable funds for the operation and maintenance, replacements, debt service requirements and capital improvements of the waste treatment systems.

(B) Thereafter, on a biennial basis, within a reasonable period of time following the normal accounting period, the town shall cause a study to be made for the purpose of reviewing:

(1) The sufficiency of the revenues to properly operate the wastewater treatment facility and all appurtenances attached thereto; and

(2) The maintenance proportionally among the user classes of the rates and charges for sewage services.

(C) The studies shall be conducted by officers or employees of the town, or by a firm or certified public accountants, or firm of consulting engineers which firms shall have experience in the studies, or by the combination of officers, employees, certified public accountants or engineers as the town shall determine to be the best under the circumstances.

(Ord. 16 of 2007, passed 12-10-2007; Am. Ord. 3, passed 10-11-2010; Am. Ord. 3 of 2013, passed 2-11-2013; Am. Ord. 7 of 2014, passed 6-9-2014)

#### **§ 54.55 ENFORCEMENT.**

(A) (1) The town shall make and enforce by-laws and regulations as may be deemed necessary for the safe, economical and efficient management of the town's sewage system, pumping stations and sewage treatment works, for the construction and use of house sewers and connection to the sewage system, and for the regulation, collection, rebating and refunding of the rates and charges. No free service shall be provided to any user of the wastewater treatment facility.

(2) The town is hereby authorized to prohibit dumping of wastes into the town's sewage system which, in its discretion, are deemed harmful to the operation of the sewage treatment works of the town, or to require methods affecting pretreatment of the wastes to comply with the pretreatment standards included in the NPDES permit issued to the sewage works.

(B) The Council is hereby further authorized to enter into special rate contracts with users of the sewage works where clearly definable cost to the sewage works can be determined, and special rates shall be based on the costs.

(C) The rules and regulations promulgated by the town, after approved by the Town Council shall, among other things, provide for an appeal procedure whereby a user shall have the right to appeal a decision of the administrator of the sewage system and user charge system to the Town Council, and any decision concerning the sewage system or user charges of the Town Council may be appealed to the circuit court of the county under the appeal procedures provided for in the Indiana Administrative Adjudication Act.

(Ord. 16 of 2007, passed 12-10-2007; Am. Ord. 3, passed 10-11-2010; Am. Ord. 3 of 2013, passed 2-11-2013; Am. Ord. 7 of 2014, passed 6-9-2014)

#### **§ 54.56 INSTALLATION OF LAWN SPRINKLING METERS.**

(A) All lawn sprinkling meters must be installed in such a manner as to provide a direct reading of the amount of water used for lawn sprinkling and for a direct reading of the amount of water used that is subject to a sewer charge. Water meters installed in "series", where one meter reading is subtracted from another meter reading, will no longer be allowed.

(B) The prevailing rates and charges, as found in the Water Rates and Charges for the Winamac Municipal Water Utility (see § 53.01), will govern the installation of lawn sprinkler meters.

(C) All current lawn sprinkler meters that are connected in a "series" fashion as of May 14, 2001 are hereby grandfathered. Whenever maintenance is needed on the water meters or lines running to the water meters, the metering system must be brought up to code to provide direct readings.

(D) If a lawn sprinkler system is not installed to code, only the primary meter will be read by the town, and all water used will be charged the prevailing sewage rate.

(Ord. 16 of 2007, passed 12-10-2007)

## **TITLE VII: TRAFFIC CODE**

Chapter

### **70. GENERAL PROVISIONS**

- 71. PARKING REGULATIONS
- 72. TRAFFIC SCHEDULES
- 73. PARKING SCHEDULES

## CHAPTER 70: GENERAL PROVISIONS

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Section

- 70.01 Vehicle inspection fees
- 70.02 Weight limits within town
- 70.03 Golf carts
  
- 70.99 Penalty

### § 70.01 VEHICLE INSPECTION FEES.

(A) All motor vehicles which are presented to the Police Department pursuant to the provisions of I.C. 9-17-2 for an inspection shall be charged the sum of \$3 for the inspection, which shall be paid immediately following the completion of the inspection at the municipal building.

(B) Upon making inspection, all individuals who present vehicles for inspection shall be issued a receipt for the fee collected in the amounts, and once collected, shall be deposited to the Special Vehicle Inspection Fund of the town, to be used for law enforcement purposes as may be allowed by state law after properly appropriated.  
(<sup>94</sup> Code, § 4-3)

### § 70.02 WEIGHT LIMITS WITHIN TOWN.

(A) *Weight limit.* Any vehicle exceeding a gross weight of 14 tons (28,000 pounds) is prohibited from using any street or alley within the corporate limits of the town.

(B) *Exceptions.* Deliveries to local businesses or police-ordered traffic re-routing are specifically exempt from this section.

(C) *Posting of weight limit signs.* Weight limit signs will be posted on all roads and highways leading into the town.

(D) *Penalties for violation.* Any person who violates this section shall be fined \$75. Each day that the violation remains shall constitute a separate offense.

(E) *Payment of civil penalties.* Civil penalties for violations of this section shall be payable through the Clerk-Treasurer's Office within 30 days of being notified of the violation. (Ord. 5, 2001, passed 5-14-2001)

### § 70.03 GOLF CARTS.

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(A) *Definition.* For the purposes of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**MOTORIZED CART** or **CART.** An electric or gasoline powered motor vehicle, commonly called a “golf cart,” having no less than four wheels, an unladen weight of no more than 1,500 pounds, as that term is defined in I.C. 9-13-2-69.7.

(B) *Registration.*

(1) *Decals issued upon registration.* Prior to operation on private roads, highways, and other public-right-of-way, a motorized cart shall be registered by its owner with the Winamac Police Department. Upon such registration the Winamac Police Department shall issue two numerical identification decals to the owner and shall maintain a record of each identification number, along with the name and address of the registered owner. The identification decals shall be affixed to the front and rear fender areas of the cart so as to be fully visible when the cart is in operation.

(2) *Registration/transfer fee.* A registration fee of \$50 for each cart registered shall be payable at the time of registration, and the registration shall be effective for a period of two years. All registration fees for motorized carts are to be deposited in the Winamac Police Department’s Continuing Education Fund.

(3) *Proof of financial responsibility.* The owner of every motorized cart operated on private roads, highways and other public rights-of-way shall furnish proof of financial responsibility as defined in I.C. 9-25-2-3. Written proof of financial responsibility must be carried by the operator at all times.

(C) *Operational regulations.*

(1) Motorized carts shall be maintained in proper working condition with all equipment in working order.

(2) Motorized carts shall be identified with a slow moving vehicle sign as prescribed by I.C. 9-21-9 *et seq.* and equipped with headlights, taillights, brake lights, and turn signals allowing the licensed operator to operate on non-prohibited private roads, highways, and other public rights-of-way posted with a speed limit of 35 miles an hour or less at a speed no greater than 30 miles per hour.

(3) Only persons possessing a valid driver’s license issued by the State of Indiana, another state of the United States of America or an international agency shall be permitted to operate a motorized cart on private roads, highways, and other public rights-of-way.

(4) No children under 48 pounds that require a child safety restraint seat are permitted to ride on a motorized cart.

(5) Motorized carts shall not be operated on the town’s sidewalks or the greenway trails.

(6) Motorized carts shall not be operated on any of the following listed streets within the town’s corporate limits:

(a) U.S. Highway 35;

(b) State Road 14;

(c) State Road 119.

(7) Crossing of U.S. Highway 35, State Road 14, and State Road 119 by motorized carts shall be permitted only at designated crossings.

(8) The operator of all motorized carts must yield to overtaking traffic.

(D) *Exemptions.* An exemption may be issued for a limited time, location, and purpose by the Town Council as occasions and conditions so require, such as on a date and location certain, for a limited time, for the purpose of parade participation or festivals. (Ord. 11-2012, passed 8-13-2012) Penalty, see § 70.99

**§ 70.99 PENALTY.**

(A) (1) It shall be the policy of the Winamac Police Department to issue a uniform traffic citation to any person the officer has probable cause to believe has violated a provision of Indiana Codes or the Winamac Town Ordinance while operating a motorized cart, whether the offending person is a juvenile or any other person.

(2) It shall be the policy of the Town of Winamac that an unregistered motorized cart is in violation of the Indiana Code requiring a municipal ordinance approving the use of the motorized cart and the cart will be towed and the operator issued an Indiana Uniform Traffic Citation pursuant to I.C. 9-21-1-3.3(a).

(3) It shall be the policy of the Winamac Police Department that any motorized cart found operating in violation of § 70.03 shall be subject to the following fines:

(a) First offense: \$50.

(b) Second offense within one year: \$100.

(c) Third offense within one year: \$500 and revocation of registration and cart impoundment (seized by wrecker). Registration revocation will be in effect for minimum one year duration.

(4) A fine assessed for a violation of a traffic ordinance associated with § 70.03 will be deposited in the town's General Fund.

(B) Any person who violates any provision in Schedules I, II, III, IV or V of Chapter 73 shall be fined \$10. Each day that the violation remains shall constitute a separate offense. (Ord. 2 of 2007; passed 6-11-2007; Am. Ord. 11-2012, passed 8-13-2012)

## **CHAPTER 71: PARKING REGULATIONS**

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Section

71.01 Designation of individual parking spaces

**§ 71.01 DESIGNATION OF INDIVIDUAL PARKING SPACES.**

The town is hereby authorized and directed to designate and mark off individual parking spaces, as deemed proper, along the streets in the congested traffic area for the parking of vehicles. At the place where individual parking spaces are so marked off, each vehicle shall be parked entirely within an individual parking space.

(`94 Code, § 4-2-1)

## CHAPTER 72: TRAFFIC SCHEDULES

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Schedule

- I. Speed limits
- II. Stop and yield intersections
- III. Miscellaneous restrictions

### SCHEDULE I. SPEED LIMITS.

It shall be unlawful for a person driving a motor vehicle to drive at speeds exceeding those listed below.

<i>Location</i>	<i>Speed Limit</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Town park, located along the Tippacanoe River	15 mph	7, 1999	6-22-1999

Penalty, see § 10.99

### SCHEDULE II. STOP AND YIELD INTERSECTIONS.

It shall be unlawful for any person driving a motor vehicle to not stop or yield as directed through the intersections as follows.

(A) *Four-way stop intersections.*

<i>Street/Intersection</i>	<i>Location</i>	<i>Direction</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Intersection of 12th Street and Hathaway Street	Right side of 12th Street	East	5 of 2010	9-13-2010
Intersection of 12th Street and Hathaway Street	Right side of 12th Street	West	5 of 2010	9-13-2010
Intersection of 12th Street and Hathaway Street	Right side of Hathaway Street	North	5 of 2010	9-13-2010
Intersection of 12th Street and Hathaway Street	Right side of Hathaway Street	South	5 of 2010	9-13-2010
Intersection of 12th Street and Market Street	Right side of Market Street	North	-	-
Intersection of 12th Street and Market Street	Right side of Market Street	South	-	-

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<i>Street/Intersection</i>	<i>Location</i>	<i>Direction</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Intersection of 12th Street and Market Street	Right side of 12th Street	East	-	-
Intersection of 12th Street and Market Street	Right side of 12th Street	West	-	-
Intersection of 16th Street and Hathaway Street	Right side of 16th Street	East	1 of 2010	6-14-2010
Intersection of 16th Street and Hathaway Street	Right side of 16th Street	West	1 of 2010	6-14-2010
Intersection of 16th Street and Hathaway Street	Right side of Hathaway Street	North	1 of 2010	6-14-2010
Intersection of 16th Street and Hathaway Street	Right side of Hathaway Street	South	1 of 2010	6-14-2010
Intersection of Adams Street and West Street	Right side of West Street	North	11, 1999	11-23-1999
Intersection of Adams Street and West Street	Right side of West Street	South	11, 1999	11-23-1999
Intersection of Agnew Street and 13th Street	Right side of 13th Street	East	11, 1999	11-23-1999
Intersection of Agnew Street and 13th Street	Right side of 13th Street	West	11, 1999	11-23-1999
Intersection of Agnew Street and 15th Street	Right side of Agnew Street	North	-	-
Intersection of Agnew Street and 15th Street	Right side of Agnew Street	South	-	-
Intersection of Agnew Street and 15th Street	Right side of 15th Street	West	-	-
Intersection of Agnew Street and 15th Street	Right side of 15th Street	East	-	-
Intersection of Agnew Street and 17th Street	Right side of Agnew Street	South	11, 1999	11-23-1999
Intersection of Erie Street and Burson Street	Right side of Erie Street	East	11, 1999	11-23-1999
Intersection of Falvey Street and 17th Street	Right side of 17th Street	East	11, 1999	11-23-1999



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<i>Street/Intersection</i>	<i>Location</i>	<i>Direction</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Intersection of Franklin Street and Main Street	Right side of Franklin Street	North	-	-
Intersection of Franklin Street and Main Street	Right side of Franklin Street	South	-	-
Intersection of Franklin Street and Main Street	Right side of Main Street	East	-	-
Intersection of Franklin Street and Main Street	Right side of Main Street	West	-	-
Intersection of Hathaway Street and 12th Street	Right side of 12th Street	East	11, 1999	11-23-1999
Intersection of Hathaway Street and 12th Street	Right side of 12th Street	West	11, 1999	11-23-1999
Intersection of Hathaway Street and 13th Street	Right side of 13th Street	East	11, 1999	11-23-1999
Intersection of Hathaway Street and 13th Street	Right side of 13th Street	West	11, 1999	11-23-1999
Intersection of Hathaway Street and 14th Street	Right side of 14th Street	East	11, 1999	11-23-1999
Intersection of Hathaway Street and 15th Street	Right side of Hathaway Street	North	-	-
Intersection of Hathaway Street and 15th Street	Right side of Hathaway Street	South	-	-
Intersection of Hathaway Street and 15th Street	Right side of 15th Street	East	-	-
Intersection of Hathaway Street and 15th Street	Right side of 15th Street	West	-	-
Intersection of Hathaway Street and 17th Street	Right side of Hathaway Street	South	11, 1999	11-23-1999
Intersection of Huron and Burson Street	Right side of Huron Street	East	11, 1999	11-23-1999
Intersection of Jefferson Street and	Right side of West Street	South	11, 1999	11-23-1999

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<i>Street/Intersection</i>	<i>Location</i>	<i>Direction</i>	<i>Ord. No.</i>	<i>Date Passed</i>
West Street				
Intersection of Madison Street and Northwest Street	Right side of Northwest Street	North	6, 2001	7-9-2001
Intersection of Madison Street and Northwest Street	Right side of Northwest Street	South	6, 2001	7-9-2001
Intersection of Madison Street and Northwest Street	Right side of Madison Street	East	6, 2001	7-9-2001
Intersection of Madison Street and Northwest Street	Right side of Braun Corporation private drive	West	6, 2001	7-9-2001
Intersection of Market Street and 15th Street	Right side of Market Street	North	-	-
Intersection of Market Street and 15th Street	Right side of Market Street	South	-	-
Intersection of Market Street and 15th Street	Right side of 15th Street	East	-	-
Intersection of Market Street and 15th Street	Right side of 15th Street	West	-	-
Intersection of Market Street and Madison Street	Right side of Market Street	North	-	-
Intersection of Market Street and Madison Street	Right side of Market Street	South	-	-
Intersection of Market Street and Madison Street	Right side of Madison Street	East	-	-
Intersection of Market Street and Madison Street	Right side of Madison Street	West	-	-
Intersection of Market Street and Main Street	Right side of Market Street	North	-	-
Intersection of Market Street and Main Street	Right side of Market Street	South	-	-
Intersection of Market Street and Main Street	Right side of Main Street	East	-	-
Intersection of Market Street and Main Street	Right side of Main Street	West	-	-

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<i>Street/Intersection</i>	<i>Location</i>	<i>Direction</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Intersection of Market Street and Pearl Street	Right side of Market Street	North	-	-
Intersection of Market Street and Pearl Street	Right side of Market Street	South	-	-
Intersection of Market Street and Pearl Street	Right side of Pearl Street	East	-	-
Intersection of Market Street and Pearl Street	Right side of Pearl Street	West	-	-
Intersection of Market Street and Superior Street	Right side of Market Street	North	2, 2000	6-12-2000
Intersection of Market Street and Superior Street	Right side of Market Street	South	2, 2000	6-12-2000
Intersection of Market Street and Superior Street	Right side of Superior Street	East	2, 2000	6-12-2000
Intersection of Market Street and Superior Street	Right side of Superior Street	West	2, 2000	6-12-2000
Intersection of McCombs Street and West Street	Right side of McCombs Street	East	2 of 2005	5-9-2005
Intersection of McCombs Street and West Street	Right side of McCombs Street	West	2 of 2005	5-9-2005
Intersection of McCombs Street and West Street	Right side of West Street	North	2 of 2005	5-9-2005
Intersection of McCombs Street and West Street	Right side of West Street	South	2 of 2005	5-9-2005
Intersection of Northwest Street and Summit Street	Right side of Summit Street	North	2, 2000	6-12-2000
Intersection of Northwest Street and Summit Street	Right side of Summit Street	East	2, 2000	6-12-2000
Intersection of Northwest Street and Summit Street	Right side of Summit Street	West	2, 2000	6-12-2000
Intersection of	Right side of Riverside	North	-	-

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<i>Street/Intersection</i>	<i>Location</i>	<i>Direction</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Riverside Drive and Main Street	Drive			
Intersection of Riverside Drive and Main Street	Right side of Riverside Drive	South	-	-
Intersection of Riverside Drive and Main Street	Right side of Main Street	East	-	-
Intersection of Riverside Drive and Main Street	Right side of Main Street	West	-	-
Intersection of Riverside Drive and Washington	Right side of Riverside Drive	North	-	-
Intersection of Riverside Drive and Washington	Right side of Riverside Drive	South	-	-
Intersection of Riversdale Drive and Washington	Right side of Washington Street	East	-	-
Intersection of Riverside Drive and Washington	Right side of Washington Street	West	-	-
Intersection of Riverside Drive and Washington	Right side of Washington Street	East	-	-
Intersection of South Street and West Street	Right side of West Street	North	11, 1999	11-23-1999
Intersection of South Street and West Street	Right side of West Street	South	11, 1999	11-23-1999
Intersection of Superior Street and Burson Street	Right side of Superior Street	East	11, 1999	11-23-1999
Intersection of Washington Street and West Street	Right side of West Street	North	11, 1999	11-23-1999
Intersection of Washington Street and West Street	Right side of West Street	South	11, 1999	11-23-1999
Intersection of West Street and Boyles Street	Right side of Boyles Street	East	11, 1999	11-23-1999

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<i>Street/Intersection</i>	<i>Location</i>	<i>Direction</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Intersection of the alley between Riverside Drive and Monticello Street and the alley between Superior Street and Huddleston Street	Right side of both alleys	All	8, 1999	8-24-1999
Intersection of the alley between Riverside Drive and Monticello Street and the alley between Huddleston Street and Rowan Street	Right side of both alleys	All	8, 1999	8-24-1999
Intersection of the alley between Riverside Drive and Monticello Street and the alley between Washington Street and Adams Street	Right side of both alleys	All	8, 1999	8-24-1999
Intersection of the alley between Riverside Drive and Monticello Street and the alley between Adams Street and Jefferson Street	Right side of both alleys	All	8, 1999	8-24-1999
Intersection of the alley between Riverside Drive and Monticello Street and the alley between Jefferson Street and Main Street	Right side of both alleys	All	8, 1999	8-24-1999
Intersection of the alley between Riverside Drive and Monticello Street and the alley between Main Street and Pearl Street	Right side of both alleys	All	8, 1999	8-24-1999
Intersection of the alley between Riverside Drive and Monticello Street and the alley between Pearl Street	Right side of both alleys	All	8, 1999	8-24-1999

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<i>Street/Intersection</i>	<i>Location</i>	<i>Direction</i>	<i>Ord. No.</i>	<i>Date Passed</i>
and Spring Street				
Intersection of the alley between Riverside Drive and Monticello Street and the alley between Spring Street and Madison Street	Right side of both alleys	All	8, 1999	8-24-1999
Intersection of the alley between Riverside Drive and Monticello Street and the alley between Madison Street and 11th Street	Right side of both alleys	All	8, 1999	8-24-1999
Intersection of the alley between Riverside Drive and Monticello Street and the alley between 11th Street and 12th Street	Right side of both alleys	All	8, 1999	8-24-1999
Intersection of the alley between Monticello Street and Market Street and the alley between Superior Street and Huddleston Street	Right side of both alleys	All	8, 1999	8-24-1999
Intersection (southernmost) of the alley between Monticello Street and Market Street and the alley between Huddleston Street and Washington Street	Right side of both alleys	All	8, 1999	8-24-1999
Intersection (northernmost) of the alley between Monticello Street and Market Street and the alley between Huddleston Street and Washington Street	Right side of both alleys	All	8, 1999	8-24-1999
Intersection of the alley	Right side of both	All	8, 1999	8-24-1999

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<i>Street/Intersection</i>	<i>Location</i>	<i>Direction</i>	<i>Ord. No.</i>	<i>Date Passed</i>
between Monticello Street and Market Street and the alley between Washington Street and Adams Street	alleys			
Intersection of the alley between Monticello Street and Market Street and the alley between Adams Street and Jefferson Street	Right side of both alleys	All	8, 1999	8-24-1999
Intersection of the alley between Monticello Street and Market Street and the alley between Main Street and Pearl Street	Right side of both alleys	All	8, 1999	8-24-1999
Intersection of the alley between Monticello Street and Market Street and the alley between Pearl Street and Spring Street	Right side of both alleys	All	8, 1999	8-24-1999
Intersection of the alley between Monticello Street and Market Street and the alley between Spring Street and Madison Street	Right side of both alleys	All	8, 1999	8-24-1999
Intersection of the alley between Monticello Street and Market Street and the alley between 11th Street and 12th Street	Right side of both alleys	All	8, 1999	8-24-1999
Intersection of the alley between Market Street and Burson Street and the alley between Huron Street and Erie Street	Right side of both alleys	All	8, 1999	8-24-1999
Intersection of the alley	Right side of both	All	8, 1999	8-24-1999

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<i>Street/Intersection</i>	<i>Location</i>	<i>Direction</i>	<i>Ord. No.</i>	<i>Date Passed</i>
between Market Street and Burson Street and the alley between Superior Street and Huddleston Street	alleys			
Intersection (southernmost) of the alley between Market Street and Burson Street and the alley between Huddleston Street and Washington Street	Right side of both alleys	All	8, 1999	8-24-1999
Intersection (northernmost) of the alley between Market Street and Burson Street and the alley between Huddleston Street and Washington Street	Right side of both alleys	All	8, 1999	8-24-1999
Intersection of the alley between Market Street and Logan Street and the alley between Washington Street and Adams Street	Right side of both alleys	All	8, 1999	8-24-1999
Intersection of the alley between Market Street and Logan Street and the alley between Adams Street and Jefferson Street	Right side of both alleys	All	8, 1999	8-24-1999
Intersection of the alley between Market Street and Logan Street and the alley between Jefferson Street and Main Street	Right side of both alleys	All	8, 1999	8-24-1999
Intersection of the alley between Market Street and Logan Street and the alley between Main Street and Pearl Street	Right side of both alleys	All	8, 1999	8-24-1999



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<i>Street/Intersection</i>	<i>Location</i>	<i>Direction</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Intersection of the alley between Market Street and Logan Street and the alley between Pearl Street and Spring Street	Right side of both alleys	All	8, 1999	8-24-1999
Intersection of the alley between Market Street and Hathaway Street and the alley between 11th Street and 12th Street	Right side of both alleys	All	8, 1999	8-24-1999
Intersection (easternmost) of the alley between East Street and Northwest Street and the alley between Summit Street and Jenkins Street	Right side of both alleys	All	8, 1999	8-24-1999

(B) *Two-way stop intersections.*

<i>Street/Intersection</i>	<i>Location</i>	<i>Direction</i>
Intersection of 11th Street (SR #14) and Market Street	Right side of Market Street	North
Intersection of 11th Street (SR #14) and Market Street	Right side of Market Street	South
Intersection of 13th Street and Market Street	Right side of 13th Street	East
Intersection of 13th Street and Market Street	Right side of 13th Street	West
Intersection of 13th Street and Monticello Street	Right side of 13th Street	East
Intersection of 13th Street and Monticello Street	Right side of 13th Street	West
Intersection of 14th Street and Hathaway Street	Right side of 14th Street	East
Intersection of 14th Street and Hathaway Street	Right side of 14th Street	West
Intersection of 14th Street and Market Street	Right side of 14th Street	East
Intersection of 14th Street and Market Street	Right side of 14th Street	West
Intersection of 14th Street and Monticello	Right side of 14th Street	East

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<i>Street/Intersection</i>	<i>Location</i>	<i>Direction</i>
Street		
Intersection of 14th Street and Monticello Street	Right side of 14th Street	West
Intersection of 15th Street and Monticello Street	Right side of 15th Street	East
Intersection of 15th Street and Monticello Street	Right side of 15th Street	West
Intersection of 15th Street and Riverside Drive	Right side of Riverside Drive	North
Intersection of 15th Street and Riverside Drive	Right side of Riverside Drive	South
Intersection of 16th Street and Agnew Street	Right side of 16th Street	East
Intersection of 16th Street and Agnew Street	Right side of 16th Street	West
Intersection of 16th Street and Market Street	Right side of 16th Street	East
Intersection of 16th Street and Market Street	Right side of 16th Street	West
Intersection of Adams Street and Logan Street	Right side of Adams Street	East
Intersection of Adams Street and Logan Street	Right side of Adams Street	West
Intersection of Adams Street and Market Street	Right side of Adams Street	East
Intersection of Adams Street and Market Street	Right side of Adams Street	West
Intersection of Adams Street and Monticello Street	Right side of Adams Street	East
Intersection of Adams Street and Monticello Street	Right side of Adams Street	West
Intersection of Burson Street and Superior Street	Right side of Burson Street	North
Intersection of Burson Street and Superior Street	Right side of Burson Street	South
Intersection of Erie Street and Market Street	Right side of Erie Street	East
Intersection of Erie Street and Market Street	Right side of Erie Street	West
Intersection of Erie Street and Monticello Street	Right side of Erie Street	East

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<i>Street/Intersection</i>	<i>Location</i>	<i>Direction</i>
Intersection of Erie Street and Monticello Street	Right side of Erie Street	West
Intersection of Huddleston Street and Market Street	Right side of Huddleston Street	East
Intersection of Huddleston Street and Market Street	Right side of Huddleston Street	West
Intersection of Huddleston Street and Monticello Street	Right side of Huddleston Street	East
Intersection of Huddleston Street and Monticello Street	Right side of Huddleston Street	West
Intersection of Huddleston Street and Riverside Drive	Right side of Huddleston Street	East
Intersection of Huddleston Street and Riverside Drive	Right side of Huddleston Street	West
Intersection of Huron Street and Market Street	Right side of Huron Street	East
Intersection of Huron Street and Market Street	Rights side of Huron Street	West
Intersection of Jefferson Street and Market Street	Right side of Jefferson Street	East
Intersection of Jefferson Street and Market Street	Right side of Jefferson Street	West
Intersection of Jefferson Street and Monticello Street	Right side of Jefferson Street	East
Intersection of Jefferson Street and Monticello Street	Right side of Jefferson Street	West
Intersection of Madison Street and Monticello Street	Right side of Madison Street	East
Intersection of Madison Street and Monticello Street	Right side of Madison Street	West
Intersection of Main Street and Logan Street	Right side of Logan Street	North
Intersection of Main Street and Logan Street	Right side of Logan Street	South
Intersection of Main Street and Monticello Street	Right side of Main Street	East
Intersection of Main Street and Monticello Street	Right side of Main Street	West
Intersection of Meridian Street and Monticello Street	Right side of Meridian Street	East
Intersection of Meridian Street and	Right side of Meridian Street	West

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<i>Street/Intersection</i>	<i>Location</i>	<i>Direction</i>
Monticello Street		
Intersection of Rowan Street and Riverside Drive	Right side of Rowan Street	East
Intersection of Rowan Street and Riverside Drive	Right side of Rowan Street	West
Intersection of Spring Street and Market Street	Right side of Spring Street	East
Intersection of Spring Street and Market Street	Right side of Spring Street	West
Intersection of Spring Street and Monticello Street	Right side of Spring Street	East
Intersection of Spring Street and Monticello Street	Right side of Spring Street	West
Intersection of SR #14 and Plymouth Street	Right side of Plymouth Street	North
Intersection of SR #14 and Plymouth Street	Right side of Plymouth Street	South
Intersection of SR #14 and Riverside Drive	Right side of Riverside Drive	North
Intersection of SR #14 and Riverside Drive	Right side of Riverside Drive	South
Intersection of SR #35 and Riverside Drive	Right side of Riverside Drive	North
Intersection of SR #35 and Riverside Drive	Right side of Riverside Drive	South
Intersection of Superior Street and Monticello Street	Right side of Superior Street	East
Intersection of Superior Street and Monticello Street	Right side of Superior Street	West
Intersection of Washington Street and Franklin Street	Right side of Washington Street	East
Intersection of Washington Street and Franklin Street	Right side of Washington Street	West
Intersection of Washington Street and Market Street	Right side of Market Street	South
Intersection of Washington Street and Market Street	Right side of Market Street	North
Intersection of Washington Street and Monticello Street	Right side of Washington Street	East
Intersection of Washington Street and Monticello Street	Right side of Washington Street	West

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(C) *One-way stop intersections.*

<b><i>Street/Intersection</i></b>	<b><i>Location</i></b>	<b><i>Direction</i></b>
Intersection of 11th Street (SR #14) and Hathaway Street	Right side of Hathaway Street	North
Intersection of 11th Street (SR #14) and Riverside Drive	Right side of 11th Street (SR #14)	West
Intersection of 12th Street and Riverside Drive	Right side of Riverside Drive	North
Intersection of 12th Street and Riverside Drive	Right side of 12th Street	West
Intersection of 13th Street and Riverside Drive	Right side of 13th Street	West
Intersection of 14th Street and Monticello Street	Right side of Monticello Street	North
Intersection of 14th Street and Riverside Drive	Right side of 14th Street	West
Intersection of 15th Street and US Route #35	Right side of 15th Street	West
Intersection of 16th Street and Falvey Street	Right side of 16th Street	East
Intersection of 16th Street and Monticello Street	Right side of 16th Street	West
Intersection of 50 W and Adams Street	Right side of Adams Street	East
Intersection of 50 W and Main Street	Right side of Main Street	East
Intersection of Adams Street and Franklin Street	Right side of Adams Street	West
Intersection of Adams Street and Franklin Street	Right side of Adams Street	East
Intersection of Adams Street and Riverside Drive	Right side of Adams Street	West
Intersection of Erie Street and Huddleston Street	Right side of Erie Street	West
Intersection of Falvey Street and 15th Street	Right side of 15th Street	East
Intersection of Forest Drive and SR #14	Right side of Forest Drive	South
Intersection of Galbreath Drive and Plymouth Road	Right side of Galbreath Drive	East
Intersection of Galbreath Drive and Willow Creek Court	Right side of Willow Creek Court	North
Intersection of Huron Street and Monticello Street	Right side of Huron Street	West

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<i>Street/Intersection</i>	<i>Location</i>	<i>Direction</i>
Intersection of Jefferson Street and Franklin Street	Right side of Jefferson Street	West
Intersection of Jefferson Street and Logan Street	Right side of Jefferson Street	East
Intersection of Jefferson Street and Riverside Drive	Right side of Jefferson Street	West
Intersection of Keller Street and 11th Street (SR #14)	Right side of 11th Street (SR #14)	East
Intersection of Logan Street and LaurDi Street	Right side of LaurDi Street	West
Intersection of Madison Street and East Street	Right side of Madison Street	West
Intersection of Madison Street and Logan Street	Right side of Madison Street	East
Intersection of Madison Street and Logan Street	Right side of Logan Street	South
Intersection of Madison Street and Riverside Drive	Right side of Madison Street	West
Intersection of Market Street and Pearson Street	Right side of Pearson Street	East
Intersection of McCombs Street and Franklin Street	Right side of McCombs Street	West
Intersection of Meridian Street and Market Street	Right side of Meridian Street	East
Intersection of Monticello Street and Huddleston Street	Right side of Monticello Street	North
Intersection of Monticello Street and Rowan Street	Right side of Monticello Street	North
Intersection of Narrow Street and Franklin Street	Right side of Narrow Street	West
Intersection of Northwest Street and 11th Street (SR #14)	Right side of Northwest Street	South
Intersection of Ontario Street and Huddleston Street	Right side of Ontario Street	West
Intersection of Pearl Street and Logan Street	Right side of Pearl Street	East
Intersection of Pearl Street and Riverside Drive	Right side of Pearl Street	West
Intersection of Pearson Street and Monticello	Right side of Pearson Street	West
Intersection of Riverside Drive and	Right side of Huddleston	North

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<i>Street/Intersection</i>	<i>Location</i>	<i>Direction</i>
Huddleston Street	Street	
Intersection of South Street and Franklin Street	Right side of South Street	West
Intersection of South Street and West Street	Right side of West Street	North
Intersection of Spring Street and Logan Street	Right side of Spring Street	East
Intersection of Spring Street and Riverside Drive	Right side of Spring Street	West
Intersection of SR #14 and Decker Drive	Right side of Decker Drive	North
Intersection of SR #14 and Monticello Street	Right side of SR #14	East
Intersection of SR #14 and Pulaski Memorial Hospital parking lot exit	Right side of the exit	South
Intersection of Stamper Street and SR #14 on the east side of the semi-circle loop	Right side of Stamper Street	South
Intersection of Stamper Street and SR #14 on the west side of the semi-circle loop	Right side of Stamper Street	South
Intersection of Summit Street and East Street	Right side of East Street	North
Intersection of Superior Street and Huddleston Street	Right side of Superior Street	West
Intersection of Terrace Drive and SR #14 on the east side of the semi-circle loop	Right side of Terrace Drive	North
Intersection of Terrace Drive and SR #14 on the west side of the semi-circle loop	Right side of Terrace Drive	North
Intersection of US South #35 and 50 N	Right side of 50 N	East
Intersection of Washington Street and 50 W	Right side of Washington Street	East
Intersection of Washington Street and Burson Street	Right side of Burson Street	North
Intersection of Washington Street and Logan Street	Right side of Logan Street	North

(D) *Three-way stop intersections.*

<i>Street/Intersection</i>	<i>Location</i>	<i>Direction</i>
Intersection of Burson Street and Huddleston Street	Right side of Burson Street	North
	Right side of Burson Street	South
	Right side of Huddleston Street	East

(’94 Code, § 4-1-1) (Am. Ord. 6, 2001, passed 7-9-2001; Am. Ord. 1, 2002, passed 2-11-2002; Am. Ord. 15, 2003, passed 12-8-2003; Am. Ord. 2 of 2005, passed 5-9-2005; Am. Ord. 8 of 2006, passed 11-13-2006; Am. Ord. 5 of 2007, passed 10-10-2007; Am. Ord. 1 of 2010, passed 6-14-2010; Am. Ord. 5 of 2010, passed 9-13-2010; Am. Ord. 8 of 2013, passed 6-10-2013; Am. Ord. 15 of 2013, passed 9-9-2013) Penalty, see § 10.99

**SCHEDULE III. MISCELLANEOUS RESTRICTIONS.**

- (A) *One-way streets.*
  - (1) The south half of Superior Street will be one-way vehicle traffic with the direction of travel being from west to east starting at Burson Street and ending at Riverside Drive.
- (B) *Pedestrian/bicycle traffic.*
  - (1) The north half of Superior Street will be reserved for two-way pedestrian/bicycle traffic starting at Burson Street and ending at Riverside Drive.
- (C) *Penalty.* Any person who violated the provisions of this schedule shall be fined up to a maximum of \$50.  
(Ord. 9 of 2012, passed 8-13-2012)

**CHAPTER 73: PARKING SCHEDULES**

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Section

- I. No parking
- II. No parking 6:00 p.m. to 6:00 a.m.
- III. No parking from 7:00 a.m. to 9:00 a.m. and from 2:00 p.m to 4:00 p.m. Monday through Friday
- IV. Two-hour parking limit from 8:00 a.m. to 5:00 p.m. Monday through Friday
- V. Restricted parking

**SCHEDULE I. NO PARKING.**

It shall be unlawful for any owner, operator or any person driving a motor vehicle to stop, stand or park the motor vehicle in any of the restricted locations below.

<i>Street</i>	<i>Location/Restriction</i>	<i>Direction</i>	<i>Ord. No.</i>	<i>Date Passed</i>
11th Street	West from its intersection with Riverside Drive to its intersection with Monticello Street	North	17 of 2013	11-11-2013
Logan Street	North from its intersection with Main Street to its	East	2 of 2007	6-11-2007



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<i>Street</i>	<i>Location/Restriction</i>	<i>Direction</i>	<i>Ord. No.</i>	<i>Date Passed</i>
	intersection with the alley between Main Street and Pearl Street			
Market Street	South for 80 feet from its intersection with Jefferson Street	West	2 of 2007	6-11-2007
Market Street	South from its intersection with Washington Street on the north and Huron Street on the south	West	2 of 2007	6-11-2007
Meridian Street	East from its intersection with Market Street to its intersection with Monticello Street	South	2 of 2007	6-11-2007
Monticello Street	Within 20 feet of its intersection with the alley between Main Street and Pearl Street	West	2 of 2007	6-11-2007
Monticello Street	Between its intersection with Main Street on the north and Meridian Street on the south	West	2 of 2007	6-11-2007
Monticello Street	Within 20 feet of its intersection with Pearl Street	–	2 of 2007	6-11-2007
Market Street	South for 100 feet from its intersection with Meridian Street to a point even with the side door of the Justice Center	East	2 of 2007	6-11-2007

Penalty, see § 70.99

**SCHEDULE II. NO PARKING 6:00 P.M. TO 6:00 A.M.**

It shall be unlawful for any owner, operator or any person driving a motor vehicle to stop, stand or park the motor vehicle in any of the restricted locations below from 6:00 p.m. to 6:00 a.m.

<i>Street</i>	<i>Location/Restriction</i>	<i>Direction</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Main Street	East if its intersection with Market Street and west of its intersection with alley between Monticello Street and Riverside Drive	North/ South	2 of 2007	6-11-2007

Penalty, see § 70.99

**SCHEDULE III. NO PARKING FROM 7:00 A.M. TO 9:00 A.M. AND FROM 2:00 P.M. TO 4:00 P.M. MONDAY THROUGH FRIDAY.**

It shall be unlawful for any owner, operator or any person driving a motor vehicle to stop, stand or park the motor vehicle in any of the restricted locations below during the hours of 7:00 a.m. to 9:00 a.m. and 2:00 p.m. to 4:00 p.m. on Monday through Friday.

<i>Street</i>	<i>Location/Restriction</i>	<i>Direction</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Erie Street	East of its intersection with Monticello Street and west of its intersection with Huddleston Road	North/ South	2 of 2007	6-11-2007
Huddleston Street	East of its intersection with Monticello Street and west of its intersection with Huddleston Road	North/ South	2 of 2007	6-11-2007
Huddleston Road	South if its intersection with Rowan Street and north of its intersection with Monticello Street	East/West	2 of 2007	6-11-2007
Huron Street	East of its intersection with Monticello Street and west of its intersection with Huddleston Road	North/ South	2 of 2007	6-11-2007
Monticello Street	South of its intersection with Washington Street and north of its intersection with Huddleston Road	East/West	2 of 2007	6-11-2007
Riverside Drive	South of its intersection with Washington Street and north of its intersection with Huddleston Road	East/West	2 of 2007	6-11-2007
Rowan Street	East of its intersection with Monticello Street and west of its intersection with Huddleston Road	North/ South	2 of 2007	6-11-2007
Shady Lane	East of its intersection with Huddleston Road	North/ South	2 of 2007	6-11-2007
Superior Street	East of its intersection with Monticello Street and west of its intersection with	North/ South	2 of 2007	6-11-2007

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<i>Street</i>	<i>Location/Restriction</i>	<i>Direction</i>	<i>Ord. No.</i>	<i>Date Passed</i>
	Huddleston Road			

Penalty, see § 70.99

**SCHEDULE IV. TWO-HOUR PARKING FROM 8:00 A.M. TO 5:00 P.M MONDAY THROUGH FRIDAY.**

It shall be unlawful for any owner, operator or any person driving a motor vehicle to stop, stand or park the motor vehicle in any of the restricted locations below for more than two hours during the hours of 8:00 a.m. to 5:00 p.m. on Monday through Friday.

<i>Street</i>	<i>Location/Restriction</i>	<i>Direction</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Logan Street	Beginning at its intersection with the alley between Main Street and Pearl Street and going north to its intersection with Pearl Street	East	2 of 2007	6-11-2007
Logan Street	Beginning 80 feet north of its intersection with Main Street and south of its intersection with Pearl Street	West	2 of 2007	6-11-2007
Main Street	East of its intersection with Logan Street and west of its intersection with the alley between Monticello Street and Riverside Drive	North/ South	2 of 2007	6-11-2007
Market Street	North of its intersection with Meridian Street and south of its intersection with the alley between Pearl and Spring Streets	East/West	2 of 2007	6-11-2007
Monticello Street	North of its intersection with Meridian Street and south of its intersection with the alley between Pearl and Spring Streets except for those areas denoted as "No Parking" in Schedule I	East/West	2 of 2007	6-11-2007
Pearl Street	East of its intersection with Logan Street and west of its intersection with the alley between Monticello Street and Riverside Drive	North/ South	2 of 2007	6-11-2007

Penalty, see § 70.99

**SCHEDULE V. RESTRICTED PARKING.**

It shall be unlawful for any owner, operator or any person, except for Winamac Volunteer Fire Department members, driving a motor vehicle to stop, stand or park the motor vehicle in any of the restricted locations below.

<i>Street</i>	<i>Location/Restriction</i>	<i>Direction</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Logan Street	Going north for 80 feet from its intersection with Main Street	West	4A of 2008	5-12-2008

Penalty, see § 70.99

**TITLE IX: GENERAL REGULATIONS**

Chapter

- 90. ABANDONED VEHICLES**
- 91. HEALTH AND SANITATION; NUISANCES**
- 92. CEMETERIES**
- 93. STREETS AND SIDEWALKS**
- 94. TREES; VEGETATION**
- 95. NOISE**
- 96. FIRE PREVENTION; FIREWORKS**
- 97. ANIMALS**
- 98. PARKS AND RECREATION**

**CHAPTER 90: ABANDONED VEHICLES**

Section

- 90.01 Definition
- 90.02 Tagging vehicles; reports
- 90.03 Value of vehicle; immediate disposal
- 90.04 Liability for cost

**§ 90.01 DEFINITION.**

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

***ABANDONED VEHICLES.***

- (1) A vehicle or parts located on public property illegally;
- (2) A vehicle or parts left on public property without being moved for three days;
- (3) A vehicle or parts located on public property in a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicular traffic on a public right-of-way;
- (4) A vehicle or part that has remained on private property without the consent of the owner or person in control of that property for more than 48 hours;
- (5) A vehicle from which the engine, transmission or differential has been removed or that is otherwise partially dismantled or inoperable and left on public property;
- (6) A vehicle that has been removed by a towing service or public agency upon request of an officer enforcing a statute or an ordinance other than this chapter 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; or
- (7) 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.

(Ord. 11, 1997, passed 9-8-1997)

**§ 90.02 TAGGING VEHICLES; REPORTS.**

(A) An officer who finds or is notified of a vehicle or parts believed to be abandoned shall attach, in a prominent place, a notice tag containing the following information:

- (1) The date, time, officer's name, department and address and phone number to contact for information;
- (2) The vehicle or parts are considered abandoned;
- (3) The vehicle or parts will be removed after 72 hours;
- (4) The person who owns the vehicle will be held responsible for all costs incidental to the removal, storage and disposal of the vehicle; and
- (5) The person who owns the vehicle may avoid costs by removal of the vehicle or parts within 72 hours.

(B) If a vehicle or part tagged, as set out above, is not removed within the 72-hour period, the office shall prepare a written abandoned vehicle report of the vehicle or parts, including information on the condition, missing parts and other facts that might substantiate the estimated market value of the vehicle or parts and shall photograph the vehicle or parts.

(C) If, in the opinion of the officer, the market value of an abandoned vehicle or parts is determined to be less than \$500, the officer shall immediately dispose of the vehicle to an automobile scrap yard.

(D) If in the opinion of the officer the market value of an abandoned vehicle or parts is determined to be at least \$500, the officer shall, before placing a tag on the vehicle or parts, shall make a reasonable effort to ascertain the person who owns the vehicle or parts or who may be in control of the vehicle or parts. After 72 hours, the officer shall require the vehicle or parts to be towed to a storage area.

(E) (1) Within 72 hours of removal of a vehicle under division (D) above, the officer shall prepare and forward to the Bureau of Motor Vehicles an abandoned vehicle report containing a description of the vehicle, including the following information:

- (a) The make;
- (b) The model;
- (c) The identification number; and
- (d) The number of the license plate.

(2) The officer shall request the Bureau of Motor Vehicles to advise the name and most recent address of the person who owns or holds a lien on the vehicle.

(F) The officer shall follow the provisions of I.C. 9-22-1-1 *et seq.* in disposing of any vehicle or parts tagged or stored under division (D) above.

(G) The Police Department shall retain the original records and photographs on each vehicle found to be abandoned for at least two years.

(Ord. 11, 1997, passed 9-8-1997)

### **§ 90.03 VALUE OF VEHICLE; IMMEDIATELY DISPOSED.**

This chapter establishes \$500 as the market value below which an officer may dispose of a vehicle or parts immediately hereunder.

(Ord. 11, 1997, passed 9-8-1997)

### **§ 90.04 LIABILITY FOR COST.**

(A) The owner of a vehicle or parts found to be abandoned, as described above, shall be liable for all expenses associated with the tagging, removal and storage of the vehicle or parts and no vehicle shall be released unless and until the costs are paid in full.

(B) In accordance with I.C. 9-22-1-32, neither the officer nor the town shall be liable for any loss or damage to a vehicle or parts occurring during the removal, storage or disposition of any vehicle or parts under this chapter.

(Ord. 11, 1997, passed 9-8-1997)

## **CHAPTER 91: HEALTH AND SANITATION; NUISANCES**

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### Section

91.01 Spitting

#### ***Cross-reference:***

*Barking dogs, see § 97.02*

*Trees; vegetation, see § 94.10*

*Window panes or lights; destruction and the like, see § 130.05*

### **§ 91.01 SPITTING.**

It shall be unlawful for any person to expectorate or spit tobacco juice upon the sidewalks of the town and the town is instructed to arrest and bring before the Clerk-Treasurer anyone detected in the act of so spitting the tobacco juice and the person shall be fined in any sum as set by Town Council.

(^94 Code, § 6-1) Penalty, see § 10.99

## CHAPTER 92: CEMETERIES

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Section

- 92.01 No designation of ground
- 92.02 Selling lots and the like prohibited

### § 92.01 NO DESIGNATION OF GROUND.

No ground for burial or cemetery purposes shall be designated, laid out, platted or lots or parcels sold therein, within the corporate limits of the town, by any person, persons, association or corporation unless and until permission and consent so to do has first been obtained from the Town Council.

(^94 Code, § 1-1)

### § 92.02 SELLING LOTS AND THE LIKE PROHIBITED.

No lot or parcel of ground shall be sold or bartered by any person, firm, corporation or association for burial purposes, public or private, within the corporate limits of the town, unless and until a proper maintenance fund therefor has been provided and levied, to the approval and acceptance of the Town Council.

(^94 Code, § 1-1) Penalty, see § 10.99

## CHAPTER 93: STREETS AND SIDEWALKS

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Section

*General Provisions*

- 93.01 Snow removal; conditions and times
- 93.02 Curbing; construction and costs
- 93.03 Construction of streets, sidewalks and the like
- 93.04 Obstructions of sidewalks
- 93.05 Excavations
- 93.06 Traffic; exceptions for temporary construction
- 93.07 Skateboards

***Replacement of Sidewalks***

- 93.15 Maintenance of sidewalks
- 93.16 Unsafe sidewalks prohibited
- 93.17 Notice of violation
- 93.18 Notice to town of unsafe sidewalks
- 93.19 Public nuisance declared
- 93.20 Compliance with construction requirements

- 93.99 Penalty

***Cross-reference:***

*Spitting, see § 91.01*

**GENERAL PROVISIONS**

**§ 93.01 SNOW REMOVAL; CONDITIONS AND TIMES.**

(A) *Declaration of snow removal condition.*

(1) When, in the opinion of the Street Department Superintendent and the Town Manager, the actual or expected precipitation of snow will create hazardous or dangerous roadway conditions for vehicular or pedestrian traffic, the Manager shall have authority to declare a snow removal condition.

(2) A snow removal condition shall be declared by the Town Manager by issuing a media release to the local radio and cable television stations.

(3) The snow removal condition shall continue in force and effect until the Town Manager declares it to be over by issuing a media release to the local radio and cable television stations.

(B) *Duties of owners/occupants.*

(1) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***PUBLIC RIGHT-OF-WAY.*** Any public street, way, place, alley, sidewalk, easement, park, square, median parkway, boulevard or plaza that is dedicated to public use or maintained by the town except for those rights-of-way owned by the Indiana Department of Transportation located within the town municipal limits.

(2) *Removal of snow or ice.*

(a) It shall be the responsibility of the property owner or the occupant of the property immediately adjacent to a public walk, public right-of-way, or fire hydrant to remove from the sidewalk or fire hydrant any snow or ice which accumulates on such sidewalk or obstructs such sidewalk or fire hydrant within 48 hours after the ice forms or the snow ceases to fall thereupon. If the ice accumulation is of such character as to make the removal thereof impossible, the sprinkling or placement of sand and/or salt thereon within the time specified for removal in such a manner as to make such sidewalk safe for pedestrian travel.

(b) *Hardship exception.* A property owner may qualify for a hardship exception based upon age and/or physical disability. The hardship application must be completed and submitted to the Town Clerk-Treasurer's Office by October 31 of each year. The Town



Manager or his or her designee shall have the sole discretion to determine whether or not to grant the exception.

(Ord. 4, 2000, passed 11-27-00; Am. Ord. 11 of 2014, passed 7-14-2014) Penalty, see § 93.99

**§ 93.02 CURBING; CONSTRUCTION AND COSTS.**

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

**CURBS AND GUTTERS.** The area immediately adjacent to the improved portion of the street or highway right-of-way and constructed in accordance with the Standard Plans for Public Works Construction approved and adopted by the town, March 12, 2001.

**OWNER.** The person or persons who hold the legal title to a parcel of ground as recorded in the records of the County Recorder's Office in which the property is located.

**TOWN.** The Town of Winamac, Indiana.

(B) (1) The owner of each parcel of ground adjacent to any street or highway shall install, repair, replace and maintain curbs and gutters in good order as directed by the town.

(2) All curbs and gutters shall be in accordance with the Standard Plans for Public Works Construction approved and adopted by the town, March 12, 2001.

(3) All curbs and gutters shall be installed, repaired, replaced and/or maintained as the town shall determine in its discretion.

(C) (1) The costs of installation of curbing and gutters shall be born by the owner and the town as follows:

(a) The town shall be responsible for the materials necessary to install the curbing and/or gutters.

(b) The owner shall be responsible for the costs of labor necessary to install the curbing and/or gutters.

(2) In the event the town shall determine, as part of a project, that a portion of the streets and highways under its jurisdiction need to have the curbs and/or gutters repaired, replaced or installed, the town shall notify the owners of the parcels affected of the plan, shall contract for the repair, replacement and/or installation of the curbs and/or gutters and, after determination of the cost for the curbs and gutters, shall assess each owner the proportionate share of the cost for labor for the repair, replacement and/or installation according to number of linear feet of curb of the owner's land to the overall length of the project.

(3) In the event that an owner's share of the cost for installation, repair or replacement of curbs and/or gutters shall be \$200 or less, the owner shall, within 30 days, pay the assessment in full to the Clerk-Treasurer.

(4) In the event that an owner's share of the cost for installation, repair or replacement of curbs and/or gutters shall exceed \$200, the owner shall, within 30 days, arrange with the Clerk-Treasurer to pay the assessment in equal monthly installments over the next ten months.

(D) (1) Any owner who shall desire to repair, replace or install curbs or gutters along any street or highway under the jurisdiction of the town, shall file a written application in the Office of the Clerk- Treasurer prior to commencing any alteration or installation.

(2) At the time the written application is filed in the Office of the Clerk-Treasurer, the owner shall pay a fee of \$15, which fee shall be deposited by the

Clerk-Treasurer in a fund to be used for offsetting the costs of processing the application for the permit and for purchasing the materials for the curbs and/or gutters.

(3) Upon receipt of the application, the town shall provide the owner with a copy of the Standard Plans for Public Works Construction approved and adopted by the town, March 12, 2001.

(4) Upon installation, repair or replacement of the curbs and/or gutters, the town shall inspect the curbs and/or gutter to ensure installation, repair or replacement is done in accordance with the Standard Plans for Public Works Construction approved and adopted by the town, March 12, 2001.

(5) Any installation, repair or replacement of curbs and/or gutters shall only be done in accordance with specifications, and the owner shall remove any the curb and/or gutter not installed, repaired or replaced in accordance with the specifications at the owner's sole cost for both materials and labor.

(6) In the event that the town shall determine as part of a project that a portion of the streets and highways under its jurisdiction need to have the curbs and/or gutters repaired, replaced or installed, the town may waive the permit fee required in this section for the owners affected by the project.

(Ord. 7 of 1996, passed 8-12-96; Am. Ord. 5 of 2008, passed 5-12-2008)

### **§ 93.03 CONSTRUCTION OF STREETS, SIDEWALKS AND THE LIKE.**

(A) A building permit will be required for all appurtenances constructed within the street and road rights-of-way within the town. The building permit application can be purchased for \$15 at the Clerk- Treasurer's Office.

(B) All appurtenances constructed within the street and road rights-of-way shall be made in conformity with the provisions and the grades, plans, profiles and specifications furnished by the Clerk- Treasurer and on file in the office as adopted and approved by the Town Council. A copy of these standards, "Standard Plans for Public Works Construction," is available for copying fee of \$5.

(C) A detailed plan must be submitted and approved by the Town Manager or his or her designee before construction shall commence. After forms are placed and before concrete is poured, a 24-hour notice must be given to allow the Town Manager or his or her designee to make a pre-pour inspection.

(D) (1) After construction is completed and before the town will accept the work, it shall be inspected by the Town Manager or his or her designee.

(2) The construction must meet the specifications as submitted on the building permit application, and the specifications set forth in "Standard Plans for Public Works Construction," as adopted and amended by the Town Council. The cost for the final inspection shall be \$25.

(E) It will be the permittee's responsibility to see that all extra dirt and other material that is removed in connection with the project is disposed of according to local, state and federal regulations.

(F) It shall be the permittee's responsibility and the permittee's cost to remedy any and all discrepancies found during final inspection between the actual construction and the details submitted on the building permit application and/or the specifications set forth in the

“Standard Plans for Public Works Construction,” as adopted and amended by the Town Council. All corrections must be made within 30 days or the permittee shall be found in violation of this section.

(G) It shall be unlawful for any unauthorized person to tamper with or in any way interfere with any grade stake for any public works project, or to deface or disturb any project while in process of construction, and upon conviction thereof, shall be fined according to the penalty provided herein.

(H) In the event a lawsuit is commenced to abate violations or to assess a fine against a person and the person is found to have failed to remedy a violation, the person shall be responsible and liable for all costs of the action, including but not limited to costs and expenses of remedying the violation, costs of suit, expenses and reasonable attorney fees incurred by the town in bringing the action.

(Ord. 3, 2001, passed 3-12-2001) Penalty, see § 93.99

#### **§ 93.04 OBSTRUCTIONS OF SIDEWALKS.**

(A) It shall be the duty of the owners of lots or parts of lots within the town to keep the sidewalks in front of the lots or part of lots at all times free from rubbish and obstructions and to remove the snow from the walks as soon after it falls as practicable. Any person offending against the provisions of this section shall forfeit and pay to the town the sum as set by Council for every day the accumulation of rubbish or snow shall be suffered to remain on the sidewalks.

(B) No person shall deposit and allow to remain on any sidewalk in the town any wood, coal, lumber or any barrels, box or any merchandise whatever, and any person so offending shall forfeit and pay to the town the sum as set by Town Council for every hour the offending material or goods shall be allowed to remain thereon, after the first hour but in no case shall the goods or other article be so placed as to entirely obstruct any sidewalk. This section shall not apply to persons building upon or improving the property or in building or repairing any sidewalk or fence.

(C) Before obstructing the sidewalk, the person shall obtain a permit from the Committee.

(D) No person shall place in any street any rubbish, ashes, brush or any slop, filth or dead animal or decayed vegetable or the rind or refuse of any vegetable or permit any filth of any kind whatever and persons offending against the provisions of this section shall forfeit and pay to the town the sum as set by Council.

(E) Any person contemplating the erection of any building or desiring to occupy any sidewalk or part of any street in the town for the deposit of any material for the building shall apply to the Street Commissioner for the same who may grant the permit, but the permit shall not extend beyond a reasonable time for the completion of the building. The permit shall not extend to more than one-half the width of the street and whenever obstructions are placed in the street or upon or across the sidewalk shall cause a red light to be displayed over the obstruction so long as the same shall remain.

(‘94 Code, § 8-1-1) Penalty, see § 93.99

#### **§ 93.05 EXCAVATIONS.**

(A) It shall be unlawful for any person or persons to make any excavation on any of the streets within the incorporated town for the purpose of laying water pipe or any other purpose, without first receiving a written permit therefor from Winamac Greenspace.

(B) Any person receiving a written permit as provided for herein shall be required to make an excavation in a good workmanlike manner, safely guard the same as to prevent any injury to persons using the street and shall promptly fill the excavation by properly tamping the dirt and, where the streets are macadamized, by properly tamping stone also so that when completed that the surface shall be on a level with the grade line of the street the same as it was before the excavation was made.

( '94 Code, § 8-2-1) Penalty, see § 93.99

### **§ 93.06 TRAFFIC; EXCEPTIONS FOR TEMPORARY CONSTRUCTION.**

(A) Any person, association, firm or corporation may apply to the town for a permit requesting permission to use any street or a portion thereof for a purpose not inconsistent with the use thereof by the general public, but which use is an exception to the ordinary use by the public.

(B) An application shall be made in writing, addressed to the town and shall state the purposes for the request. The application shall designate the street or streets or portions thereof where parking privileges may be affected and shall state for what period of time and the number of parking spaces needed. The application shall be made at least 24 hours before the temporary use of any street shall be contemplated.

(C) The town shall investigate the application and the purpose for which the street, streets or portion thereof shall be used. The town shall grant the application if, in his or her judgment, the application is in proper form and the purpose for the use is consistent with public use. The town may authorize the use of the street, streets or portion thereof and shall authorize the use of proper signs or the use of a police officer or officers for the direction of traffic and the stopping and standing of motor vehicles.

(D) Each application shall be accompanied with a fee of \$2.50 or unless waived by the Clerk- Treasurer.

(E) It shall be unlawful for any person to violate this section and upon conviction for any violation hereof the person found guilty shall be fined in any sum for each violation.

( '94 Code, § 8-2-2) Penalty, see § 93.99

### **§ 93.07 SKATEBOARDS.**

(A) *Definition.*

**SKATEBOARD.** An item consisting of a short, oblong board with a pair of small wheels at each end, ridden on a hard surface such as a floor, sidewalk, street, or the like.

(B) *Compliance required.* No person shall ride a skateboard within the town without complying with this section and any and all other applicable ordinances and statutes.

(1) *Yielding to pedestrians.* Whenever any person is riding a skateboard upon a sidewalk or other paved surface intended for use by pedestrians, such person shall yield the right of way to any pedestrian and shall not approach, overtake or pass such pedestrian in a

reckless or careless manner, nor pass such pedestrian except in single file if such person riding a skateboard with other such riders.

(2) *Riding on certain devices or structures.* No person shall skateboard on any public bench, table, planter wall, retaining wall, playground equipment, picnic tables, or other device or structure which is not intended for pedestrian or vehicular traffic, or jump or step on or off such devices or structures in the process of riding a skateboard. No person shall skateboard on any steps or handicapped ramps.

(3) *Reckless or dangerous riding.* No person shall skateboard on any sidewalk or other paved surface intended for pedestrian use or for the parking of vehicles in a reckless or careless manner, nor in a manner which is likely to result in injury or harm to any person or property.

(4) *Riding on private property without permission.* No person shall ride a skateboard on private property without first obtaining permission of the owner of said property to allow such skating or riding.

(5) *Riding while attached to vehicles.* No person shall ride a skateboard while either the skateboard or the person is attached to any vehicle.

(6) *Prohibitions on public streets and in the downtown area.* No person shall ride a skateboard on public streets except at cross walks. No person shall ride a skateboard on public sidewalks on Pearl Street, Main Street between Logan Street and Riverside Drive, Meridian Street, Monticello Street between Jefferson Street and Pearl Street, Market Street between Pearl Street and Jefferson Street, and Logan Street between Jefferson Street and Pearl Street.

(7) *Restrictions on use.* No person shall ride a skate board in any position other than standing on the board.

(8) *Prohibition of ramps and incline devices.* No person shall construct, establish, maintain, use or place a ramp or other incline device to be used for skateboarding upon any public sidewalk or roadway of a street in the town.

(Ord. 3 of 2004, passed 7-12-2004) Penalty, see § 93.99

## **REPLACEMENT OF SIDEWALKS**

### **§ 93.15 MAINTENANCE OF SIDEWALKS.**

The owner of any dwelling, building, subdivided lot or property shall be responsible for maintaining in good condition and repair the sidewalk in front of, alongside, and/or behind the property of the owner.

(Ord. 8, 2002, passed 11-12-2002) Penalty, see § 93.99

### **§ 93.16 UNSAFE SIDEWALKS PROHIBITED.**

(A) The owner of property shall not allow a sidewalk on the property of the owner to become unsafe or to be placed in disrepair as a result of cracking, settling, or other deterioration.

(B) An **UNSAFE SIDEWALK** is defined as a section of sidewalk that is settled or pushed up so as to be uneven, or cracked or chipped, which circumstance creates the hazard of tripping or falling.

(Ord. 8, 2002, passed 11-12-2002) Penalty, see § 93.99

### **§ 93.17 NOTICE OF VIOLATION.**

If the Town Manager, or his or her designee, determines that the owner of the property has allowed the sidewalk to become unsafe or to be in disrepair, the Town Manager or designees shall notify the owner, in writing, that the owner shall have 30 days in which to correct the unsafe condition or place the property in good order and repair.

(Ord. 8, 2002, passed 11-12-2002) Penalty, see § 93.99

### **§ 93.18 NOTICE TO TOWN OF UNSAFE SIDEWALKS.**

If a sidewalk becomes unsafe or is in a state of disrepair, the property owner shall promptly notify the town, in writing, of the place and condition of the sidewalk.

(Ord. 8, 2002, passed 11-12-2002) Penalty, see § 93.99

### **§ 93.19 PUBLIC NUISANCE DECLARED.**

An unsafe sidewalk or a sidewalk in disrepair shall be deemed a public nuisance, and the town shall have the right to bring an action in a court of competent jurisdiction against the owner for the abatement of the public nuisance and for all other equitable and legal relief.

(Ord. 8, 2002, passed 11-12-2002)

### **§ 93.20 COMPLIANCE WITH CONSTRUCTION REQUIREMENTS.**

All sidewalks are to be constructed in compliance with § 93.03 of this chapter.

(Ord. 8, 2002, passed 11-12-2002) Penalty, see § 93.99

### **§ 93.99 PENALTY.**

(A) Whoever violates any provision of § 93.01(B) shall be subject to a fine of not less than \$25 nor more than \$100. Each day that such violation shall occur shall constitute a separate violation for which the person shall be subject to a fine. The fine is to be paid to the Town Clerk-Treasurer's Office.

(B) (1) Any person who violates any provision of § 93.07 may have their skateboard impounded by a police officer. Upon impoundment of any skateboard as provided herein, the owner or operator of such device shall be issued a receipt. The receipt shall state the

hours, location, time frame and manner for claiming the impounded skateboard as provided in divisions (B)(2) and (3) below.

(2) Upon presentation of the receipt, the owner may claim the impounded skateboard at the Police Department during business hours. If the owner is a minor, such owner may only claim the impounded skateboard if accompanied by a parent or guardian. No fee may be assessed on the owner, parent or guardian.

(3) If the impounded skateboard is not claimed within 60 days after the date of impoundment, the town may dispose of the item(s) by public sale at auction.

(C) In the event a property owner fails to correct the unsafe condition or fails to place the property in good order and repair within 30 days of the notice from the Town Manager or designee as set out in § 93.17 of this chapter, or any extended time therefore allowed by the Town Manager or designee, the owner shall be liable for a fine in the amount of \$100 per day for each day following expiration of the 30-day period, or the extended period, that the unsafe condition or disrepair continues.

(D) All other violations of this chapter for which a penalty is not provided shall be punished according to § 10.99 of this code.

(Ord. 8, 2002, passed 11-12-2002; Am. Ord. 3 of 2004, passed 7-12-2004; Am. Ord. 11 of 2014, passed 7-14-2014)

## CHAPTER 94: TREES; VEGETATION

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### Section

#### *Trees*

- 94.01 Winamac Greenspace; duties
- 94.02 Street trees
- 94.03 Tree care; regulations

#### *Vegetation*

- 94.10 Weeds and rank vegetation
- 94.99 Penalty

## TREES

### § 94.01 WINAMAC GREENSPACE; DUTIES.

(A) (1) There is hereby created and established the Winamac Greenspace, which shall consist of five members, citizens and residents of the town who shall be appointed by the Town Council.

## Winamac, IN Code of Ordinances

(2) The term of the five persons to be appointed by the Town Council shall be three years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

(3) Members of Winamac Greenspace shall serve without compensation.

(B) (1) Winamac Greenspace shall serve in an advisory capacity to the Town Council.

(2) It shall be the responsibility of Winamac Greenspace to study, investigate, counsel and develop and/or update annually and administer a written plan for the care, preservation, pruning, planting, replanting, along streets and in other public areas.

(3) Winamac Greenspace shall present the plan annually to the Town Council during the month of February of each year and upon acceptance and approval shall constitute the official comprehensive town tree plan for the town.

(4) Winamac Greenspace, when requested by the Town Council, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work.

(5) Winamac Greenspace shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

(Ord. 15, 1999, passed 12-13-99; Am. Ord. 7 of 2013, passed 4-8-2013)

### **§ 94.02 STREET TREES.**

(A) Street trees are trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, highways, avenues, alleys or ways, or which overhang any streets, highways, avenues, alleys, sidewalks or ways within the town.

(B) The tree lawn is that area of land between a parcel of privately owned property and any road, street or highway, but which is actually included within the road, street or highway right-of-way.

(C) Winamac Greenspace shall recommend to the Town Council, which shall adopt the street tree planting specifications, the official street tree species for the town. The specifications shall also contain the minimum distances between the trees and other trees and structures which must be followed for the planting of any tree under this chapter. The tree planting specifications may be amended by the Town Council from time to time.

(D) No species other than those included in the list may be planted on the tree lawn without written permission of Winamac Greenspace.

(E) The spacing of street trees will be in accordance with the tree planting specifications, and no trees shall be planted closer to another tree or structure, except as recommended in the specifications, except in special plantings designed or approved by a landscape architect or forester, and then approved by Winamac Greenspace.

(Ord. 15, 1999, passed 12-13-1999)

### **§ 94.03 TREE CARE; REGULATIONS.**



## Winamac, IN Code of Ordinances

(A) (1) The town shall have the right to plant, prune, maintain and remove trees, plants and shrubs which are growing in or overhanging the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety of the public grounds.

(2) The town shall have the right, and may remove or cause or order to be removed, any tree, plant or shrub or part thereof located on either public or private property within the town, which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest and which represents a threat to public safety. Winamac Greenspace will notify, in writing, the owners of any trees. Removal shall be done by the owners at their own expense within 60 days after the date of the notice. In the event or failure the owners to comply with the provisions, the town shall have the authority to remove the trees at the expense of the owners and may bring an action to enforce the removal of the tree in any court in the county. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of the trees is in accordance with this chapter.

(3) It shall be unlawful as a normal practice for any person, firm or town department to top any street tree or other tree on public property. Topping is the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this chapter at the determination of Winamac Greenspace.

(4) Except as provided herein, every owner of any privately-owned tree overhanging any street or right-of-way within the town shall prune the branches so that the branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 15 feet above the surface of any street or alley and a clearance space of eight feet above the surface of any sidewalk. The owner shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The town shall have the right to prune or cause to be pruned, any tree or shrub on the private property when it interferes with the proper spread of light along the street from a street light or interferes with the visibility of any traffic control device or sign.

(5) (a) Any tree overhanging the right-of-way of any state road within the town shall be pruned, cut and maintained by the State Department of Transportation so that no branches shall obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 15 feet above the surface of any state highway or right-of-way.

(b) The state shall remove all dead, diseased or dangerous trees, or broken or decayed limbs, which constitute a menace to the safety of the public which overhang any state road or right-of-way, and shall have the right to prune any tree or shrub which overhangs a state road or right-of-way when it interferes with the proper spread of light along the street from a street light or interferes with the visibility of any traffic-control device or sign even if the tree or shrub is on private property.

(6) No person shall intentionally carve, cut, damage, transplant or remove any street tree on the tree lawn.

(7) No person shall intentionally attach any wire, nails, advertising posters or other contrivances to any street tree on the tree lawn.

(B) (1) It shall be unlawful for any person to prevent, delay or interfere with Winamac Greenspace, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees or trees on private grounds, as authorized in this chapter.

(2) It shall be unlawful for any person or firm to engage professionally in the business or occupation of pruning, treating or removing street trees within the town without first applying for and procuring a license.

(3) The Clerk-Treasurer shall issue license to applicants who shall file evidence of possession of liability insurance in the minimum amounts of \$50,000 for bodily injury and \$100,000 property damage indemnifying the town or any person injured or damaged resulting from the pruning, treating or removing of street trees and who pays a license fee of \$25.

(4) No license shall be required of any town employee doing work in accordance with instructions of his or her supervisor, the Town Manager or the Town Council.

(5) No license shall be required of any public service company doing the work in the pursuit of their public service endeavors if they present a plan for pruning or trimming or show evidence of National Arbor or approved Arborist training.

(6) The Town Council shall review the conduct, acts and decisions of Winamac Greenspace, and any person may appeal from any ruling or order of Winamac Greenspace to the Town Council, who may hear the matter and make final decision.  
(Ord. 15, 1999, passed 12-13-1999) Penalty, see § 10.99

## VEGETATION

### § 94.10 WEEDS AND RANK VEGETATION.

(A) *Jurisdiction.*

(1) The jurisdiction of this section shall be the corporate limits of the town, as presently defined or as may be modified from time to time by annexation or town ordinance.

(2) This section shall be in addition to any state statute or county ordinances presently in effect, subsequently added, amended or repealed.

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

**DESTRUCTION ORDER.** The notice served by the Town Manager, or Town Council in cases of appeal, on the property owner of the ordinance violation.

**PROPERTY OWNER.** The person occupying the property, the holder of legal title or a person having control over the property.

(C) *Weeds and rank vegetation.*

(1) *Definitions.*

(a) **RANK VEGETATION** is the uncontrolled, uncultivated growth of annuals and perennial plants.

(b) **WEEDS** do not include shrubs, trees, cultivated plants or crops.

(2) In no event shall cultivated plants or crops include plants that have been defined by state statute or administrative rule as being noxious or detrimental plants.

(3) The Indiana Cooperative Extension Service shall be the referenced technical authority for the town executives with respect to the definition of exempt matters, shrubs, trees, cultivated plants and crops.

(D) *Owners responsible for trimming, removal and the like.* All property owners within the corporate limits of the town shall be required and be financially responsible for the removal, cutting, or disposal and elimination of weeds, grasses and rank vegetation or other uncontrolled plant growth on their property which, at the time of notice, is in excess of ten inches in average height, and in no event, exceeds 15 inches maximum height on at least 20% of the surface area of the property.

(E) *Filing complaint.* Any person, including the town, who believes there is property located within the corporate limits of the town which has growing plant matter in violation of this section shall make a written complaint signed, dated and filed with the Town Clerk-Treasurer. If the town makes the complaint, an employee, officer or Town Council member shall file the complaint in all respects as set out above.

(F) *Notice of violations.*

(1) Upon receiving notice of the probable existence of weeds in violation of this section, the Town Manager or his or her designee shall make an inspection of the property to determine if a violation exists. The Town Manager, upon concluding that there is a probable belief that this section has been violated, shall forward written notification in the form of a "Destruction Order" to the property owner and/or the person occupying the property as that information is contained within the records of the Town Clerk-Treasurer or any other town or county agency. The notice shall be served in writing by first-class mail. The notice shall provide that within seven calendar days after the receipt of the notice that the designated violation shall be removed by the property owner and/or person occupying the property.

(2) (a) All notices are to be in writing and all filings are to be with the Town Clerk-Treasurer.

(b) Certified mailing to the Town Clerk-Treasurer or others is deemed filed on the date of posting to the United States Postal Service.

(G) *Continuous abatement.* A continuous abatement notice may be posted at the property at the time of abatement instead of by first-class mail or equivalent service as required by division (F) above.. A continuous abatement notice serves as notice to the real property owner and/or the person occupying the property 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.

(H) *Appeals.*

(1) The property owner may appeal by filing written notice of objections to the Council President within 48 hours of the notice, excluding weekends and holidays, if the property owner contests the finding of the Town Manager. It is the property owner's responsibility to demonstrate that the matter in question is shrubs, trees, cultivated plants or crops or is not otherwise in violation of this section, and should not be subject to destruction under this section.

(2) An appeal by the property owner shall be brought before the Town Council and shall be decided by a majority vote of the Council members in attendance and such being at a regularly scheduled or special meeting of the Town Council.

(H) *Abatement by town.* In the event that the property owner shall fail to comply with the "Destruction Order" within seven calendar days and has not filed a notice within 48 hours to

the Town Clerk-Treasurer of an intent to appeal, the town executives may employ the services of town employees or outside contractors and remove the weeds to conform to this section by all lawful means.

(I) *Liability.*

(1) The property owner is liable for all costs of removal, cutting or destruction of weeds as defined by this section.

(2) The property owner is responsible for all collection costs associated with weed destruction, including, but not limited to, court costs, attorney's fees and interest on any unpaid amounts incurred by the town. If the town uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals which may be used.

(3) All sums payable by the property owner are to be paid to the Town Clerk-Treasurer and to be deposited in a general fund, as compensation for expenses and costs incurred by the town.

(Ord. 11 of 2013, passed 7-8-2013)

**§ 94.99 PENALTY.**

Whoever violates any provision of § 94.10 shall be subject to a fine of not less than \$50 nor more than \$250. Each day that such violation shall occur shall constitute a separate violation for which the person shall be subject to a fine. The fine is to be paid to the Town Clerk-Treasurer's office.

(Ord. 11 of 2013, passed 7-8-2013)

## CHAPTER 95: NOISE

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Section

95.01	Definition
95.02	Loud noises prohibited
95.03	Exceptions
95.04	Measurement of sound
95.05	Application to motor vehicles
95.99	Penalty

***Cross-reference:***

*Barking dogs, see § 97.02*

**§ 95.01 DEFINITION.**

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

***PLAINLY AUDIBLE.*** Any sound produced by a live performance, radio, phonograph, television, tape player, compact disc player, loudspeaker or any other mechanical or electronic sound making or sound amplifying device, or instrument, that can be clearly heard by a person using his or her normal hearing faculties, at a distance of 150 feet or more from the source of the noise or loud sound.

(Ord. 10, 2001, passed --2001)

### **§ 95.02 LOUD NOISES PROHIBITED.**

(A) No person shall generate, or permit to be generated, noise or loud sounds which is likely to cause inconvenience or annoyance to persons of ordinary sensibilities by means of a live performance, radio, phonograph, television, tape player, compact disc player, loudspeaker or any other sound amplifying device which is plainly audible at a distance of 150 feet or more from the source of noise or loud sound.

(B) It is prima facie unlawful for a person to generate or permit to be generated sound by the above described devices or instruments in the following circumstances:

(1) On all property between the hours of 11:00 p.m. and 8:00 a.m. of the following day in all zoning districts, except industrial districts, as set forth in the town zoning ordinance, regardless of any existing nonconformance use or variance, where the sound is plainly audible 150 feet or more from the source of the sound;

(2) On a street, highway, or in the public right-of-way where the sound is plainly audible 150 feet or more from the source of the sound. Parades are exempt from the provisions of this section.

(C) No person, being the owner, or person in possession of a premises or person in control of the premises by reason of employment, agency or otherwise, whether the ownership, possession or control is exclusive or joint, shall permit a violation of this section.

(Ord. 10, 2001, passed --2001) Penalty, see § 95.99

### **§ 95.03 EXCEPTIONS.**

The provisions of this chapter shall not apply to any law enforcement motor vehicle equipped with any communication device in the performance of law enforcement duties or to any emergency vehicle equipped with any communication device necessary in the performance of any emergency procedures. In addition, the provisions of this chapter do not apply to the noise made by a horn, siren or other warning device required or permitted by state law, or vehicle alarms.

(Ord. 10, 2001, passed --2001)

### **§ 95.04 MEASUREMENT OF SOUND.**

Any law enforcement officer or person who hears a sound that is plainly audible as defined in this chapter shall be entitled to measure the sound according to the following standards:

(A) The primary means of detection shall be by means of the officer's or person's auditory senses, so long as the officer's or person's hearing is not enhanced by any mechanical device, such as a microphone or hearing aid;

(B) The officer or person must have a direct line of sight and hearing to the source that is producing the sound so that the officer or person can readily identify the offending person and the distance involved; and

(C) The officer or person need not determine the particular words or phrases being produced or the name of any song or artist producing the sound. The detection of a rhythmic bass reverberating type sound is sufficient to constitute plainly audible sound.

(Ord. 10, 2001, passed - -2001)

### **§ 95.05 APPLICATION TO MOTOR VEHICLES.**

This chapter shall apply to the control of all noise caused by motor vehicles with a gross vehicle weight less than 8,000 pounds and jake brakes or similar devices on all vehicles regardless of weight. This includes, but is not limited to, mufflers, stereo systems, and other noises.

(Ord. 10, 2001, passed - -2001) Penalty, see § 95.99

### **§ 95.99 PENALTY.**

Any person in violation of any of the terms or provisions of this chapter shall be fined in an amount of not less than \$50 nor more than \$250. Each day that a violation shall occur shall constitute a separate violation for which the person shall be subject to a fine. The fine is to be paid to the Town Clerk- Treasurer's Office.

(Ord. 10, 2001, passed - -2001)

## **CHAPTER 96: FIRE PREVENTION; FIREWORKS**

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### Section

#### *Open Burning*

96.01 Burning leaves and other rubbish

#### *Fireworks*

96.10 Regulation of consumer fireworks

96.99 Penalty

#### ***Cross-reference:***

*Fires or fireworks in parks, see Ch. 98*

## OPEN BURNING

### § 96.01 BURNING LEAVES AND OTHER RUBBISH.

(A) It shall hereafter be unlawful for any person to burn or cause to be burned any leaves, brush or other rubbish within the corporate limits of the town.

(B) No person shall start, kindle, cause, allow, or maintain any form of leaf burning or wood burning of any kind, on private or public property, except as specifically authorized by this section.

(C) The following types of fires are permitted:

(1) Customary burning of logs and other wood products in residential fireplaces;

(2) Burning of charcoal and other food cooking fuels customarily used in outdoor grills or traditional food cooking devices;

(3) Fire celebrating Twelfth Night Ceremony;

(4) Fire celebrating school pep rallies;

(5) Fire celebrating scouting activities;

(6) Fire used for recreational cooking purposes ( i.e., campfires);

(D) All burning must be within the guidelines and restrictions of the Indiana Department of Environmental Management, the provisions of 326 IAC 4-1 *et seq.*, and I.C. 13-17-9, as amended.

(<sup>94</sup> Code, § 6-2) (Am. Ord. 7 of 2009, passed 7-13-2009) Penalty, see § 10.99

## FIREWORKS

### § 96.10 REGULATION OF CONSUMER FIREWORKS.

(A) *Definition.* For the purposes of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**CONSUMER FIREWORKS.** As defined by I.C. 22-11-14-1.

(B) *Days and hours of use.* Consumer fireworks may not be used, ignited or discharged within the corporate limits of the town except during the following times:

(1) Between the hours of 5:00 p.m. and two hours after sunset on June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8 and July 9 of each year;

(2) Between the hours of 10:00 a.m. and 12:00 midnight on July 4 of each year; and

(3) Between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1 of each year.

(C) The use, ignition or discharge of consumer fireworks other than during the above time periods shall constitute an infraction and shall be subject to a fine of \$100.

(Ord. 6 of 2008, passed 6-9-2008)

**§ 96.99 PENALTY.**

(A) Any person found in violation of § 96.01 shall be subject to the following procedures:

(1) The Police Department personnel shall issue warning notice to a first time violator stating that he or she is in violation. The person must then correct the violation by immediately extinguishing the fire. Failure or refusal to immediately extinguish the fire shall result in a citation then being issued.

(2) Issuance of a citation to the violator shall result in an imposition of a \$50 fine.

(3) Failure or refusal by the violator to immediately extinguish the fire in violation of § 96.01 shall also result in the Fire Department having the authority to go upon private property to extinguish the fire. Furthermore, in such instances where a leaf or rubbish fire results in damage of property other than the violator's, including damage to public property (e.g., asphalt), or results in injury to another person, the imminent threat or damage to another party's property including public property, that said fire is determined to be caused by negligence or the willful disregard or violation of § 96.01, a fine of the cost expended by the Town of Winamac to send fire suppression personnel or equipment to the location shall be assessed with the fine not to exceed \$2,500.

(4) Each subsequent starting, kindling, causing or allowing of a new fire after notice of violation has been issued shall be considered a separate offense.  
(Ord. 7 of 2009, passed 7-13-2009)

## **CHAPTER 97: ANIMALS**

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Section

*Dogs and Cats*

- 97.01 Public nuisance
- 97.02 Barking dogs

*Other Animals*

- 97.10 Keeping livestock
- 97.99 Penalty

***Cross-reference:***

*Animals in parks, see Ch. 98*

## **DOGS AND CATS**

**§ 97.01 PUBLIC NUISANCE.**



For purposes of this subchapter, **PUBLIC NUISANCE** shall mean any act committed by a dog which constitutes an intrusion of the rights of the public at large, and shall include, but not be limited to attacking or chasing persons or other animals; trespassing on school grounds; damaging property of one other than the owner; roaming at large; running with other animals so as to constitute a pack of animals, and barking for extended periods.  
(Ord. 1 of 2009, passed 2-9-2009)

### **§ 97.02 BARKING DOGS.**

(A) No person shall allow the barking, yelping, whining, or howling of a dog repeatedly for a period of more than five consecutive minutes.

(B) A law enforcement officer, or any person summoned and directed to assist said officer, shall notify the owner, owner's agent or person in charge of the dog to abate the nuisance, if the owner, agent or person in charge can be reasonably located.

(C) A person who permits a violation to continue after notice as specified in division (B) above, shall be issued a citation for such violation.

(D) This subchapter does not apply to a law enforcement animals as defined by I.C. 35-46-3-4.5.

(Ord. 1 of 2009, passed 2-9-2009)

## **OTHER ANIMALS**

### **§ 97.10 KEEPING OF LIVESTOCK.**

The keeping of all animals or fowl outside the home, with the exception of dogs and cats, is hereby prohibited within the town.

(<sup>94</sup> Code, § 6-3) Penalty, see § 10.99

***Cross-reference:***

*Feeding animals, see § 130.03*

### **§ 97.99 PENALTY.**

(A) Except as otherwise provided in this section, any person in violation of any of the terms or provisions of this chapter shall be subject to the penalty provided in § 10.99.

(B) (1) Any person in violation of any of the terms or provisions of this § 97.02 shall be guilty of an infraction and shall be assessed the following penalties:

- (a) For the first offense a person shall be issued a written warning.
- (b) For the second violation, a person shall be fined the sum of \$25.00.
- (c) For a third or subsequent offense, a person shall be fined the sum

of \$50.

(2) All fines shall be paid to the Winamac Clerk-Treasurer's Office within ten days of the issuance of the citation.

(3) A person who fails to make payment of any fine hereunder within ten days of the issuance of the citation may be prosecuted in either the Circuit or Superior Court and in addition to the fine imposed shall be assessed costs and attorney fees incurred by the town in enforcing § 97.02.

(Ord. 1 of 2009, passed 2-9-2009)

## **CHAPTER 98: PARKS AND RECREATION**

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### Section

98.01	Park rules
98.02	Exemptions
98.03	Prohibited persons
98.04	Posting of signage
98.98	Enforcement
98.99	Penalty

### **§ 98.01 PARK RULES.**

The Town Council hereby establishes the following rules for use and conduct within the park facilities of the town:

- (A) The park will be closed from 11:00 p.m. until 6:00 a.m. with exceptions for community events or group functions with prior authorization from the Town Council.
- (B) Vehicles shall not park on the basketball courts.
- (C) No overnight camping is allowed without prior approval from the Town Council.
- (D) Any persons or groups using the park facilities are to put their trash in designated containers or a dumpster.
- (E) No roller skates, skateboards, or bicycles allowed in the shelters, on the stage, or on the courts.
- (F) No off-road vehicles, three- and four-wheelers, off-road motorcycles, snowmobiles and go-carts are allowed in the park.
- (G) No person shall build, kindle, maintain or use a fire within any park or other recreational area in the Town of Winamac unless the person properly contains such fire in facilities designed for that purpose. Any fire shall be continuously monitored and under the care and direction of a competent person from the time it is kindled until it is extinguished.
- (H) No fireworks are allowed in the park, other than those approved and supervised by the Town Council for public celebrations such as the Fourth of July.
- (I) All noise must be kept to a level so as not to disturb the peace of adjacent property owners and fellow park users.
- (J) Loose animals are not allowed on the premises, and all pet owners must pick up after their animals.
- (K) No person shall engage in threatening, abusive, insulting, or indecent language or engage in any conduct or behavior tending to breach the public peace.

## Winamac, IN Code of Ordinances

(L) No person shall operate any vehicle or bicycle upon roadways within a park or other recreational area in excess of the speed limit as posted or 15 miles per hour, whichever is less.

(M) No person shall operate any motorized vehicle, motorized bicycle, motorized skateboard or other similar device upon any trail designed for bicycle/pedestrian use in the Town of Winamac, except if a person with a disability, as defined by the American With Disabilities Act may operate specialized motorized equipment designed for their transportation. No person shall ride a bicycle at an excessive speed or engage in any racing activity upon any trail designed for bicycle/pedestrian use in the Town of Winamac. In-line skaters, skate boarders and bicyclist shall yield to pedestrians. Bicyclist shall yield to all trail users.

(N) No littering.

(O) No use of metal detectors.

(P) No golfing.

(Q) No use of park equipment, apparatus, structures and buildings in any manner inconsistent with their intended purposes.

(Ord. 10 of 2012, passed 8-13-2012; Am. Ord. 10 of 2014, passed 7-14-2014) Penalty, see § 98.99

### ***Cross-references:***

*Animals, see Ch. 97*

*Fires and fireworks, see Ch. 96*

## **§ 98.02 EXEMPTIONS.**

The Town Council hereby recognizes the following exemptions to the park rules established in § 98.01:

(A) Exemptions to § 98.01(A), park hours:

(1) Anyone attending community events, or anyone setting up for or cleaning up after a community event; or

(2) Anyone attending a group function that has written authorization from the Town Council.

(B) Any employee of the town, contractor under contract with the town, or any agent of the town is exempt from § 98.01(A), (B), (H) and (I) only when performing tasks and duties outlined by the terms of their employment or contract.

(Ord. 10 of 2012, passed 8-13-2012; Am. Ord. 10 of 2014, passed 7-14-2014)

## **§ 98.03 PROHIBITED PERSONS.**

Individuals listed on the State of Indiana Sex Offender Registry published and disseminated by the Indiana Criminal Justice Institute are prohibited from all parks and other recreational areas of the Town of Winamac.

(Ord. 10 of 2012, passed 8-13-2012; Am. Ord. 10 of 2014, passed 7-14-2014) Penalty, see § 98.99

**§ 98.04 POSTING OF SIGNAGE.**

Officials of the town are hereby authorized and instructed to post and maintain signs at the entrance of the park identifying the park rules and penalties pursuant to this chapter. (Ord. 10 of 2012, passed 8-13-2012; Am. Ord. 10 of 2014, passed 7-14-2014)

**§ 98.98 ENFORCEMENT.**

This chapter shall be and is enforceable by any duly sworn law enforcement officer. (Ord. 10 of 2012, passed 8-13-2012; Am. Ord. 10 of 2014, passed 7-14-2014)

**§ 98.99 PENALTY.**

Any person, firm or corporation who violates any of the provisions of this chapter or who interferes in any way with due process of enforcement of any provision of this chapter or does not comply within 30 days of any order issued under this chapter shall be subject to a fine of not less than \$25, or not more than \$500. Each day in which this violation occurs shall constitute a separate offense. In addition to any fines imposed under this chapter any person causing damages to park structures, grounds, or facilities as the result of a direct violation to the provisions of this chapter, shall be held responsible for the cost of repairs or replacement to said structures, grounds or facilities, including the town's reasonable attorney fees and other expenses of enforcement. Entrance to the park shall be denied to persons until all fines and other expenses have been paid to the Town of Winamac. (Ord. 10 of 2012, passed 8-13-2012; Am. Ord. 10 of 2014, passed 7-14-2014)

**TITLE XI: BUSINESS REGULATIONS**

Chapter

- 110. GENERAL PROVISIONS**
- 111. ADULT-ORIENTED BUSINESSES**

**CHAPTER 110: GENERAL PROVISIONS**

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Section

- 110.01 Circuses, tent shows and the like
- 110.02 Guns and firearms; permits

**§ 110.01 CIRCUSES, TENT SHOWS AND THE LIKE.**

(A) It shall be unlawful for any circus, tent show, wagon show or carnival to exhibit or operate within the corporate limits of the town without having first procured a license so to do from the Clerk- Treasurer.

(B) Every circus, tent show or wagon show shall pay a license fee of \$25 per day or part thereof of exhibition when using only one tent, wagon or other conveyance, and an additional license fee of \$5 per day or part thereof of exhibition for each merry-go-round and each Ferris wheel or for a minimum of one tent and an additional license fee of \$5 per day or part of day of exhibition where more than one tent is used for each extra tent more than one so used. ('94 Code, § 7-1-1) Penalty, see § 10.99

## **§ 110.02 GUNS AND FIREARMS; PERMITS.**

(A) The Police Department is hereby instructed and authorized to collect the sum of \$10 or another amount as hereafter permitted by state law for the processing of each gun permit application submitted to the Police Department.

(B) (1) All funds collected by the Police Department with each gun permit application shall be delivered by the Police Department to the Clerk-Treasurer.

(2) The Clerk/Treasurer shall deposit all funds turned over by the Police Department from gun permit applications into the Law Enforcement Continuing Education Fund.

(C) The town shall utilize the gun permit application fees so collected at the direction of the Town Council and only for the following purposes:

(1) Purchase and maintenance of firearms; and

(2) Purchase of ammunition.

(Ord. 8, 1997, passed 5-12-1997)

## **CHAPTER 111: ADULT-ORIENTED BUSINESSES**

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### Section

111.01	Definitions
111.02	Limitation on location
111.03	Licensing
111.04	Advertising
111.05	Additional restrictions on certain activities
111.06	Revocation or suspension of adult entertainment business license
111.07	Appeal and hearing
111.08	Issuance of license for an adult entertainment business
111.09	Compliance of existing businesses required
111.99	Penalty

## **§ 111.01 DEFINITIONS.**

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

**ADULT BOOKSTORE.** An establishment having as a substantial amount of its stock in trade or its dollar volume in trade, books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records, or other forms of audio or audio representations which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

**ADULT CABARET.** A nightclub, bar, theater, restaurant or similar establishment which features live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas or which regularly feature films, motion pictures, video cassettes, slides, tapes, records, or other photograph representations which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons.

**ADULT ENTERTAINMENT BUSINESS.** A bookstore, motion picture theater, mini-motion picture theater, motion picture arcade, cabaret, drive-in theater, live entertainment arcade or other non-specified businesses which, as a substantial part of their business activities, sell or provide depictions of or provide activities which are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas.

**SPECIFIED ANATOMICAL AREAS.** Any of the following:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the aureole; or
- (2) Human male genitals in a discernibly turgid state, even if complete and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES.** Any of the following:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse, or sodomy;
- (3) Fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts;
- (4) Flagellation or torture in the context of a sexual relationship;
- (5) Masochism, erotic or sexually oriented torture, heating, or the infliction of pain;
- (6) Erotic touching, fondling or other such contact with an animal by a human being; or
- (7) Human excretion, urination, menstruation, vaginal or anal irrigation as part of or in connection with any of the activities set forth in this definition.

**SUBSTANTIAL AMOUNT or SUBSTANTIAL PORTION.** Thirty percent or more of the inventory, receipts, or projection or performance time is devoted to or derived from the activities regulated herein.

(Ord. 14, 2003, passed 12-8-2003)

## **§ 111.02 LIMITATION ON LOCATION.**

Adult bookstores or adult entertainment businesses shall be sited a minimum of 500 feet from any church, park, school, or residential district.  
(Ord. 14, 2003, passed 12-8-2003) Penalty, see § 111.99

**§ 111.03 LICENSING.**

(A) It shall be unlawful for any person to engage in, conduct, or carry on, or permit to be engaged in, conducted, or carried on, in or upon any premises in the town, the operation of an adult bookstore or adult entertainment business as defined in this chapter, without first having obtained a separate license for an adult entertainment business from the Town Marshal.

(B) Every applicant for a license to maintain, operate, or conduct an adult entertainment business shall file an application in duplicate under oath with the Town Marshal upon a form provided by the town and pay a filing fee of \$150 to the Clerk-Treasurer, who shall issue a receipt which shall be attached to the application filed with the Town Marshal.

(C) The Clerk-Treasurer shall attach a copy of this chapter to each permit issued, so that this chapter is incorporated by reference therein.

(1) The application for a license to operate an adult entertainment business shall set forth the exact nature of the entertainment to be offered, the proposed place of business and facilities therefore, and the name and address of each applicant.

(2) The application shall be filed by the individual or individuals who will operate the adult entertainment business. If the entity seeking the license is not an individual, the following information must be provided for each officer or director of the entity, as well as the individual employed by the entity as manager or a similar position.

(3) In addition to the foregoing, any applicant for a license shall furnish the following information:

- (a) Written proof that the applicant is at least 18 years of age;
- (b) Two portrait photographs of the applicant at least two inches by two inches;
- (c) Fingerprints;
- (d) Business, occupation, or employment data for the three years immediately preceding the date of application;
- (e) A copy of the Indiana liquor license and a copy of the liquor license application, if any;
- (f) Previous adult entertainment business or liquor establishment business history;
- (g) Any criminal convictions, except minor traffic violations; and
- (h) A copy of the birth certificate for each individual who will be performing as an entertainer in the adult cabaret or adult live entertainment arcade, within five days of the individual's commencement of work.

(D) The license shall be displayed in a prominent location at the establishment during business hours and shall be subject to examination or inspection by the general public and any other person at all times.

(Ord. 14, 2003, passed 12-8-2003) Penalty, see § 111.99

**§ 111.04 ADVERTISING.**

(A) No adult entertainment business shall be conducted in any manner that permits, from outside the establishment, the observation of any activities or materials depicting, describing, or relating to topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers or form of entertainment.

(B) No adult entertainment business shall advertise the business on the outside of the premises by means of materials which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

(C) No outside loud speakers may be utilized, nor may the music or entertainment be conducted at sound levels such that the content of the lyrics or commentary is discernable outside or beyond the premises.

(Ord. 14, 2003, passed 12-8-2003) Penalty, see § 111.99

**§ 111.05 ADDITIONAL RESTRICTIONS ON CERTAIN ACTIVITIES.**

(A) If an adult entertainment business provides booths or enclosed area for viewing the entertainment, the booth or enclosed area must be of transparent glass or plastic, or have a glass or plastic door that forms one entire side of the booth or enclosure, that allows continuous unobstructed monitoring of all areas of the booth or enclosure.

(B) Any adult entertainment business which provides for live entertainment shall prohibit the touching of any specified anatomical areas of the entertainers by the patrons of the establishment. This shall be accomplished by, among other things, physical barriers, the size of the stage, or whatever additional measures are necessary to ensure the separation of entertainers from patrons.

(Ord. 14, 2003, passed 12-8-2003) Penalty, see § 111.99

**§ 111.06 REVOCATION OR SUSPENSION OF ADULT ENTERTAINMENT BUSINESS LICENSE.**

(A) Any adult entertainment business license may be revoked or suspended by the Town Marshal if the Marshal finds that:

(1) The licensee has violated any of the provisions of this chapter regulating adult entertainment businesses;

(2) The licensee violates, or has violated within the last ten years, any state statute pertaining to obscenity, public indecency, sex crimes, or allowing minors to perform as employees, or the licensee knowingly or under circumstances where the licensee should have known of the offending conduct, employs individuals who violate or have violated any such state statute;

(3) The licensee has knowingly furnished false or misleading information, or withheld relevant information on any application for any license or permit required by this chapter, or knowingly caused or suffered another to furnish or withhold such information on his or her behalf;



(4) The licensee knowingly or under circumstances where the licensee should have known of the offending conduct, permitted any violation of applicable state or municipal law to occur on the licensed premises.

(B) The notice of revocation shall be sent by certified mail to the licensee at the address on the permit at least ten days in advance of the revocation date.  
(Ord. 14, 2003, passed 12-8-2003) Penalty, see § 111.99

#### **§ 111.07 APPEAL AND HEARING.**

(A) When an application for an adult entertainment business permit is denied, or a permit is revoked, the applicant or licensee may within 14 days of notice thereof, request a hearing before the Town Council, by written application to the Town Clerk-Treasurer's Office, 120 W. Main St., Winamac, Indiana, 46996.

(B) A hearing shall be scheduled for the next public meeting of the Town Council. The applicant or licensee may present evidence and argument and cross-examine witnesses and may be represented by counsel.  
(Ord. 14, 2003, passed 12-8-2003)

#### **§ 111.08 ISSUANCE OF LICENSE FOR AN ADULT ENTERTAINMENT BUSINESS.**

(A) The Town Marshal shall issue a permit for an adult entertainment business within 30 days following receipt of application if all requirements of this chapter for an adult entertainment business are met, and may issue a license unless he or she finds that:

(1) The operations as proposed by the applicant, if permitted, would not comply with all applicable ordinances including, but not limited to, the building, health, planning, housing, zoning, and fire codes;

(2) The applicant, and any other person who will be directly engaged in the management and operation of an adult entertainment business, has been convicted of a felony, or an offense involving sexual misconduct with children, or any obscenity, keeping or residing in a house of ill fame, solicitation of a lewd or unlawful act, prostitution, or pandering or other sex crimes as defined by I.C. 35-42-4-1 *et seq.*, or comparable statutes in other states.

(B) If the Town Marshal fails to issue the permit within the time provided, the application is deemed denied.

(C) If the Town Marshal denies issuance of a license for an adult entertainment business, the applicant may appeal the denial as described in this chapter.  
(Ord. 14, 2003, passed 12-8-2003)

#### **§ 111.09 COMPLIANCE OF EXISTING BUSINESSES REQUIRED.**

Existing adult entertainment businesses shall have 90 days from passage and publication of this chapter to comply with the requirements of this chapter.  
(Ord. 14, 2003, passed 12-8-2003) Penalty, see § 111.99

**§ 111.99 PENALTY.**

Violations of this chapter shall be punishable according to § 10.99 of this code, in addition to any other remedies which the town may impose. The Town Attorney is authorized to prosecute any violations, or seek mandatory injunctive relief to prohibit or discontinue violations, in his or her discretion.  
(Ord. 14, 2003, passed 12-8-2003)

**TITLE XIII: GENERAL OFFENSES**

Chapter

**130. GENERAL OFFENSES**

**CHAPTER 130: GENERAL OFFENSES**

Section

- 130.01 Curfew
- 130.02 Weapons possession; discharging
- 130.03 Feeding animals
- 130.04 Memorial Bridge regulations
- 130.05 Window panes or lights; destruction and the like

***Cross-reference:***

- Animals, see Ch. 97*
- Burning leaves and other rubbish, see § 96.01*
- Spitting, see § 91.01*

**§ 130.01 CURFEW.**

(A) (1) It shall be unlawful for a minor, during curfew hours, to remain in or upon any public place within the town, to remain in any motor vehicle operating or parked therein or thereon or to remain in or upon the premises of any establishment within the town unless:

- (a) The minor is accompanied by a parent or guardian;
- (b) The minor is involved in an emergency;
- (c) The minor is engaged in an employment activity or is going to or returning home from the activity without detour or stop;
- (d) The minor is attending any activity sponsored by a school, religious or civic organization, or by another similar organization or entity, which activity is supervised by adults and/or the minor is going to or returning home from the activity without detour or stop;
- (e) The minor is on an errand at the direction of a parent or guardian and the minor has on his or her possession a writing signed by the parent or guardian containing the following information: the name; signature; address; telephone number of the parent or

guardian authorizing the errand; the name of the minor; the minor's destination; and the date and time that the minor is authorized to be engaged in the errand;

(f) The minor is involved in interstate travel through, beginning or terminating in the town; or

(g) The minor is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly.

(2) It shall be unlawful for a minor's parent or guardian to knowingly permit, allow or encourage the minor to violate this section.

(3) It shall be unlawful for a person who is the owner or operator of a motor vehicle to knowingly permit, allow or encourage a minor to violate this section.

(4) It shall be unlawful for the operator of an establishment or any person who is an employee thereof to knowingly permit, allow or encourage a minor to remain upon the premises of the establishment during curfew hours. It shall be a defense to prosecution of this section that the operator or employee of an establishment promptly notified the Police Department that a minor was present at the establishment after curfew hours and refused to leave.

(5) It shall be unlawful for any person, including a minor, to give false name, address or telephone number to any officer investigating a possible violation of this section.

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

**CURFEW HOURS.** The hours after 11:00 p.m. and before 5:00 a.m. on any day of the week.

**EMERGENCY.** Unforeseen circumstances or the status or condition resulting therefrom requiring immediate action to safeguard life, limb or property. The term includes, but is not limited to fires, natural disasters, automobile accidents or other similar circumstances.

**ESTABLISHMENT.** Any privately owned place of business within the town operated for a profit, to which the public is invited, including, but not limited to any place of amusement or entertainment. With respect to the **ESTABLISHMENT**, the term "operator" shall mean any person, firm, association, partnership (and the individual members or partners thereof) and/or any corporation (and the individual officers thereof) conducting or managing that establishment.

**MINOR.** Any person under 18 years of age who has not been emancipated by court order, pursuant the law of the state.

**OFFICER.** To a police or other law enforcement officer charged with the duty of enforcing the laws of the state and/or the ordinances of the town.

**PERSON.** An individual, not an association, corporation or any other legal entity.

**PUBLIC PLACE.** Any place to which the public or a substantial group of the public has access, including, but not limited to streets, highways, roads, sidewalks, alleys, avenues, parks and/or the common areas of schools, hospitals, apartment complexes, office buildings and shops.

(C) (1) Before taking any enforcement action hereunder, an officer shall make an immediate investigation for the purpose of ascertaining whether or not the presence of a minor in a public place, motor vehicle and/or establishment within the town during curfew hours is in violation of this section.

(2) If the investigation reveals that the presence of the minor is in violation, then the officer shall issue a written citation to the minor or offender, charging him or her with violation of this section. The officer shall provide a copy of the same to the Town Attorney and the Town Attorney may consider further civil prosecution.

(3) Further, as soon as practicable, the officer shall advise the minor's parent or guardian of the alleged violation. If a parent or guardian is not immediately available, the officer shall issue a written advisement to be mailed by the Marshal's office.

(D) If an individual under 18 years of age commits a curfew violation, as defined herein, the parent, guardian or custodian of that individual shall be deemed to have violated this section and the parent, guardian or custodian shall be subject to civil penalties. (Ord. 3, 2000, passed 10-9-2001) Penalty, see § 10.99

### **§ 130.02 WEAPONS POSSESSION; DISCHARGING.**

(A) No person shall shoot, fire or in any manner discharge any rifle, shotgun, pistol, revolver, other firearm or any air gun, B.B. gun or other pellet gun within the corporate limits of the town, by aiming the rifle, shotgun, pistol, revolver, other firearm, air gun, B.B. gun or other pellet gun at any mark, bird, animal or other target.

(B) The possession, out of doors and within the corporate limits of the town, of any rifle, shotgun, pistol, revolver, other firearm, air gun, B.B. gun or other pellet gun, if the same be loaded with bullet, shell, shot, B.B. or other pellet, shall be presumptive evidence of violation of this section, and the town shall confiscate the loaded rifle, shotgun, pistol, revolver, other firearm, air gun, B.B. gun or other pellet gun for a period of 30 days, after which he or she shall, upon application therefor, return the same to the person from whom it was taken.

(C) The provisions of this section shall not apply to a firearm and to a person who has a permit to carry the firearm, as provided by the statutes of the state, nor shall the provisions of this section apply to toy guns.

(94 Code, § 11-1) Penalty, see § 10.99

***Cross-reference:***

*Guns and firearms; permits, see § 110.02*

### **§ 130.03 FEEDING ANIMALS.**

(A) No person shall, at any time, feed any wild animal or fowl within or adjacent to the town park located on the Tippecanoe River.

(B) No person shall possess any seed, grain, food or other substance, with the intent to feed, any wild animal or fowl within or adjacent to the town park located on the Tippecanoe River.

(C) No person shall assist or aid another person in feeding any wild animal or fowl within or adjacent to the town park located on the Tippecanoe River.

(Ord. 2, 1999, passed 2-23-1999) Penalty, see § 10.99

***Cross-reference:***

*Keeping livestock, see § 97.10*

**§ 130.04 MEMORIAL BRIDGE REGULATIONS.**

It shall be unlawful for any person to:

- (A) Climb on railings or upon any part of the Memorial Suspension Bridge structure;
- (B) Cause unnecessary vibrations or movement of the Bridge;
- (C) Jump from the bridge into the water; or
- (D) Ride or push motorized vehicles, excepting physical aids, across the Memorial

Suspension Bridge.

(<sup>94</sup> Code, § 5-2-1) (Am. Ord. 8, 1994, passed 7-11-1994) Penalty, see § 10.99

**§ 130.05 WINDOW PANES OR LIGHTS; DESTRUCTION AND THE LIKE.**

It shall be unlawful for any person to maliciously or mischievously mark upon with paint, lead, soap or other material or scratch, mar or mutilate in any manner, any window pane, window light or window glass in a residence, store room or other building in the town.

(<sup>94</sup> Code, § 5-2-2) Penalty, see § 10.99

**TITLE XV: LAND USAGE**

Chapter

- 150. SIGN REGULATIONS**
- 151. BUILDING NUMBERING; ADDRESS SYSTEM**
- 152. FLOOD HAZARD AREAS**
- 153. BUILDING CODE**

**CHAPTER 150: SIGN REGULATIONS**

Section

*Temporary Signs*

- 150.01 Definitions
- 150.02 Limitations
- 150.03 Political signs
- 150.04 Violations

**TEMPORARY SIGNS**

**§ 150.01 DEFINITIONS.**

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

**ADVERTISER.** The person or persons who disclose information concerning any matter by means of displaying a sign or signs.

**DISPLAY.** To exhibit, show or expose to public view.

**OWNER.** The person or persons who hold the legal title to a parcel of ground as recorded in the records of the County Recorder's Office in which the property is located.

**POLITICAL SIGNS.** Those signs displayed for the purpose of influencing for or against the election of an individual to any public office, or to support, state, defend or educate the public on any political view or viewpoint.

**SIGN.** A publicly displayed board, placard or other item used to impart, transmit or display any information or advertising.

**TEMPORARY SIGN.** Any sign not permanently fixed or placed and intended to be used for limited duration.

**TOWN.** Winamac, Indiana.  
(Ord. 5, 1997, passed 3-26-1997)

## § 150.02 LIMITATIONS.

(A) No owner or advertiser shall display or cause to be displayed any temporary sign that has an area of more than four square feet and shall not exceed 36 inches in height.

(B) No owner or advertiser shall display or cause to be displayed more than two temporary signs on any owner's property at any time.

(C) Temporary signs which are used to advertise or solicit interest in an event, function or activity shall not be posted or displayed more than 12 hours in advance of the function, event or activity.

(D) All temporary signs which are used to advertise or solicit interest in an event, function or activity shall be taken down and removed from public view within six hours after the conclusion of the function, event or activity.

(E) All temporary signs that are displayed within the town must include the following information on the face of the sign in a legible manner:

(1) Name of the person who displays or is responsible for displaying the sign;

(2) Address of the person who displays or is responsible for displaying the sign; and

(3) The time and date of the event, function or activity.

(F) All temporary signs that are displayed shall be constructed in a manner so as to have a wood backing and shall be mounted on stakes made of wood, plastic or metal, which shall be stuck into the ground.

(G) No person, owner or advertiser shall attach or affix, nor cause to be attached or affixed, any temporary sign to any utility pole, tree, traffic sign, post or other permanent structure within the town.

(H) No person shall post, mount or display any temporary sign on any person's property without having first obtained the permission of the owner of the property.

(Ord. 5, 1997, passed 3-26-1997) Penalty, see § 10.99

**§ 150.03 POLITICAL SIGNS.**

(A) This subchapter shall apply to the posting and displaying of all political signs, except as hereafter noted.

(B) An owner or a person acting under the authority of the owner may display more than two political signs on an owner's property.

(C) Political signs may be displayed during any election year if the sign is displayed for the purpose of influencing for or against the election of an individual to any public office.

(D) Political signs may be displayed at any time if the sign is displayed to support, state, defend or educate the public on any political view or viewpoint.

(Ord. 5, 1997, passed 3-26-1997) Penalty, see § 10.99

**§ 150.04 VIOLATIONS.**

(A) Each day that a violation shall continue unabated or remedied shall constitute a separate violation for which the owner shall be subject to fine.

(C) The town may commence an action to abate the violation and/or to assess the fines in any court with appropriate jurisdiction in the county.

(D) In the event a lawsuit is commenced to abate the violation or to assess a fine against the owner, advertiser or person, and the owner, advertiser or person is found to have violated any provision of this subchapter, the owner, advertiser and/or person shall be responsible and liable to the town for any fine imposed together with all costs of the action, including but not limited to costs of suit, expenses and reasonable attorney fees incurred by the town in bringing the action.

(Ord. 5, 1997, passed 3-26-1997)

**CHAPTER 151: BUILDING NUMBERING; ADDRESS SYSTEM**

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Section

- 151.01 Uniform numbering system
- 151.02 Assignment of numbers
- 151.03 Administration

**§ 151.01 UNIFORM NUMBERING SYSTEM.**

A uniform system of numbering properties and principal buildings, as shown on the map identified by the title "Uniform System for Numbering Properties and Principal Building," which is filed in the Office of the Town Clerk-Treasurer, is hereby adopted for use in the town. This map and all explanatory matter thereon is hereby adopted and made a part of this chapter.

(94 Code, § 8-3-1)

**§ 151.02 ASSIGNMENT OF NUMBERS.**

(A) All properties or parcels of land within the corporate limits of the town shall hereafter be identified by reference to a uniform numbering system adopted herein.

(B) A separate number shall be assigned for approximately each 20 feet of frontage. However, in a recorded residential subdivision a separate number may be assigned for each 50 feet of frontage.

(C) Each principal building shall bear the number assigned to the frontage on which the front entrance is located. In case a principal building is occupied by more than one business or family dwelling unit, each separate front entrance of the principal building shall bear a separate number.

(D) Numerals indicating the official numbers for each principal building or each front entrance to the building shall be posted in a manner as to be visible from the street on which the property is located.

(<sup>94</sup> Code, § 8-3-2)

**§ 151.03 ADMINISTRATION.**

(A) The Town Clerk-Treasurer shall be responsible for maintaining the numbering system. In the performance of this responsibility, he or she shall be guided by the provisions hereof.

(B) The Town Clerk-Treasurer shall keep a record of all numbers assigned hereunder.  
(<sup>94</sup> Code, § 8-3-3)

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**CHAPTER 152: FLOOD HAZARD AREAS**

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Section

*General Provisions*

152.01	Statutory authorization
152.02	Findings of fact
152.03	Statement of purpose
152.04	Objectives
152.05	Definitions
152.06	Lands to which this chapter applies
152.07	Basis for establishing regulatory flood data
152.08	Establishment of floodplain development permit
152.09	Compliance
152.10	Abrogation and greater restrictions
152.11	Discrepancy between mapped floodplain and actual ground elevations
152.12	Interpretation
152.13	Warning and disclaimer of liability

*Administration*



## Winamac, IN Code of Ordinances

- 152.20 Designation of Administrator
- 152.21 Permit procedures
- 152.22 Duties and responsibilities of the Floodplain Administrator

### *Provisions for Flood Hazard Reduction*

- 152.30 General standards
- 152.31 Specific standards
- 152.32 Standards for subdivision proposals
- 152.33 Critical facility
- 152.34 Standards for identified floodways
- 152.35 Standards for identified fringe
- 152.36 Standards for SFHAs without established base flood elevation and/or floodways/fringes
- 152.37 Standards for flood prone areas

### *Variance Procedures*

- 152.50 Designation of Variance and Appeals Board
- 152.51 Duties of Variance and Appeals Board
- 152.52 Variance procedures
- 152.53 Conditions for variances
- 152.54 Variance notification
- 152.55 Historic structure
- 152.56 Special conditions
  
- 152.99 Penalty

## **GENERAL PROVISIONS**

### **§ 152.01 STATUTORY AUTHORIZATION.**

The Indiana Legislature has in I.C. 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Town Council of the Town of Winamac does hereby adopt the following floodplain management regulations.  
(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014)

### **§ 152.02 FINDINGS OF FACT.**

(A) The flood hazard areas of the Town of Winamac are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood

hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, inadequately flood-proofed, or otherwise unprotected from flood damages.  
(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014)

**§ 152.03 STATEMENT OF PURPOSE.**

It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(A) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.

(B) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters.

(D) Control filling, grading, dredging, and other development which may increase erosion or flood damage.

(E) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(F) Make federally subsidized flood insurance available for structures and their contents in the town by fulfilling the requirements of the National Flood Insurance Program.  
(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014)

**§ 152.04 OBJECTIVES.**

The objectives of this chapter are:

(A) To protect human life and health.

(B) To minimize expenditure of public money for costly flood control projects.

(C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

(D) To minimize prolonged business interruptions.

(E) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.

(F) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas.  
(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014)

**§ 152.05 DEFINITIONS.**

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

**A ZONE.** Portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In **A ZONES**, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as **ZONE A, ZONE AE, ZONES A1-A30, ZONE AO, ZONE AH, ZONE AR** and **ZONE A99** on a FIRM. The definitions are presented below:

(1) **ZONE A.** Areas subject to inundation by the 1% annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.

(2) **ZONE AE and A1-A30.** Areas subject to inundation by the 1% annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (**ZONE AE** is on new and revised maps in place of **ZONES A1-A30**.)

(3) **ZONE AO.** Areas subject to inundation by 1% annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

(4) **ZONE AH.** Areas subject to inundation by 1% annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

(5) **ZONE AR.** Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.

(6) **ZONE A99.** Areas subject to inundation by the 1% annual chance flood event, but which will ultimately be protected upon completion of an under-construction federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. **ZONE A99** may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

**ACCESSORY STRUCTURE (APPURTENANT STRUCTURE).** A structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. **ACCESSORY STRUCTURES** should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of **ACCESSORY STRUCTURES** are detached garages, carports, storage sheds, pole barns, and hay sheds

**ADDITION (TO AN EXISTING STRUCTURE).** Any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

**APPEAL.** A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.

**AREA OF SHALLOW FLOODING.** A designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**BASE FLOOD.** The flood having a 1% chance of being equaled or exceeded in any given year.

**BASE FLOOD ELEVATION (BFE).** The elevation of the 1% annual chance flood.

**BASEMENT.** That portion of a structure having its floor sub-grade (below ground level) on all sides.

**BOUNDARY RIVER.** The part of the Ohio River that forms the boundary between the Kentucky and Indiana.

**BOUNDARY RIVER FLOODWAY.** The floodway of a boundary river.

**BUILDING.** See **STRUCTURE**.

**COMMUNITY.** A political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

**COMMUNITY RATING SYSTEM (CRS).** A program developed by the Federal Insurance Administration to provide incentives for those communities in the regular program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

**CRITICAL FACILITY.** A facility for which even a slight chance of flooding might be too great. **CRITICAL FACILITIES** include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

**DEVELOPMENT.**

(1) Any man-made change to improved or unimproved real estate including but not limited to:

- (a) Construction, reconstruction, or placement of a structure or any addition to a structure;
- (b) Installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
- (c) Installing utilities, erection of walls and fences, construction of roads, or similar projects;
- (d) Construction of flood control structures such as levees, dikes, dams, channel improvements, and the like;
- (e) Mining, dredging, filling, grading, excavation, or drilling operations;
- (f) Construction and/or reconstruction of bridges or culverts;
- (g) Storage of materials; or
- (h) Any other activity that might change the direction, height, or velocity of flood or surface waters.

(2) **DEVELOPMENT** does not include activities such as the maintenance of existing structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

**ELEVATED STRUCTURE.** A non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

**ELEVATION CERTIFICATE.** A certified statement that verifies a structure's elevation information.

**EMERGENCY PROGRAM.** The first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FEMA.** The Federal Emergency Management Agency.

**FLOOD.** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

**FLOOD BOUNDARY AND FLOODWAY MAP (FBFM).** An official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

**FLOOD INSURANCE RATE MAP (FIRM).** An official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY (FIS).** The official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

**FLOOD PRONE AREA.** Any land area acknowledged by a community as being susceptible to inundation by water from any source. (See **FLOOD**.)

**FLOOD PROTECTION GRADE (FPG).** The elevation of the regulatory flood plus two feet at any given location in the SFHA. (See **FREEBOARD**.)

**FLOODPLAIN.** The channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The **FLOODPLAIN** includes both the floodway and the fringe districts.

**FLOODPLAIN MANAGEMENT.** The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

**FLOODPLAIN MANAGEMENT REGULATIONS.** This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. **FLOODPLAIN MANAGEMENT REGULATIONS** are also referred to as **FLOODPLAIN REGULATIONS**, **FLOODPLAIN ORDINANCE**, **FLOOD DAMAGE PREVENTION ORDINANCE**, and **FLOODPLAIN MANAGEMENT REQUIREMENTS**.

**FLOODPROOFING (DRY FLOODPROOFING).** A method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and

hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

**FLOODPROOFING CERTIFICATE.** A form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a registered professional engineer or architect.

**FLOODWAY.** The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

**FREEBOARD.** A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

**FRINGE.** Those portions of the floodplain lying outside the floodway.

**HARDSHIP.** As related to variances of this chapter, means the exceptional hardship that would result from a failure to grant the requested variance. The Winamac Town Council requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

**HIGHEST ADJACENT GRADE.** The highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

**HISTORIC STRUCTURES.** Any structures individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

**INCREASED COST OF COMPLIANCE (ICC).** The cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include **ICC** coverage.

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

**LETTER OF MAP CHANGE (LOMC).** A general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include **LETTER OF MAP AMENDMENT (LOMA)**, **LETTER OF MAP REVISION (LOMR)**, and **LETTER OF MAP REVISION BASED ON FILL (LOMR-F)**. The definitions are presented below:

(1) **LETTER OF MAP AMENDMENT (LOMA).** An amendment by letter to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation data. A **LOMA** is only issued by FEMA.

(2) **LETTER OF MAP REVISION (LOMR).** An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

(3) **LETTER OF MAP REVISION BASED ON FILL (LOMR-F).** An official revision by letter to an effective NFIP map. A **LOMR-F** provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

**LOWEST ADJACENT GRADE.** The lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

**LOWEST FLOOR.** The lowest elevation described among the following:

- (1) The top of the lowest level of the structure.
- (2) The top of the basement floor.
- (3) The top of the garage floor, if the garage is the lowest level of the structure.
- (4) The top of the first floor of a structure elevated on pilings or pillars.
- (5) The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:

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

(b) The total net area of all openings shall be at least one square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and

(c) Such enclosed space shall be usable solely for the parking of vehicles and building access.

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

**MANUFACTURED HOME PARK OR SUBDIVISION.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MARKET VALUE.** The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. **MARKET VALUE** can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

**MITIGATION.** Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of **MITIGATION** is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.

**NATIONAL FLOOD INSURANCE PROGRAM (NFIP).** The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the federal government and the private insurance industry.

**NATIONAL GEODETIC VERTICAL DATUM (NGVD) OF 1929.** As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

**NEW CONSTRUCTION.** Any structure for which the start of construction commenced after the effective date of the community's first floodplain ordinance.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.

**NON-BOUNDARY RIVER FLOODWAY.** The floodway of any river or stream other than a boundary river.

**NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88).** As adopted in 1993, a vertical control datum used as a reference for establishing varying elevations within the floodplain.

**OBSTRUCTION.** Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

**ONE PERCENT (1%) ANNUAL CHANCE FLOOD.** The flood that has a 1% chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the **1% ANNUAL CHANCE FLOOD**. See **REGULATORY FLOOD**.

**PHYSICAL MAP REVISION (PMR).** An official republication of a community's FEMA map to effect changes to base (1% annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

**PUBLIC SAFETY AND NUISANCE.** Anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

**RECREATIONAL VEHICLE.** A vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

**REGULAR PROGRAM.** The phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

**REGULATORY FLOOD.** The flood having a 1% chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The **REGULATORY FLOOD** elevation at any location is as defined in § 153.07. The **REGULATORY FLOOD** is also known by the term **BASE FLOOD**, **1% ANNUAL CHANCE FLOOD**, and **100-YEAR FLOOD**.



**REPETITIVE LOSS.** Flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeds 25% of the market value of the structure before the damage occurred.

**SECTION 1316.** That section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood prone areas.

**SPECIAL FLOOD HAZARD AREA (SFHA).** Those lands within the jurisdiction of the town subject to inundation by the regulatory flood. The **SFHAs** of the Town of Winamac are generally identified as such on the Pulsaki County, Indiana and Incorporated Areas Flood Insurance Rate Map dated May 5, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

**START OF CONSTRUCTION.** Includes substantial improvement, and means the date the building permit was issued, provided the **ACTUAL START OF CONSTRUCTION**, repair, reconstruction, or improvement was within 180 days of the permit date. The **ACTUAL START** means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the **ACTUAL START OF CONSTRUCTION** means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE.** A structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

**SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT.** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred repetitive loss or substantial damage regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of an historic structure, provided that the alteration will not preclude the structures continued designation as an historic structure.

**SUSPENSION.** The removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

**VARIANCE.** A grant of relief from the requirements of this chapter, which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.

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

**WATERCOURSE.** A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. **WATERCOURSE** includes specifically designated areas in which substantial flood damage may occur.

**X ZONE.** The area where the flood hazard is less than that in the SFHA. **SHADED X ZONES** shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2% chance of being equaled or exceeded (the 500-year flood). Unshaded **X ZONES** (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2%.

**ZONE.** A geographical area shown on a FIRM that reflects the severity or type of flooding in the area.

**ZONE A.** (See **A ZONE**.)

**ZONE B, C, AND X.** Areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (**ZONE X** is used on new and revised maps in place of **ZONES B** and **C**.) (Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 4 of 2013, passed 2-11-2013; Am. Ord. 3 of 2014, passed 4-14-2014)

## **§ 152.06 LANDS TO WHICH THIS CHAPTER APPLIES.**

This chapter shall apply to all SFHAs and known flood prone areas within the jurisdiction of the Town of Winamac.

(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014)

## **§ 152.07 BASIS FOR ESTABLISHING REGULATORY FLOOD DATA.**

This chapter's protection standard is the regulatory flood. The best available regulatory flood data is listed below.

(A) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the Town of Winamac shall be as delineated on the 1% annual chance flood profiles in the Flood Insurance Study of Pulaski County, Indiana and Incorporated Areas dated May 5, 2014 and the corresponding Flood Insurance Rate Map dated May 5, 2014 as well

as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.

(B) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the Town of Winamac, delineated as an “A Zone” on the Pulaski County, Indiana and Incorporated Areas Flood Insurance Rate Map dated May 5, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review, subsequently approved.

(C) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community’s known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.

(D) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 4 of 2013, passed 2-11-2013; Am. Ord. 3 of 2014, passed 4-14-2014)

#### **§ 152.08 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.**

A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities in areas of special flood hazard.

(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014) Penalty, see § 152.99

#### **§ 152.09 COMPLIANCE.**

No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this chapter and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this chapter and other applicable regulations.

(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014) Penalty, see § 152.99

#### **§ 152.10 ABROGATION AND GREATER RESTRICTIONS.**

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014)

#### **§ 152.11 DISCREPANCY BETWEEN MAPPED FLOODPLAIN AND ACTUAL GROUND ELEVATIONS.**

(A) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.

(B) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.

(C) If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014)

#### **§ 152.12 INTERPRETATION.**

In the interpretation and application of this chapter all provisions shall be:

(A) Considered as minimum requirements.

(B) Liberally construed in favor of the governing body.

(C) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014)

#### **§ 152.13 WARNING AND DISCLAIMER OF LIABILITY.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this chapter does not create any liability on the part of the Town of Winamac, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this chapter or any administrative decision made lawfully thereunder.

(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014)

### **ADMINISTRATION**

#### **§ 152.20 DESIGNATION OF ADMINISTRATOR.**

The Town Council of the Town of Winamac hereby appoints the Pulaski County Building Commissioner to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 4 of 2013, passed 2-11-2013; Am. Ord. 3 of 2014, passed 4-14-2014)

### **§ 152.21 PERMIT PROCEDURES.**

Application for a floodplain development permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:

(A) *Application stage.*

- (1) A description of the proposed development.
- (2) Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.
- (3) A legal description of the property site.
- (4) A site development plan showing existing and proposed development locations and existing and proposed land grades.
- (5) Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.
- (6) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.
- (7) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See § 152.22(B)(6) for additional information.)

(B) *Construction stage.* Upon establishment/placement of the lowest floor, before framing continues, to include any approved floodproofing, it shall be the duty of the applicant to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor or floodproofed elevation, as built. The certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular structure the certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the floodproofing certification shall be at the applicant's risk. (The Floodplain Administrator shall review the lowest floor and floodproofing elevation survey data submitted.) The applicant shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make the corrections required hereby shall be cause to issue a stop-work order for the project. Any work undertaken prior to submission of the elevation certification shall be at the applicant's risk. The Floodplain Administrator shall review the lowest floor or floodproofed elevation survey data submitted. The applicant shall correct any deficiencies detected by such

review. Failure to submit the elevation certification or failure to make correction required shall be cause to issue a stop-work order for the project.

(C) *Finished construction.* Upon completion of construction, a FEMA elevation certificate, Form 81-31, which depicts all finished construction, is required to be submitted to the Floodplain Administrator, if the project includes a floodproofing measure, a FEMA floodproofing certificate, Form 81-65, is required to be submitted by the applicant to the Floodplain Administrator.

(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014) Penalty, see § 152.99

## **§ 152.22 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.**

(A) The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this chapter. The Administrator is further authorized to render interpretations of this chapter, which are consistent with its spirit and purpose.

(B) Duties and responsibilities of the Floodplain Administrator shall include, but are not limited to:

(1) Review all floodplain development permits to assure that the permit requirements of this chapter have been satisfied.

(2) Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations.

(3) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to §§152.34 and 152.36(A), and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).

(4) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit.

(5) Maintain and track permit records involving additions and improvements to residences located in the floodway.

(6) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.

(7) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this chapter.

(8) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.

(9) Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.

(10) Review certified plans and specifications for compliance.

(11) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § 152.21.

(12) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with § 152.21.

(13) Perform a minimum of three inspections to ensure that all applicable ordinance and floodplain development requirements have been satisfied. The first upon the establishment of the flood protection grade reference mark at the development site; the second upon the establishment of the structure's footprint/establishment of the lowest floor; and the final inspection upon completion and submission of the required finished construction elevation certificate. Authorized Pulaski County Officials or designees shall have the right to enter and inspect properties located in the SFHA.

(14) *Stop work orders.*

(a) Upon notice from the Floodplain Administrator, work on any building, structure or premises that is being done contrary to the provisions of this chapter shall immediately cease.

(b) Such notice shall be in writing and shall be given to the owner of the property, or to his or her agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

(15) *Revocation of permits.*

(a) The Floodplain Administrator may revoke a permit or approval, issued under the provisions of this chapter, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

(b) The Floodplain Administrator may revoke a permit upon determination by the Floodplain Administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this chapter.

(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014)

## PROVISIONS FOR FLOOD HAZARD REDUCTION

### § 152.30 GENERAL STANDARDS.

In all SFHAs and known flood prone areas the following provisions are required:

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

(B) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

(C) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.

(D) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.

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(E) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.

(F) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(G) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(H) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(I) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this chapter shall meet the requirements of “new construction” as contained in this chapter.

(J) Parking lots, driveways, and sidewalks within the SFHA shall be constructed with permeable materials.

(K) Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure.

(1) The excavation shall take place in the floodplain and in the same property in which the authorized fill or structure is located.

(2) Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory floodwater, will not be subject to ponding when not inundated by floodwater, and that it shall not be refilled.

(3) The excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by floodwater.

(4) The fill or structure shall not obstruct a drainage way leading to the floodplain.

(5) The grading around the excavation shall be such that the excavated area is accessible to the regulatory floodwater.

(6) The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement.

(7) Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this subchapter.

(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014) Penalty, see § 152.99



**§ 152.31 SPECIFIC STANDARDS.**

In all SFHAs, the following provisions are required:

(A) In addition to the requirements of § 152.30, all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

(1) Construction or placement of any structure having a floor area greater than 400 square feet.

(2) Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).

(3) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.

(4) Installing a travel trailer or recreational vehicle on a site for more than 180 days.

(5) Installing a manufactured home on a new site or a new manufactured home on an existing site. This chapter does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.

(6) Reconstruction or repairs made to a repetitive loss structure.

(7) Addition or improvement made to any existing structure with a previous addition or improvement constructed since the community's first floodplain ordinance.

(B) *Residential structures.* New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of division (D) below.

(C) *Non-residential structures.* New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of division (D) below. Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:

(1) A registered professional engineer or architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in § 152.22(B)(12).

(2) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

(D) *Elevated structures.*

(1) New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

(2) Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:

(a) Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).

(b) The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.

(c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(d) Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

(e) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

(f) The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.

(g) Openings are to be not less than three inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.

(h) Property shall be required to execute a flood openings/venting affidavit acknowledging that all openings will be maintained as flood vents, and that the elimination or alteration of the openings in any way will violate the requirements of this division (D). Periodic inspections will be conducted by the Floodplain Administrator to ensure compliance. The affidavit shall be recorded in the office of the Pulaski County Recorder.

(i) Property owners shall be required to execute and record with the structure's deed a non-conversion agreement declaring that the area below the lowest floor (where the interior height of the enclosure exceeds six feet) or the detached accessory building shall not be improved, finished or otherwise converted; the community will have the right to inspect the enclosed area. The non-conversion agreement shall be recorded in the office of the Pulaski County Recorder.

(E) *Structures constructed on fill.* A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:

(1) The fill shall be placed in layers no greater than one foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method, which shall be retained in permit file.

(2) The fill shall extend ten feet beyond the foundation of the structure before sloping below the BFE.

(3) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.

(4) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

(5) The top of the lowest floor including basements shall be at or above the FPG.

(6) Fill shall be composed of clean granular or earthen material.

(F) *Standards for manufactured homes and recreational vehicles.* Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:

(1) These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood:

(a) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(b) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in division (D) above.

(c) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

(2) These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:

(a) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(b) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in division (D) above.

(c) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

(3) Recreational vehicles placed on a site shall either:

(a) Be on site for less than 180 days; or

(b) Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

(c) Meet the requirements for manufactured homes as stated earlier in this section.

(G) *Accessory structures.* Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:

(1) Shall not be used for human habitation.

(2) Shall be constructed of flood resistant materials.

(3) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.

(4) Shall be firmly anchored to prevent flotation.

(5) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.

(6) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in division (D) above.

(H) *Above ground gas or liquid storage tanks.* All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 4 of 2013, passed 2-11-2013; Am. Ord. 3 of 2014, passed 4-14-2014) Penalty, see § 152.99

### **§ 152.32 STANDARDS FOR SUBDIVISION PROPOSALS.**

(A) All subdivision proposals shall be consistent with the need to minimize flood damage.

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(D) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of 50 lots or five acres.

(E) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.

(F) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014) Penalty, see § 152.99

### **§ 152.33 CRITICAL FACILITY.**

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014) Penalty, see § 152.99

### **§ 152.34 STANDARDS FOR IDENTIFIED FLOODWAYS.**

(A) Located within SFHAs, established in § 152.07, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of I.C. 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving and the like undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (I.C. 14-28-1-26 allows construction of a non-substantial addition/ improvement to a residence in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.)

(B) No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in this subchapter have been met. The floodplain development permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

(C) No development shall be allowed, which acting alone or in combination with existing or future development, that will adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse affect is defined as an increase in the elevation of the regulatory flood of at least 0.15 of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

(D) For all projects involving channel modifications or fill (including levees) the town shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12. (Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014) Penalty, see § 152.99

### **§ 152.35 STANDARDS FOR IDENTIFIED FRINGE.**

If the site is located in an identified fringe, then the Floodplain Administrator may issue the local floodplain development permit provided the provisions contained in this subchapter have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014) Penalty, see § 152.99

**§ 152.36 STANDARDS FOR SFHAS WITHOUT ESTABLISHED BASE FLOOD ELEVATION AND/OR FLOODWAYS/FRINGES.**

(A) *Drainage area upstream of the site is greater than one square mile.*

(1) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

(2) No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway permit (including letters of authorization) or a floodplain analysis/regulatory assessment citing the 1% annual chance flood elevation and the recommended flood protection grade has been received from the Indiana Department of Natural Resources.

(3) Once the Floodplain Administrator has received the proper permit for construction in a floodway permit (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a floodplain development permit may be issued provided the conditions of the floodplain development permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in this subchapter have been met.

(B) *Drainage area upstream of the site is less than one square mile.*

(1) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and 1% annual chance flood elevation for the site.

(2) Upon receipt, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in this subchapter have been met.

(C) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood more than 0.14 of one foot and will not increase flood damages or potential flood damages.

(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014) Penalty, see § 152.99

**§ 152.37 STANDARDS FOR FLOOD PRONE AREAS.**

All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per this subchapter.

(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014) Penalty, see § 152.99

## **VARIANCE PROCEDURES**

### **§ 152.50 DESIGNATION OF VARIANCE AND APPEALS BOARD.**

The Winamac Board of Zoning Appeals shall hear and decide appeals and requests for variances from requirements of this chapter.

(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014)

### **§ 152.51 DUTIES OF VARIANCE AND APPEALS BOARD.**

The Board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this chapter. Any person aggrieved by the decision of the Board may appeal such decision to the Pulaski County Circuit Court.

(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014)

### **§ 152.52 VARIANCE PROCEDURES.**

In passing upon such applications, the Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

- (A) The danger of life and property due to flooding or erosion damage.
- (B) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (C) The importance of the services provided by the proposed facility to the community.
- (D) The necessity to the facility of a waterfront location, where applicable.
- (E) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
- (F) The compatibility of the proposed use with existing and anticipated development.
- (G) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- (H) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (I) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.
- (J) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014)

### **§ 152.53 CONDITIONS FOR VARIANCES.**

- (A) Variances shall only be issued when there is:
- (1) A showing of good and sufficient cause.
  - (2) A determination that failure to grant the variance would result in exceptional hardship.
  - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- (B) No variance for a residential use within a floodway subject to § 152.34 or 152.36(A) may be granted.
- (C) Any variance granted in a floodway subject to § 152.34 or 152.36(A) will require a permit from the Indiana Department of Natural Resources.
- (D) Variances to the provisions for flood hazard reduction of § 152.31 may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
- (E) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (F) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
- (G) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the flood protection grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (See § 152.54.)
- (H) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request. (See § 152.54.)
- (Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014)

#### **§ 152.54 VARIANCE NOTIFICATION.**

- (A) Any applicant to whom a variance is granted that allows the lowest floor of a structure to be built below the flood protection grade shall be given written notice over the signature of a community official that:
- (1) The issuance of a variance to construct a structure below the flood protection grade will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
  - (2) Such construction below the flood protection grade increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Pulaski County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- (B) The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance.
- (Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014)



**§ 152.55 HISTORIC STRUCTURE.**

Variations may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.  
(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014)

**§ 152.56 SPECIAL CONDITIONS.**

Upon the consideration of the factors listed in this subchapter, and the purposes of this chapter, the Winamac Board of Zoning Appeals may attach such conditions to the granting of variations as it deems necessary to further the purposes of this chapter.  
(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014)

**§ 152.99 PENALTY.**

Failure to obtain a floodplain development permit in the SFHA or failure to comply with the requirements of a floodplain development permit or conditions of a variance shall be deemed to be a violation of this chapter. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the Town of Winamac. All violations shall be punishable by a fine not exceeding \$2,500.

(A) A separate offense shall be deemed to occur for each day the violation continues to exist.

(B) The Town of Winamac Town Council shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a standard flood insurance policy to be suspended.

(C) Nothing herein shall prevent the town from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

(Ord. 8 of 2007, passed 11-13-2007; Am. Ord. 3 of 2014, passed 4-14-2014)

**CHAPTER 153: BUILDING CODE**

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**GENERAL PROVISIONS**

**§ 153.01 TITLE.**

This chapter and all material included herein by reference shall be known as the “Building Code of Winamac, Indiana.”  
(Ord. 4 of 2006, passed 8-14-2006)

**§ 153.02 PURPOSE.**

The purpose of this chapter is to protect the life, public safety, health and general welfare of the citizens of Winamac, Indiana, and shall be construed in such a manner to effectuate this purpose.  
(Ord. 4 of 2006, passed 8-14-2006)

**§ 153.03 DEFINITIONS.**

Unless otherwise clearly indicated by its context, the words and terms defined in this section shall have the specified meanings.

**BUILDING COMMISSIONER.** Includes individuals employed by the Building Department that are authorized to represent the Building Commissioner.

**CLASS 1 STRUCTURE.** Pursuant to I.C. 22-12-1-4:

- (1) Any part of the following:
  - (a) A building or structure that is intended to be or is occupied or otherwise used in any part by any of the following:
    1. The public.
    2. Three or more tenants.
    3. One or more persons who act as the employees of another.
  - (b) A site improvement affecting access by persons with physical disabilities to a building or structure described in division (1)(a) above.
  - (c) Any class of buildings or structures that the commission determines by rules to affect a building or structure described in division (1)(a), except buildings or structures described in divisions (3) through (6) below.
- (2) Division (1)(a) includes a structure that contains three or more condominium units (as defined in I.C. 32-25-2-9) or other units that:
  - (a) Are intended to be or are used or leased by the owner of the unit; and
  - (b) Are not completely separated from each other by an unimproved space.
- (3) Division (1)(a) does not include a building or structure that:
  - (a) Is intended to be or is used only for an agricultural purpose on the land where it is located; and
  - (b) Is not used for retail trade or is a stand used for retail sales of farm produce for eight or less consecutive months in a calendar year.
- (4) Division (1)(a) does not include a Class 2 structure.
- (5) Division (1)(a) does not include a vehicular bridge.
- (6) Division (1)(a) does not include a structure that is intended to be or is occupied solely to provide periodic maintenance or repair of:
  - (a) The structure; or
  - (b) Mechanical or electrical equipment located within and affixed to the structure.

(7) Pursuant to I.C. 22-12-1-24, **STRUCTURE** includes swimming pool.

**CLASS 2 STRUCTURE.** Pursuant to I.C. 22-12-1-5:

- (1) Any part of the following:
  - (a) A building or structure that is intended to contain or contains only one dwelling unit or two dwelling units unless any part of the building or structure is regularly used as a Class 1 structure.
  - (b) An outbuilding for a structure described in division (1)(a) above, such as a garage, barn, or family swimming pool, unless any part of the outbuilding is regularly used as a Class 1 structure.
- (2) Division (1) does not include a vehicular bridge.
- (3) Pursuant to I.C. 22-12-1-24, **STRUCTURE** includes swimming pool.

**CONSTRUCTION.** Pursuant to I.C. 22-12-1-7, any of the following:

- (1) Fabrication of any part of an industrialized building system or mobile structure for use at another site.
- (2) Erection or assembly of any part of a Class 1 or Class 2 structure at the site where it will be used.
- (3) Installation of any part of the permanent heating, ventilating, air conditioning, electrical, plumbing, sanitary, emergency detection, emergency communication, or fire or explosion suppression systems for a Class 1 or Class 2 structure at the site where it will be used.
- (4) Work undertaken to alter, remodel, rehabilitate, or add to any part of a Class 1 or Class 2 structure.
- (5) Work undertaken to relocate any part of a Class 1 or Class 2 structure, except a mobile structure.

**INDUSTRIALIZED BUILDING SYSTEM.** Pursuant to I.C. 22-12-1-14, any part of a building or other structure that is in whole or in substantial part fabricated in an off-site manufacturing facility for installation or assembly at the building site as part of a Class 1 structure, a Class 2 structure, or another building or structure. However, the term does not include a mobile structure or a system that is capable of inspection at the building site.

**MANUFACTURED HOME.** Pursuant to I.C. 22-12-1-16 has the meaning set forth in 42 U.S.C. 5402 as it existed on January 1, 2003. This definition is as follows: **MANUFACTURED HOME** means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under this 42 U.S.C. 5401 et seq. and except that such term shall not include any self-propelled recreational vehicle.

**MOBILE STRUCTURE.** Pursuant to I.C. 22-12-1-17:

- (1) Any part of a fabricated unit that is designed to be:
  - (a) Towed on its own chassis; and
  - (b) Connected to utilities for year-round occupancy or use as a Class 1 structure, a Class 2 structure, or another structure.
- (2) The term includes the following:
  - (a) Two or more components that can be retracted for towing purposes and subsequently expanded for additional capacity.
  - (b) Two or more units that are separately towable but designed to be joined into one integral unit.

**PERSON.** Pursuant to I.C. 22-12-1-18, an individual, corporation, limited liability company, partnership, unincorporated association, or governmental entity.

**STRUCTURE.** Both Class 1 and Class 2 structures, unless specifically stated otherwise.

**VEHICULAR BRIDGE.** Pursuant to I.C. 22-12-1-26, any bridge that is neither: (i) a pedestrian walkway; nor (ii) a passageway for light vehicles; suspended between two or more parts of a building or between two or more buildings.  
(Ord. 4 of 2006, passed 8-14-2006)

**§ 153.04 SCOPE.**

(A) All construction shall be accomplished in compliance with the provisions of this chapter.

(B) Pursuant to I.C. 22-13-2-6, this chapter shall not apply to industrialized building systems or mobile structures certified under I.C. 22-15-4; however, the provisions of this chapter and the rules promulgated by the Fire Prevention and Building Safety Commission do apply to any construction related to an industrialized building system or mobile structure not certified under I.C. 22-15-4.

(C) Pursuant to I.C. 22-13-2-9, this chapter is not applicable to regulated amusement devices, regulated boilers, regulated pressure vessels, or regulated lifting devices.  
(Ord. 4 of 2006, passed 8-14-2006)

**§ 153.05 AUTHORITY.**

The Building Commissioner is hereby authorized and directed to administer and enforce the following:

(A) All of the provisions of this chapter.

(B) Variances granted in accordance with I.C. 22-13-2-11.

(C) Orders issued under I.C. 22-12-7.

(Ord. 4 of 2006, passed 8-14-2006)

**§ 153.06 SEVERABILITY.**

Should any provision (section, clause, phrase, word, or any other portion) of this chapter be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions be given the effect intended in adopting this chapter. To this end, the provisions of this chapter are severable.

(Ord. 4 of 2006, passed 8-14-2006)

**§ 153.07 EFFECT OF ADOPTION ON PRIOR ORDINANCE.**

The expressed or implied repeal of amendment by this chapter of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this chapter. These rights, liabilities, and other proceedings are continued and penalties shall be imposed and enforced under the repealed or amended ordinance as if this chapter had not been adopted.

(Ord. 4 of 2006, passed 8-14-2006)

**BUILDING PERMITS**

**§ 153.15 BUILDING PERMIT REQUIRED.**

Construction is prohibited unless in conformity with a valid building permit obtained from the Building Commissioner prior to commencement of construction.  
(Ord. 4 of 2006, passed 8-14-2006) Penalty, see § 153.99

**§ 153.16 APPLICATION FOR BUILDING PERMIT.**

(A) Any person required to have a building permit shall submit a complete application to the Building Commissioner.

(B) This application shall be submitted on a form prepared by the Building Commissioner, and shall contain the following:

(1) Information that the Building Commissioner determines to be necessary to locate and contact the applicant.

(2) A clear and understandable copy of detailed plans and specifications drawn to scale which indicate in a precise manner the nature and location of all work to be accomplished.

(3) A plot plan drawn to scale; provided, however, such plot plan shall not be required in the instance where all such construction is to occur entirely within an existing structure. This plot plan shall reflect the location of the structure in relation to existing property lines and show streets, curbs and sidewalks and proposed changes or additions to such streets, curbs and sidewalks.

(4) If required by Indiana law or any rule of the Fire Prevention and Building Safety Commission, a copy of a design release for the work to be done that has been issued by the Building Law Compliance Officer pursuant to I.C. 22-15-3.

(5) Any additional information that the Building Commissioner finds to be necessary to determine that the construction will conform to all applicable building laws and will not violate any other applicable ordinances or laws.

(6) The fee established by Pulaski County Ordinance No. 4 of 2006.

(C) Application for a building permit shall be made by the person entitled to obtain the permit or by an employee or agent of that person. The Building Commissioner may require that such an employee or agent provide written authority to apply for a permit.  
(Ord. 4 of 2006, passed 8-14-2006)

**§ 153.17 ISSUANCE OF BUILDING PERMIT.**

The Building Commissioner shall issue a building permit to a person after the person has submitted a complete application, including any applicable fee, provided that the proposed construction will conform to all applicable building laws and will not violate any other applicable ordinances or laws.  
(Ord. 4 of 2006, passed 8-14-2006)

**§ 153.18 CERTIFICATE OF OCCUPANCY.**

No certificate of occupancy for any building or structure shall be issued unless such building or structure was constructed in compliance with the provisions of this chapter. It shall be unlawful to occupy any such building or structure unless a full, partial, or temporary certificate of occupancy has been issued by the Building Commissioner.  
(Ord. 4 of 2006, passed 8-14-2006) Penalty, see § 153.99

## **INVESTIGATIONS AND INSPECTIONS OF CONSTRUCTION ACTIVITIES**

### **§ 153.25 GENERAL AUTHORITY TO MAKE INSPECTIONS AND INVESTIGATIONS.**

(A) All construction shall be subject to periodic inspections by the Building Commissioner irrespective of whether a building permit has been or is required to be obtained.

(B) The Building Commissioner may at any reasonable time go in, upon, around or about the premises where any structure subject to the provisions of this chapter or to the rules of the Fire Prevention and Building Safety Commission is located for the purposes of inspection and investigation of such structure. Such inspection and investigation may be made before and/or after construction on the project is completed for the purposes of determining whether the structure meets building standards and procedures, and ascertaining whether the construction and procedures have been accomplished in a manner consistent with this chapter and the rules of the Fire Prevention and Building Safety Commission.  
(Ord. 4 of 2006, passed 8-14-2006)

### **§ 153.26 INSPECTIONS BY FIRE DEPARTMENT.**

The Building Commissioner and the Fire Department shall work cooperatively to conduct inspections and investigations to promote compliance with fire safety laws. (The Fire Department has independent authority to conduct inspections and take enforcement actions under I.C. 36-8-17).  
(Ord. 4 of 2006, passed 8-14-2006)

## **ENFORCEMENT**

### **§ 153.35 WITHHOLD ISSUANCE OF PERMITS.**

(A) Whenever a person which is either an applicant for a building permit or an obtainer of a building permit owes fees (including checks returned for insufficient funds, permit fees or inspection fees owed pursuant to Pulaski County Ordinance No. 4 of 2006 to the Building

Commissioner the Building Commissioner may withhold the issuance of subsequently requested permits until such time that the debt is satisfied.

(B) Whenever a person applies for a building permit for a structure that is not being used or constructed in conformance with applicable provisions of an applicable zoning ordinance or other ordinance relating to land use, the Building Commissioner is authorized to withhold the issuance of requested permits until such time that the property is brought into conformance with applicable ordinances.

(Ord. 4 of 2006, passed 8-14-2006)

### **§ 153.36 PERMIT REVOCATION.**

The Building Commissioner may revoke a building permit when any of the following are applicable:

(A) The application, plans or supporting documents contain a false statement or misrepresentation as to a material fact.

(B) The application, plans or supporting documents reflect a lack of compliance with building standards and procedures.

(C) There is failure to comply with this chapter.

(D) The structure for which the building permit has been issued is not being used or constructed in conformance with an applicable zoning ordinance or other ordinance relating to land use.

(Ord. 4 of 2006, passed 8-14-2006) Penalty, see § 153.99

### **§ 153.37 STOP WORK ORDER.**

(A) The Building Commissioner may issue an order requiring suspension of the pertinent construction (stop work order) in accordance with this section.

(B) The stop work order shall:

(1) Be in writing.

(2) State with specificity the construction to which it is applicable and the reason for its issuance.

(3) Be posted on the property in a conspicuous place.

(4) If practicable, be given to:

(a) The person doing the construction; and

(b) To the owner of the property or the owner's agent.

(5) The stop work order shall state the conditions under which construction may be resumed.

(C) The Building Commissioner may issue a stop work order if:

(1) Construction is proceeding in an unsafe manner, including, but not limited to, in violation of any standard set forth in this chapter or any state law pertaining to safety during construction.

(2) Construction is occurring in violation of this chapter or in such a manner that if construction is allowed to proceed, there is a reasonable probability that it will substantially difficult to correct the violation.



(3) Construction for which a building permit is required is proceeding without a building permit being in force.

(D) The issuance of a stop work order shall in no way limit the operation of penalties provided elsewhere in this chapter.

(Ord. 4 of 2006, passed 8-14-2006) Penalty, see § 153.99

### **§ 153.38 CIVIL ACTION.**

Pursuant to I.C. 36-1-6-4, the town may initiate a civil action in a court of competent jurisdiction to restrain any person from violating a provision of this chapter.

(Ord. 4 of 2006, passed 8-14-2006) Penalty, see § 153.99

### **§ 153.39 RIGHT OF APPEAL.**

Any person aggrieved by an order issued under this chapter shall have the right to petition for review of any order of the Building Commissioner. Such a person may file a petition using either, or both, of the following procedures:

(A) *Appeal to the Fire Prevention and Building Safety Commission.*

(1) A person aggrieved by an order issued under this chapter may appeal to the Fire Prevention and Building Safety Commission, in accordance with I.C. 22-13-2-7.

(2) The Commission may modify or reverse any order issued by the town that covers a subject governed by I.C. 22-12, I.C. 22-13, I.C. 22-14, I.C. 22-15, a fire safety, or a building rule.

(3) The Fire Prevention and Building Safety Commission must review orders that concern a Class 2 structure if the person aggrieved by the order petitions for review under I.C. 4-21.5-3-7 within 30 days after the issuance of the order.

(4) The Fire Prevention and Building Safety Commission may review all other orders issued under this chapter.

(5) The review of an order by the Fire Prevention and Building Safety Commission does not suspend the running of the time period under any statute in which a person must petition a court for judicial review of the order.

(B) *Appeal to an established local administrative body or court.* If, pursuant to I.C. 36-1-6-9, the town has established by ordinance an administrative body to hear appeals of orders issued under ordinances, then a person aggrieved by an order may petition for review with this administrative body in accordance with the ordinance. If no such administrative body exists, then the person may petition a court for judicial review of the order.

(Ord. 4 of 2006, passed 8-14-2006) Penalty, see § 153.99

## **MINIMUM CONSTRUCTION STANDARDS**

### **§ 153.50 ADOPTION OF RULES BY REFERENCE.**

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(A) Pursuant to I.C. 22-13-2-2(b), the rules of the Indiana Fire Prevention and Building Safety Commission as set out in the following Articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this code and shall include any later amendments to those rules.

- (1) Article 13 - Building Codes.
  - (a) Fire and Building Safety Standards.
  - (b) Indiana Building Code.
- (2) Article 14 - Indiana Residential Code
- (3) Article 16 - Indiana Plumbing Code.
- (4) Article 17 - Indiana Electrical Code.
- (5) Article 18 - Indiana Mechanical Code.
- (6) Article 19 - Indiana Energy Conservation Code.
- (7) Article 20 - Indiana Swimming Pool Code.
- (8) Article 22 - Indiana Fire Code.
- (9) Article 24 - Migrant Day Care Nursery Fire Safety Code.
- (10) Article 25 - Indiana Fuel Gas Code.

(B) Two copies of the above building rules incorporated by reference are on file in the office of the Clerk-Treasurer for the legislative body for public inspection as required by I.C. 36-1-5-4.

(C) The Building Commissioner and the Fire Prevention and Building Safety Commission may grant a variance to the fire safety laws and building laws adopted in this chapter. Pursuant to I.C. 22-13-2-7(b), a variance granted by the Building Commissioner is not effective until it has been approved by Fire Prevention and Building Safety Commission. (Ord. 4 of 2006, passed 8-14-2006) Penalty, see § 153.99

### **§ 153.51 LIFTING DEVICES LOCATED WITHIN A PRIVATE RESIDENCE,**

(A) Pursuant to I.C. 22-12-1-22(b)(12), lifting devices, such as elevators and wheelchair lifts, located within a private residence are not regulated lifting devices. Therefore, the following standards applicable to lifting devices located within a private residence are incorporated by reference:

(1) Part 5.3, Private Residence Elevators, ANSI/ASME A17.1-2000, Safety Code for Elevators and Escalators published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016.

(2) Part 5.4, Private Residence Inclined Elevators, ANSI/ASME A17.1-2000, Safety Code for Elevators and Escalators published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016.

(3) Section 5, Private Residence Vertical Platform Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016.

(4) Section 6, Private Residence Inclined Platform Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016.

(5) Section 7, Private Inclined Stairway Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016.

(B) Two copies of the above lifting device standards incorporated by reference are on file in the office of the Clerk-Treasurer for the legislative body for public inspection as required by I.C. 36-1-5-4.

(Ord. 4 of 2006, passed 8-14-2006) Penalty, see § 153.99

**§ 153.99 PENALTY.**

Any person violating any provision of this chapter may be subject to a fine in any sum not exceeding \$2,500. The assessment of a monetary penalty shall in no way limit the operation of the penalties provided elsewhere in this chapter.

(Ord. 4 of 2006, passed 8-14-2006)

**TABLE OF SPECIAL ORDINANCES**

Table

- I. VACATIONS**
- II. CONTRACTS AND AGREEMENTS**
- III. ZONING CHANGES**
- IV. REAL ESTATE TRANSACTIONS**
- V. ANNEXATIONS**

**TABLE I: VACATIONS**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
2, 1997	1-13-1997	Vacation of a dedicated alley between Lots 7 and 8 of the M.D. Falvey Addition to the town
9, 1999	10-11-1999	Vacation of ten feet of the right-of-way on Market Street between 15th Street and 16th Street in McClelland's Addition to the town
6, 2003	8-11-2003	Vacation of an alley running east and west in McClelland's Addition between lots numbered 48 and the west 132 feet of the Seminary Lot McClelland's Addition
2 of 2006	4-10-2006	Vacation of an alley in Hogan's Addition between Lots 3 and 4 and between contiguous parcels owned by LaurDi

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
		Properties, LLC
5 of 2006	5-12-2006	Vacation of a portion of a roadway located in McClelland's Addition between contiguous parcels of land owned by Jeffrey R. Weyer.
1 of 2008	1-14-2008	Vacation of a 16-foot wide public alley commencing at a point 18 feet north of the south boundary of Lots 10 and 16, running north to a point 33 feet north of the south edge of Lots 18 and 8
7 of 2008	6-9-2008	Vacation of a 20-foot wide public alley between Lots 27 and 28 of the Jenkin's Second Addition
8 of 2008	6-9-2008	Vacation a portion of a 25-foot wide public street between Lots 1 and 20 in the Hogan's Addition beginning at its intersection with the north side of Madison Street and extending north 45 feet
6 of 2009	4-13-2009	Vacation of a 20-foot wide public alley between Lots 83 and 84 in the Rowan Addition
6 of 2012	8-13-2012	Vacation of two 16-foot wide public alleys in Hogan's Addition, the first between Lots 17 and 18, and the second between Lots, 1, 2, 3, 4, 5, 6, 7 and Lots 20, 19, 18, 17, 16, 15 and 14

**TABLE II: CONTRACTS AND AGREEMENTS**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
7, 1997	6-9-1997	Entrance into a wholesale power supply agreement with Cinergy Co.

**TABLE III: ZONING CHANGES**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
Res. 4, 1994	11-14-1994	Reclassification of certain property from R-1 to B-2
Res. 5, 1994	11-21-1994	Reclassification of certain property from R-1 to B-2
8, 2003	9-8-2003	Reclassification of certain property from I-2 to B-2
4 of 2004	4-12-2004	Reclassification of certain property from A-1 to B-2
1 of 2006	2-13-2006	Reclassification of certain property from R-1, B-1, or RMH to R-2
7 of 2006	8-14-2006	Reclassification of certain property from R-1 or R-2 to B-2
15 of 2007	12-10-2007	Reclassification of certain property from R-1 to B-2
2 of 2008	2-11-2008	Reclassification of certain property from R-1 to B-2
10 of 2008	6-9-2008	Reclassification of certain property from R-2 to B-1
12 of 2008	8-11-2008	Reclassification of certain property from R-1 to B-2
4 of 2012	5-14-2012	Reclassification of certain property from R-1 to A-1
20 of 2012	12-10-2012	Reclassification of certain property from B-2 to B-1
6 of 2013	6-10-2013	Reclassification of certain property from R-2 to B-1
1 of 2014	2-10-2014	Reclassification of certain property from B-2 to A-1

**TABLE IV: REAL ESTATE TRANSACTIONS**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
Res. 1, 1994	6-13-1994	Authorization for bid on a purchase of land

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>

**TABLE V: ANNEXATIONS**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
2, 2003	2- -2003	Annexing that part of the Northeast Quarter of the Southwest Quarter of Section 12, Township 30 North, Range 2 West of the Second Principal Meridian, Monroe Civil Township, Pulaski County
6 of 2004	11-8-2004	Annexing U.S. Highway 35 North area being part of the Northeast Quarter of the Section 11, and part of the Northwest Quarter of Section 12 of Township 30 North, Range 2 West of the Second Principal Meridian, Monroe Civil Township, Pulaski County

**PARALLEL REFERENCES**

References to Indiana Code  
 References to 1994 Code  
 References to Resolutions  
 References to Ordinances

**REFERENCES TO INDIANA CODE**

<i>I.C. Citation</i>	<i>Code Section</i>
1-1-1-5	10.04
1-1-1-7	10.12
1-1-1-8	10.06
1-1-4-5	10.05
1-1-5-1	10.11
1-1-6-1	10.08

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<i>I.C. Citation</i>	<i>Code Section</i>
3-5-3-11	30.03
4-21.5-3-7	153.39
5-3-1	34.03
8-1-26-2 - 8-1-26-12	50.10
9-13-2-69.7	70.03
9-17-2	70.01
9-21-1-3.3(a)	70.99
9-21-9 <i>et seq.</i>	70.03
9-22-1-1 <i>et seq.</i>	90.02
9-22-1-32	90.04
9-25-2-3	70.03
13-17-9	96.01
13-11-2-191	33.02
22-11-14-1	96.10
22-12	158.39
22-12-1-4	153.03
22-12-1-5	153.03
22-12-1-7	153.03
22-12-1-14	153.03
22-12-1-16	153.03
22-12-1-17	153.03
22-12-1-18	153.03
22-12-1-22(b)(12)	153.51
22-12-1-24	153.03
22-12-1-26	153.03
22-12-7	153.05
22-13	153.39
22-13-2-2(b)	153.50
22-13-2-6	153.04
22-13-2-7	153.39
22-13-2-7(b)	153.50
22-13-2-9	153.04
22-13-2-11	153.05
22-14	153.39
22-15	153.39
22-15-3	153.16
22-15-4	153.04

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<i>I.C. Citation</i>	<i>Code Section</i>
32-25-2-9	153.03
35-42-4-1 <i>et seq.</i>	111.08
35-46-3-4.5	97.02
36-1-3-8(a)(10)	10.99
36-1-3-8(a)(10)(B)	54.05
36-1-5-4	153.50, 153.51
36-1-6-4	153.38
36-1-6-9	158.39
36-8-17	<b>153.26</b>
36-10-3 <i>et seq.</i>	33.03
36-10-3	33.03

## REFERENCES TO 1994 CODE

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<i>1994 Code Section</i>	<i>2001 Code Section</i>
1-1	92.01, 92.02
2-1	33.01
2-2	33.01
2-3	33.01
2-4	33.01
3-2-1	30.01
3-2-2	30.02
4-1-1	Ch. 72 Sch. II
4-2-1	71.01
4-3	70.01
5-2-1	130.04
5-2-2	130.05
6-1	91.01
6-2	96.01
6-3	97.10
7-1-1	110.01
8-1-1	93.04
8-2-1	93.05



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<i>1994 Code Section</i>	<i>2001 Code Section</i>
8-2-2	93.06
8-3-1	151.01
8-3-2	151.02
8-3-3	151.03
10-3-1	50.01
10-3-2	50.02
10-3-3	50.03
10-3-4	50.04
10-3-5	50.05
10-3-6	50.06
10-3-7	50.07
10-3-8	50.08
10-5	50.09
11-1	130.02

## REFERENCES TO RESOLUTIONS

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<i>Res. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
1, 1994	6-13-1994	T.S.O. Table IV
4, 1994	11-14-1994	T.S.O. Table III
5, 1994	11-21-1994	T.S.O. Table III

## REFERENCES TO ORDINANCES

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
8, 1994	7-11-1994	130.04
7 of 1996	8-12-1996	93.02
8, 1996	9-24-1996	33.02
9, 1996	11-11-1996	33.03
2, 1997	1-13-1997	T.S.O. Table I
5, 1997	3-26-1997	150.01 - 150.04

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
7, 1997	6-9-1997	T.S.O. Table II
8, 1997	5-12-1997	110.02
9, 1997	7-14-1997	53.01
11, 1997	9-8-1997	90.01 - 90.04
5, 1998	6-8-1998	52.01
8, 1998	7-13-1998	34.01 - 34.03
9, 1998	8-10-1998	32.01
2, 1999	2-23-1999	130.03
7, 1999	6-22-1999	Ch. 72 Sch. I
8, 1999	8-24-1999	Ch. 72 Sch. II
9, 1999	10-11-1999	T.S.O. Table I
11, 1999	11-23-1999	Ch. 72 Sch. II
15, 1999	12-13-1999	94.01 - 94.03
2, 2000	6-12-2000	Ch. 72 Sch. II
3, 2000	10-9-2000	130.01
4, 2000	11-27-2000	93.01
3, 2001	3-12-2001	93.03
5, 2001	5-14-2001	70.02
6, 2001	7-9-2001	Ch. 72 Sch. II
9, 2001	10-8-2001	94.10
10, 2001	- -2001	95.01 - 95.05, 95.99
1, 2002	2-11-2002	Ch. 72 Sch. II
5, 2002	6-13-2002	30.02
6, 2002	7-8-2002	53.01
8, 2002	11-12-2002	93.15 - 93.20, 93.99
1, 2003	1-13-2003	52.01 - 52.03
2, 2003	2- -2003	T.S.O. Table V
6, 2003	8-11-2003	T.S.O. Table I
7, 2003	9-2-2003	53.01
8, 2003	9-8-2003	T.S.O. Table III
14, 2003	12-8-2003	111.01 - 111.09, 111.99
15, 2003	12-8-2003	Ch. 72 Sch. II
3 of 2004	7-12-2004	93.07, 93.99
4 of 2004	4-12-2004	T.S.O. Table III
5 of 2004	4-12-2004	Adopting Ordinance
6 of 2004	11-8-2004	T.S.O. Table V
7 of 2004	6-14-2004	50.09

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
2 of 2005	5-9-2005	Ch. 72, Sch. II
3 of 2005	9-12-2005	30.02
1 of 2006	2-13-2006	T.S.O. Table III
2 of 2006	4-10-2006	T.S.O. Table I
4 of 2006	8-14-2006	153.01 - 153.07, 153.15 - 153.18, 153.25, 153.26, 153.35 - 153.39, 153.50, 153.51, 153.99
5 of 2006	5-12-2006	T.S.O. Table I
7 of 2006	8-14-2006	T.S.O. Table III
8 of 2006	11-13-2006	Ch. 72, Sch. II
2 of 2007	6-11-2007	70.99, Ch. 73, Sch. I, II, III, IV
5 of 2007	10-10-2007	Ch. 72, Sch. II
6 of 2007	9-10-2007	53.02
8 of 2007	11-13-2007	152.01 - 152.13, 152.20 - 152.22, 152.30 - 152.37, 152.50 - 152.56, 152.99
15 of 2007	12-10-2007	T.S.O. Table III
16 of 2007	12-10-2007	54.01 - 54.05, 54.15 - 54.23, 54.35 - 54.37, 54.50 - 54.56
1 of 2008	1-14-2008	T.S.O. Table I
2 of 2008	2-11-2008	T.S.O. Table III
4A of 2008	5-12-2008	Ch. 73, Sch. V
5 of 2008	5-12-2008	93.02
6 of 2008	6-9-2008	96.10
7 of 2008	6-9-2008	T.S.O. Table I
8 of 2008	6-9-2008	T.S.O. Table I
9 of 2008	6-9-2008	50.10
10 of 2008	6-9-2008	T.S.O. Table III
11 of 2008	8-11-2008	52.01 - 52.03
12 of 2008	8-11-2008	T.S.O. Table III
1 of 2009	2-9-2009	97.01, 97.02, 97.99
3 of 2009	2-9-2009	50.09
6 of 2009	4-13-2009	T.S.O. Table I
7 of 2009	7-13-2009	96.01, 96.99
1 of 2010	6-14-2010	Ch. 72, Sch. II
2 of 2010	7-12-2010	53.01
3	10-11-2010	54.50 - 54.55
5 of 2010	9-13-2010	Ch. 72, Sch. II
2 of 2012	5-14-2012	30.02

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
4 of 2012	5-14-2012	T.S.O. Table III
6 of 2012	8-13-2012	T.S.O. Table I
—	8-13-2012	35.01
—	8-13-2012	35.01
9 of 2012	8-13-2012	Ch. 72, Sch. III
10 of 2012	8-13-2012	98.01 - 98.04, 98.98, 98.99
11 of 2012	8-13-2012	70.03, 70.99
13 of 2012	11-12-2012	53.03, 53.99
19 of 2012	12-10-2012	53.02
20 of 2012	12-10-2012	T.S.O. Table III
1 of 2013	2-11-2013	53.01
3 of 2013	2-11-2013	54.50 - 54.55
4 of 2013	2-11-2013	152.05, 152.07, 152.20, 152.31
6 of 2013	6-10-2013	T.S.O. Table III
7 of 2013	4-8-2013	94.01
8 of 2013	6-10-2013	Ch. 72, Sch. II
9 of 2013	5-13-2013	50.09
11 of 2013	7-8-2013	94.10, 94.99
13 of 2013	8-12-2013	53.04
15 of 2013	9-9-2013	Ch. 72, Sch. II
17 of 2013	11-11-2013	Ch. 73, Sch. I
20 of 2013	12-9-2013	31.01
1 of 2014	2-10-2014	T.S.O. Table III
3 of 2014	4-14-2014	152.01 - 152.13, 152.20 - 152.22, 152.30 - 152.37, 152.50 - 152.56, 152.99
5 of 2014	4-14-2014	51.01 - 51.08, 51.99
6 of 2014	6-9-2014	53.01
7 of 2014	6-9-2013	54.50 - 54.55
9 of 2014	6-9-2014	30.01
10 of 2014	7-14-2014	98.01 - 98.04, 98.98, 98.99
11 of 2014	7-14-2014	93.01, 93.99
12 of 2014	9-8-2014	52.01 - 52.03
13 of 2014	9-8-2014	30.03
14 of 2014	10-13-2014	53.01
15 of 2014	10-13-2014	53.01