

**WINAMAC, INDIANA
CODE OF ORDINANCES**

2018 S-4 Supplement contains:
Local legislation current through Ord. 13 of 2017, passed 12-11-2017
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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

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

ORDINANCE # 4 OF 2015

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 2014 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 Town of Winamac; and

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

WHEREAS, it is the intent of the 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 I

That the 2014 supplement to the Code of Ordinances of the Town of Winamac was 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 II

Such supplement shall be deemed published as of the date 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 III

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 15th day of June, 2015.

Kenneth McFarland /s/

Richard Denney /s/

Ken McFarland, Council President

Richard Denney

Tom J. Murray /s/

Dan Vanaman /s/

Tom J. Murray

Dan Vanaman

Judy Heater /s/

Judy Heater

TITLE I: GENERAL PROVISIONS

Chapter

10. RULES OF CONSTRUCTION; GENERAL PENALTY

CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY

Section

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- 10.16 Preservation of penalties, offenses, rights and liabilities

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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)

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
- 30.04 Elections; nomination of major party candidates

§ 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.

('94 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)

§ 30.04 ELECTIONS; NOMINATION OF MAJOR PARTY CANDIDATES.

(A) *Establishment.* Major party candidates for town offices for the town shall be nominated through the method of a primary election. The nomination of major party candidates for a town office for the town through the method of political town convention shall be abolished.

(B) *Election Board.* The Pulaski County Election Board shall conduct the primary election for nomination of major party candidates for town offices for the town.

(C) *Governing laws.* All Indiana statutes governing primary elections for towns shall apply to the nomination of major party candidates for town offices for the town.

(D) *Change of method prohibited.* The town shall not change the method of nominating major party candidates for its town offices for a period of 12 years.

(Ord. 4 of 2017, passed 4-10-2017)

CHAPTER 31: PERSONNEL REGULATIONS

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

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

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.

('94 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.

('94 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) *Definitions.* The following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARD. The Park and Recreation Board.

DEPARTMENT. A department of parks and recreation.

DISTRICT. The area within the jurisdiction of a department.

(B) *Establishment.*

(1) *Board of Parks and Recreation.* There is hereby established the Town of Winamac Board of Parks and Recreation (the "Board"). The Board shall have all powers and duties as set forth in I.C. 36-10-3. All books, papers, documents, and other property of former park and recreation authorities shall be transferred to and become the property of the Board.

(2) *Board Membership.* The Board shall consist of five members. Four members shall be appointed by the Town Council, based upon their interest in and knowledge of parks and recreation. Not more than two members may be affiliated with the same political part, except as provided in I.C. 36-10-3-4.1, and all members must be residents of the district. The fifth member shall be a member of the governing body of the library district selected by that body.

(a) The Board may also include one other ex officio member, that ex officio member being a member of the Eastern Pulaski Community School Corporation School Board (the "School Board") selected by that body, or a member designated by the School Board.

(b) Ex officio members shall have all the rights of regular members, including the right to vote. A vacancy in an ex officio position shall be filled by the appointing authority.

(c) Neither a municipal executive nor a member of a county fiscal body, county executive, or municipal fiscal body may serve on the Board.

(3) *Term of membership.*

(a) Initial appointments to the Board are as follows:

1. *Town Council appointments.*

A. One member for a term of one year.

B. One member for a term of two years.

C. One member for a term of three years.

D. One member for a term of four years.

2. *Pulaski County Public Library appointment.* One member for a term of two years.

(b) As each term under division (B)(3)(a) expires, each new appointment is for a four-year term. All terms shall expire on the first Monday in January, but a member shall continue to serve until his or her successor is appointed.

(c) An appointing authority, if applicable, shall make initial appointments within 90 days after the creation of the Department.

(d) If an appointment for any new term is not made by the first Monday in April, the incumbent shall serve another term.

(e) In making initial appointments under division (B)(3)(a), the Town Council shall give special consideration to the appointment of members from previous park or recreation boards.

(f) If a vacancy on the Board occurs, the appointing authority shall appoint a person to serve for the remainder of the unexpired term.

(4) *Removal.* A member of the Board may be removed only for cause, upon specific written charges filed against him or her. The charged shall be filed with and heard by the appointing authority, unless the appointing authority is bringing the charges. If the appointing authority is bringing the charges, the unit's fiscal body shall appoint a hearing officer. The person to hear the charges shall fix a date for a public hearing and give public notice at least ten days in advance of the hearing. At the hearing, the member is entitled to present evidence and argument and to be represented by Council.

(5) *Advisory Members.* The municipal and county boards may each designate a member to sit with the other Board members in

an advisory capacity.

(C) *Meetings and other business.*

(1) *General requirements.* All meetings of the Board shall be open to the public. The Board shall fix the time and place of its regular meetings, but it shall meet at least quarterly. The town shall provide suitable quarters for holding meetings and conducting the work of the Board.

(2) *Special meetings.* Special meetings of the Board may be called by the president, or any two members by written request to the secretary. The secretary shall send each member, at least 48 hours before a special meeting, a written notice fixing the time, place, and purpose of the meeting. Written notice of a special meeting is not required if the time of the special meeting is fixed at a regular meeting, or if all members are present at the special meeting.

(3) *Election of officers.* At its first regular meeting each year, the Board shall elect a president and a vice president. The Board may select a secretary either from within, or outside, its membership.

(4) *Quorum.* A majority of the members constitutes a quorum. Action of the Board is not official unless it is authorized by at least three members present and acting.

(5) *Compensation.* The members of the board may receive a salary in an amount fixed by the Town Council. The Town Council may appropriate and approve a per diem allowance to members of a board for attending a meeting of the board.

(6) *Other permitted requirements.* If the Board determines that members or employees should attend a state, regional, or national conference dealing with park and recreation problems, the Board may authorize the payment of the actual expenses involved in attending the conference. However, the amount must be available as part of the Board's appropriation.

(D) *Duties and powers.*

(1) *Board duties.* The Board shall:

(a) Exercise general supervision of and make rules for the department.

(b) Establish rules governing the use of the park and recreation facilities by the public.

(c) Provide police protection for its property and activities, either by requesting assistance from the state, municipal, or county police authorities, or by having specified employees deputized as police officers.

(d) Any deputized employees are not eligible for police pension benefits or other emoluments of police officers.

(e) Appoint the necessary administrative officers of the department and fix their duties.

(f) Establish standards and qualifications for the appointment of all personnel and approve their appointments without regard to politics.

(g) Make recommendations and an annual report to the executive and fiscal body of the unit concerning the operation of the Board and the status of park and recreation programs in the district.

(h) Prepare and submit an annual budget in the same manner as other executive departments of the unit.

(i) Appoint a member of the Board to serve on another kind of board or commission, whenever a statute allows a park or recreation board to do this.

(2) *Board powers.* The Board may:

(a) Enter into contracts and leases for facilities and services.

(b) Contract with persons for joint use of facilities for the operation of park and recreation programs and related services.

(c) Contract with another board, a unit, or a school corporation for the use of park and recreation facilities or services, and a township or school corporation may contract with the Board for the use of park and recreation facilities or services.

(d) Acquire and dispose of real and personal property, either within or outside Indiana.

(e) Exercise the power of eminent domain under statutes available to municipalities.

(f) Sell, lease, or enter into a royalty contract for the natural or mineral resources of land that it owns, the money received to be

deposited in a nonreverting capital fund of the Board.

(g) Engage in self-supporting activities as prescribed in Ind. Code § 36-10-3-22, and as prescribed in this section.

(h) Contract for special and temporary services and for professional assistance.

(i) Delegate authority to perform ministerial acts in all cases, except where final action of the Board is necessary.

(j) Prepare, publish, and distribute reports and other materials relating to activities authorized by this section.

(k) Sue and be sued collectively by its legal name, the "Winamac Department of Parks and Recreation," with service of process being had upon the president of the Board, but costs may not be taxed against the Board or its members in any action.

(l) Invoke any legal, equitable, or special remedy for the enforcement of this section, a park or recreation ordinance or resolution, or the Board's own action taken under either.

(m) Release and transfer, by resolution, a part of the area over which it has jurisdiction for park and recreational purposes to park authorities of another unit for park and recreational purposes upon petition of the park or recreation board of the acquiring unit.

(3) *Power to lease.* The Board may lease any buildings or grounds belonging to the unit and located within a park to a person for a period not to exceed 50 years. The lease may authorize the lessee to provide upon the premises educational, research, veterinary, or other proper facilities for the exhibition of wild or domestic animals in wildlife parks, dining facilities, swimming facilities, golf courses, skating facilities, dancing facilities, amusement rides generally found in amusement parks, or other recreational facilities. A lease may be made for more than one year only to the highest and best bidder, after notice that the lease will be made has been given by publication, in accordance with I.C. 5-3-1.

(a) Notwithstanding the foregoing, the Board may lease buildings or grounds belonging to the unit for a period of more than one year without soliciting the highest and best bidder or providing notice under I.C. 5-3-1, if:

1. The building or grounds are leased to an Indiana nonprofit corporation;
2. The buildings or grounds are operated as a public golf course; and
3. The golf course remains subject to rules and regulations promulgated by the Board.

(4) *Sale of surplus property.* The Board may sell, or order sold through a designated representative, by public or private sale, any personal property that the Board has declared to be surplus at a regular or special meeting and has declared to have an aggregate appraised value of \$5,000 or less. Whenever the Board decides to sell at a private sale, the Board must employ a qualified appraiser to determine a reasonable selling price for each kind of surplus item and must publish, in the manner provided in I.C. 5-3-1:

- (a) The fact that a private sale will be held;
- (b) The location of the sale;
- (c) The dates of the beginning and end of the sale;
- (d) The time of day during which the sale will take place;
- (e) The kinds of items to be sold at the sale; and
- (f) The price of each kind of item, which may not be less than the reasonable selling price determined by the qualified appraiser.

(5) The Board decides to sell at a public sale, the Board shall conduct the sale in the manner provided by law for the unit.

(6) *Compensation.* The Board shall fix the compensation of officers and personnel appointed under division (D)(1)(d)(e).

(E) *Superintendent and duties.*

(1) *Appointment.* The Board may appoint a superintendent of parks and recreation. The Board may not consider political affiliation in the selection of the superintendent.

(2) *Qualifications.* The superintendent must:

- (a) Be qualified by training or experience in the field of parks and recreation; or

(b) Have a certification or an advanced degree in the field of parks and recreation.

(c) An incumbent performing park and recreational functions in a supervisory capacity at the time a unit adopts a creating ordinance is eligible for appointment as superintendent or as an assistant, but he or she must have the required training, experience, or certification.

(3) *Duties.* Under the direction of the Board, the superintendent shall:

(a) Propose, annually, a plan for the operation of the department.

(b) Administer the plan as approved by the Board.

(c) Supervise the general administration of the department.

(d) Keep the records of the department and preserve all papers and documents of the department.

(e) Recommend persons for appointment as assistants, if the Board determines there is a need.

(f) Appoint the employees of the Department, subject to the approval of the Board, according to the standards and qualifications fixed by the Board and without regard to political affiliation.

(g) Prepare and present to the Board an annual report.

(h) Perform other duties, as the Board may direct from time to time.

(4) *Assistant superintendent.* If the Board determines that the size of the Department's operation requires assistants for the superintendent, the Board may appoint, upon the recommendation of the superintendent, one or more assistants. The Board shall determine their qualifications on a basis similar to that prescribed for the superintendent. Assistants are directly responsible to the superintendent and shall perform the duties specified by the superintendent.

(F) *Bonding; Advisory Council; fiscal matters.*

(1) *Bonds and crime policies.*

(a) Every officer and employee who handles money in the performance of his or her duties, as prescribed by this section, shall execute an official bond for the term of office or employment before entering upon the duties of the office or employment.

(b) The Town Council may, under I.C. 5-4-1-18, authorize the purchase of a blanket bond or crime insurance policy endorsed to include faithful performance to cover all officers' and employees' faithful performance of duties. The amount of the bond or crime insurance policy shall be fixed by the fiscal body and, in the case of a municipality, must be approved by the Town Council president.

(c) All official bonds shall be filed and recorded in the office of the Pulaski County Recorder.

(2) *Advisory Council and special committees.*

(a) The Board may create an Advisory Council and special committees composed of citizens interested in parks and recreation.

(b) In selecting an Advisory Council or special committees, the Board shall give consideration to the groups in the community particularly interested in parks and recreation. In a resolution creating an Advisory Council or a special committee, the Board shall specify the terms of its members and the purposes for which it is created.

(c) The Advisory Council or a special committee shall:

1. Study the subjects and problems specified by the Board and recommend to the Board additional problems in need of study.
2. Advise the Board concerning these subjects, particularly as they relate to different areas and groups in the community.
3. Upon the invitation of the Board, sit with and participate in the deliberations of the Board, but without the right to vote.

(d) The Advisory Council or a special committee shall report only to the Board and shall make inquiries and reports only in those areas specified by the Board's resolution creating the council or committee.

(3) *Gifts, donations, and subsidies.* The Board may accept gifts, donations, and subsidies for park and recreational purposes. However, a gift or transfer of property to the Board may not be made without its approval. Any gift or grant of money shall be deposited in a special nonreverting fund, to be available for expenditure by the Board, for purposes specified by the grantor. The

disbursing officer of the unit may draw warrants against the fund only upon vouchers signed by the president and secretary of the Board.

(4) *Special taxing district.* The territories within the boundaries of the unit comprises a special taxing district for the purpose of levying special benefit taxes for park and recreational purposes as provided in this section. The Town Council shall determine and provide the revenues necessary for the operation of the department or for the capital expenditures not covered by the issuance of bonds by:

- (a) A specific levy to be used exclusively for these purposes;
- (b) A special appropriation; or
- (c) Both of these methods.

(5) *Special nonreverting capital fund.* Upon the request of the Board, the Town Council may establish, by separate ordinance, a special nonreverting capital fund for the purposes of acquiring land or making specific capital improvements. The Town Council may include in the Board's annual budget an item and an appropriation for these specific purposes.

(6) Money placed in the nonreverting capital fund may not be withdrawn, except for the purposes for which the fund was created, unless the Town Council repeals the ordinance. The Town Council may not repeal the ordinance under suspension of the rules.

(7) *Cumulative Building Fund.*

(a) The Board may establish a cumulative building fund under I.C. 6-1.1 -41, to provide for:

1. Building, remodeling, and repair of park and recreational facilities; or
2. The purchase of land for park and recreational purposes.

(b) In addition to the requirements of I.C. 6-1.1-41, before a fund may be established, the proposed action must be approved by the Town Council.

(c) To provide for the cumulative building fund, the unit's fiscal body may levy a tax in compliance with I.C. 6-1.1-41, not to exceed one and \$0.0167 on each \$100 of assessed valuation of taxable property within the unit.

(d) The tax shall be collected and held in a special fund known as the unit's Park and Recreation Cumulative Building Fund.

(8) *Fees for particular activities, special funds, deposits, withdrawals.* Park and recreation facilities and programs shall be made available to the public free of charge as far as possible. However, if it is necessary in order to provide a particular activity, the Board may charge a reasonable fee.

(a) The Town Council may establish, by separate ordinance, and upon request of the Board:

1. A special nonreverting operating fund for park purposes from which expenditures may be made as provided by ordinance, either by appropriation by the Board or by the Town Council; or
2. A special nonreverting fund for the purpose of acquiring land or making specific capital improvements from which expenditures may be made by appropriation by the Town Council.

(b) The Town Council shall designate the funds into which the Town Clerk-Treasurer shall deposit fees from golf courses, swimming pools, skating rinks, or other major facilities requiring major expenditures for management and maintenance. Money received from fees, other than from major facilities or received from the sale of surplus property, shall be deposited by the Town Clerk-Treasurer either in the special nonreverting operating fund or in the nonreverting capital fund, as directed by the Board. However, if neither fund has been established, money received from fees or from the sale of surplus property shall be deposited in the unit's general fund. Money from either special fund may be disbursed only on approved claims allowed and signed by the president and secretary of the Board.

(c) Money placed in the special nonreverting capital fund may not be withdrawn, except for the purposes for which the fund was created, unless the Town Council repeals the ordinance establishing the fund. The Town Council may not repeal the ordinance under suspension of the rules.

(d) Money procured from fees or received from the sale of surplus property under division (F)(4), shall be deposited at least once each month with the Town Clerk-Treasurer of the town.

CHAPTER 34: PURCHASING PROCEDURE

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
- 34.04 Town credit card
- 34.05 Funds for town businesses
- 34.06 Preapproved claims

§ 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)

§ 34.04 TOWN CREDIT CARD.

(A) *Business credit card for travel expenses.*

(1) The Clerk-Treasurer is hereby authorized to make application for and maintain a business credit card for the use by town department heads and employees designated by the department head for travel and permitted expenses related thereto as defined below. The credit card for travel expenses shall have a credit limit of \$3,000. The credit card shall be held by the Clerk-Treasurer and available to only the department heads of the following departments:

(a) Town Manager;

(b) Parks and Recreation;

(c) Waste water treatment;

(d) Water;

(e) Electric;

(f) Street; and

(g) Police.

(2) When not in use, the credit cards shall be secured in the office of the Clerk-Treasurer. Upon request by a town department head, the Clerk-Treasurer shall issue the credit card for use and shall keep a record showing the name of the department head issued

the card, the date of issuance, the date of return, and the purpose of use. Upon return, the department head shall provide a written accounting of all charges and receipts for each purchase made. The department head shall be responsible for the card and its use when outside of the control of the Clerk-Treasurer's office.

(3) Town officials, department heads and employees shall use the credit card exclusively for the purpose of town travel expenses limited to the following:

- (a) Hotel or motel room reservations;
- (b) Hotel or motel room charges for telephone calls pertaining to town business;
- (c) Meals pursuant to the Employee Handbook, plus maximum of 20% gratuity;
- (d) Fees associated with attending schools, conferences, seminars and the like; and
- (e) Gasoline, if using a town-owned vehicle.

(4) The town credit card shall not be used for alcoholic beverages, room service, non-town business telephone calls, in-room movies, cash advances, or any personal expenses.

(5) Accounts payable vouchers (claims) filed in connection with the use of the credit card shall be submitted to the Clerk-Treasurer for processing within two business days of the official or employee's return from their travel. All credit card usage shall be properly itemized and documented as provided in I.C. 5-11-10 et seq. The charge card will be paid in full every billing cycle. Improperly itemized and documented items as well as interest, carrying charges or penalties caused by improperly submitting items shall be the responsibility of the individual user who causes the expense to the town.

(6) Payment for any personal or disallowed charges shall be the responsibility of the official or employee making the charge. An official or employee who abuses the credit card will be restricted from future credit card use and subject to disciplinary action where appropriate.

(7) Before being issued the credit card, all individuals, officials, department heads, and or employees who are expected to use said card, must sign a form provided by the Clerk-Treasurer's Office that indicates the individual has read and understands the policy regarding permitted uses of the town credit card. This form shall also set forth an explanation of the proposed use of the card and the approximate dates it will be used and returned to the possession of the Clerk-Treasurer's Office.

(B) Town credit card for public purchases of supplies, materials, and small equipment.

(1) The policy of the Town of Winamac is to use claim forms for transactions by each department. However, the Clerk-Treasurer shall also make available the town credit card for commercial charging in instances where a unique or special circumstance requires the use of said card. Purchases must have approval of the Town Manager and Clerk-Treasurer not to exceed said \$3,000. The credit card may only be used for public purchases of supplies, materials, and small equipment.

(2) Charge card receipts shall be properly itemized and documented with a summary of items purchased with said credit card. The charge card will be paid in full every billing cycle. Improperly itemized and documented items, as well as interest, carrying charges, or penalties caused by improperly submitting items shall be the responsibility of the individual user who causes the expense to the town.

(3) Any department head who abuses the charge card will be restricted from future credit card use and subject to disciplinary action where appropriate.

(Ord. 12 of 2015, passed 10-12-2015)

§ 34.05 FUNDS FOR TOWN BUSINESSES.

(A) The town may pay promotional and business expenses that are prudent costs of doing the business of governing which costs could include, but are not limited to the following:

- (1) Rental of meeting places;
- (2) Meals;
- (3) Decorations;

(4) Memorabilia and commemorative objects;

(5) Awards;

(6) Expenses incurred in promoting industrial, commercial, residential development, and tourism within the town;

(7) Expenses incurred in developing relationships with other governmental units;

(8) Expenses for membership dues, assessments, conference registrations, and other assistance in local, regional, state and national associations of a civic, educational or governmental nature which have as their purpose the betterment and improvement of municipal operations whether said expenses are for Town Council Members, Council-Elect Members, the Clerk-Treasurer, Town Manager, or Department Heads;

(9) Direct expenses incurred for travel, meals, and lodging in conjunction with municipal business, meetings, or organizations to which the municipality belongs; and

(10) Any other expense of a civic or governmental nature deemed by the Town Council to be in the interest of the town (including an annual holiday party).

(B) Expenses for employee meals, awards, gifts and other similar expenses shall be in accordance with such expenses at a rate allowable by the State of Indiana or within a reasonable relation thereto. Any expenses deemed excessive by the Town Council shall not be paid under this section.

(C) No expenses shall be paid until there is an itemized detailed claim which claim shall include details for mileage and travel expenses including odometer miles and actual receipts for the expenses incurred.

(D) Promotional expense includes the transition expense and/or reimbursement for newly-elected officials registrations and travel expenses to IACT newly-elected officials training meetings, conferences, and schools.

(E) The Town Council shall budget and appropriate revenues from the town's funds to pay the above approved expenses, or reimburse town officials as the case may be for training expenses incurred in promoting the best interest of the town.

(Ord. 16 of 2015, passed 12-30-2015)

§ 34.06 PREAPPROVED CLAIMS.

(A) *Allowable claims.* The town fiscal officer, under the auspices and authority of I.C. 36-5-4-12(b), and I.C. 5-11-10-1.6, may make claim payments in advance, upon prior written approval of the Town Council, or the board having jurisdiction over allowance of the claims, of the following types of expenses:

(1) Property or services purchased or leased from:

(a) The United States government; or

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

(2) License fees or permit fees.

(3) Insurance premiums.

(4) Utility payments or utility connection charges.

(5) Federal grant programs, if:

(a) Advance funding is not prohibited; and

(b) The contracting party provides sufficient security for the amount advanced.

(6) Grants of state funds authorized under statute.

(7) Maintenance agreements or service agreements.

(8) Lease agreements or rental agreements.

- (9) Principal and interest payments on bonds.
- (10) Payroll.
- (11) State, federal, or county taxes.
- (12) Expenses that must be paid because of emergency circumstances.
- (13) Expenses described in an ordinance, and duly adopted by the Town Council.

(B) *Supporting documentation.* Each payment of expenses under this section must be supported by a fully itemized invoice or bill and certification by the fiscal officer, as required by I.C. 5-11-10-1.6.

(C) *Board review.* The Town Council, or the board having jurisdiction over the allowance of the claim shall review and allow the claim at the body's or board's next regular or special meeting following the preapproved payment of the expense.

(Ord. 11 of 2016, passed 9-12-2016)

CHAPTER 35: TOWN POLICIES

Section

- 35.01 ADA policy
- 35.02 Investment of public funds
- 35.03 Internal control standards
- 35.04 Materiality threshold
- 35.05 Title VI Plan adopted

§ 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

§ 35.02 INVESTMENT OF PUBLIC FUNDS.

Pursuant to I.C. 5-13-9-5.7, the Winamac Town Council hereby authorizes the investing officer to make investments having a stated final maturity that is more than two years, but not more than five years after the date of purchase under the following circumstances:

(A) The fiscal body of the town shall first adopt an investment policy authorizing the investment of public funds of the Town for more than two years and not more than five years in accordance with I.C. 5-13-9-5.7(a) and (b).

(B) This section and the power to make an investment having a stated final maturity that is more than two years, but not more than five years after the date of purchase expire on the date on which the investment policy expires, which may not exceed four years.

(C) At the time an investment of public funds of the town is made having a stated final maturity that is more than two years, but not more than five years, the total of such investments of the town may not exceed 25% of the total portfolio of public funds invested by the town, including balances in transaction accounts.

(D) An investing officer may contract with a federally regulated investment advisor or other institutional money manager to make such investments.

(Ord. 5 of 2015, passed 7-3-2015)

§ 35.03 INTERNAL CONTROL STANDARDS.

(A) *Purpose.*

(1) *Mission.* The town finds that its mission, as related to an internal control system is as follows:

- (a) The provision of a democratic government structure at the grassroots level;
- (b) The provision of services as determined through the political process, including, but not limited to:
 1. The Winamac Municipal Electrical Utility (the "Electric Utility");
 2. The Winamac Municipal Waterworks Utility (the "Waterworks"); and
 3. The Winamac Municipal Sewer Works (the "Sewer Works");

(2) *Principles of adherence.* The town adopts and directs the following 17 principles in explanation of the pertinent standards above, to be followed at all levels of town government:

(a) *Control environment.*

1. The oversight body and management demonstrate a commitment to integrity and ethical values. The Town has the responsibility to establish and maintain an adequate system of internal control and to furnish to the Town Council, various boards and commissions, governmental agencies, creditors and others, reliable financial information on a timely basis. An adequate system of internal control is necessary for the town to discharge these responsibilities.

2. The oversight body oversees the town's internal control system. As the fiscal body for the town, the Town Council is responsible for setting the institutional expectations for internal control, ensuring management is aware of those expectations, requiring the upward communications channels are open through all levels of management, and evaluating management's effectiveness toward monitoring the control environment and implementing sound control policies and procedures. As the town's chief fiscal officer, the Town Clerk-Treasurer will be the Town Council's chief agent in implementing and managing the internal control policies and procedures.

3. Management establishes an organizational structure, assigns responsibility, and delegates authority to achieve the town's objectives. Individuals with delegated approval authority, such as elected officials and department heads, are responsible for establishing, maintaining, and supporting a system of internal controls within their areas of responsibility and for creating the control environment that encourages compliance with town policies and procedures.

4. Management demonstrates a commitment to attract, develop, and retain competent individuals. The Town Employee Handbook provides a roadmap for recruiting and maintaining quality employees. Prior to employment, individuals may be subject to pre-employment background screening and/or a credit history check. Job descriptions will be updated where necessary to reflect internal control responsibilities and duties. Employees will be regularly trained in internal control methods and all training will be documented in employees' personnel files. Employees will be regularly evaluated by their supervisors on internal control duties and receive feedback on possible improvements.

5. Management evaluates performance and holds individuals accountable for their internal control responsibilities, as well as adherence to all standards and procedures, as set forth in this section. Individuals will be held accountable for their internal control responsibilities through a recognized structure, which includes relevant job descriptions, operating procedures, periodic reviews, regular feedback, and a disciplinary policy.

(b) *Risk assessment.*

1. Management defines objectives clearly, to enable the identification of risks and defines risk tolerances. Management conveys and identifies objectives, missions, policies, and risk tolerances to employees.

2. Management identifies, analyzes, and responds to risk related to achieving the defined objectives.

3. Management considers the potential for fraud when identifying, analyzing, and responding to risks. Fraud responses will include statutorily required responses to fraud, including, but not limited to I.C. 5-11-1-27(l) relating to the report of misappropriation of funds to State Board of Accounts and Prosecuting Attorney and I.C. 5-11-1-27(j) relating to the report of material variances, losses, shortages or thefts to the State Board of Accounts. The town shall utilize a materiality threshold of \$300 for cash funds, and \$500 for non-cash and town property.

4. Management identifies, analyzes, and responds to significant changes that could impact the internal control system. The

Town Council, in coordination with department heads, will regularly evaluate and adjust internal control policies in order to accommodate for the impact of future changes, including but not limited to, personnel changes, newly elected officials, new programs, new technology, new laws and regulations, and financial fluctuations.

(c) *Control activities.*

1. Management designs control activities to achieve objectives and respond to risks. The Clerk-Treasurer, along with the Town Council, will establish and maintain a system of internal controls that satisfies the town's objectives in the following categories:

- a. Risks are identified and effectively managed;
- b. Safeguarding of town assets.
- c. Reliability and integrity of financial information;
- d. Compliance with town policy, plans, procedures, laws and regulations.
- e. Economic and efficient use of town resources.
- f. Meeting established objectives and goals for town operations and programs.

2. General internal controls principles for each department, include:

- a. *Separation of duties.* Duties are separated so that one person's work routinely serves as a check on another's work.
- b. *Authorization and approval.* Proposed transactions are authorized when proper and consistent with town policy and the department's plans.
- c. *Custodial and security arrangements.* Responsibility for physical security/custody of town assets are separated from record keeping and accounting for those assets.

d. *Timely and accurate review and reconciliation.* Departmental accounting records and documents are examined by employees who have sufficient understanding of the town accounting and financial systems to verify that recorded transactions actually took place and were made in accordance with town policies and procedures. Furthermore, departmental accounting records and documental are compared with town accounting system reports and financial statements to verify their reasonableness, accuracy, and completeness.

3. *Management designs the town's information system and related control activities to achieve objectives to respond to risks.* The department heads will work with any information technology units to ensure that information technology is used as an integral part of the internal control system.

4. *Management implements control activities through policies.* The town has an employee handbook that is regularly updated to communicate policies to employees. Additionally, the Clerk-Treasurer regularly works with departments and employees who handle financial transactions to recommend and ensure best practices. All procedures are in writing and communicated frequently to all relevant employees.

(d) *Information and communication.*

1. Management uses quality information to achieve the town's objectives. The Town Clerk-Treasurer and other department heads attend training and industry seminars to stay abreast of changes and developments in requirements and communicate that information effectively to impacted employees. By adopting standards and investing in systems that exceed state-mandated minimums, town management provides employees and stakeholders with high quality information.

2. Management internally communicates the necessary quality information to achieve the town's objectives. Internal communications on internal controls are communicated through adoption of formal policies by relevant boards and commissions and/or the Town Council, or documented through memos from the appropriate department head.

3. Management externally communicates the necessary quality information to achieve the town's objectives. Communication with the State Board of Accounts, other state agencies, grantor agencies, and regulatory agencies are documented by email, memos, letters, and other forms of written correspondence. Logs are kept for information provided verbally. All documents are maintained in accordance with the town and state's record retention policies. Reports and policies are cross-checked for accuracy, relevancy, and timeliness of information.

(e) *Monitoring.*

1. Management establishes and operates monitoring activities to monitor the internal control system and evaluate the results. town administration will monitor and evaluate compliance with internal control policies via multiple vectors. Separation of duties, redundancy policies, layered approval systems, monthly reports, and physical controls allow management to both review and evaluate control systems. Monitoring activities will be documented by signatures, initials, or other appropriate methods.

2. Management remediates identified internal control deficiencies on a timely basis. Breaches of internal controls are subject to significant levels of internal scrutiny. If informed of a material breach of internal controls, the Town Council shall actively investigate and address said breach and adjust policies and procedures to prevent such breaches in the future. Once breaches are identified and investigated, a formal or informal corrective plan will be developed.

(B) *Implementation.*

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

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

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

(4) *Personnel defined.* The town authorizes the Town Council to determine the position and persons who are personnel, as referred to in division (B)(2)(3), and to notify such personnel.

(5) *Management defined.* As used in this section, Management shall mean the Town Council of the Town of Winamac, the Clerk-Treasurer of the town, and the Town Manager of the town.

(6) *Failure to abide.* Any employee who fails to abide by or cooperate with the implementation, compliance and certifications connected with the Internal Control System, commits a violation of and may result in the discipline, including termination, of the employee. An elected or appointed official of the town who fails to abide by or cooperate with the implementation and the mandated certifications of the Internal Control System may be subject to any action allowed by law.

(C) *Oversight directive.*

(1) *Compliance.* The Town Council calls upon all town officials, employees, and agents to enforce and comply with this policy on materiality and adhere to the appropriate process for reporting material variances, losses, shortages, or thefts, and to report noteworthy items to the Town Clerk-Treasurer, the Town Manager, or the Town Council.

(2) *Oversight body.* The Town Council directs its Oversight Committee, as well as the Town Clerk-Treasurer and the Town Manager, to monitor, as it deems necessary, compliance with the policy on materiality and process of reporting material items and report noteworthy items to the full Town Council.

(3) *Changes.* The Town Council asks the Clerk-Treasurer to advise the Town Council of any changes in the policy on materiality and process for reporting material items, as directed in the corresponding Clerk-Treasurer's directive. This section, and the standards and procedures, will be inspected annually, on the first meeting in January, and changes will be made as mandated by state law or as otherwise needed according to the town's needs.

(Ord. 7 of 2016, passed 6-13-2016)

§ 35.04 MATERIALITY THRESHOLD.

(A) *Materiality Threshold.*

(1) *Materiality defined.* As used in this section, "material" shall mean a significant or consequential amount, as it pertains to the town, taking into account the town's size, demographics, calculation of monthly receivables, as well as the form or method of payment. The Town Council establishes that such significant or consequential amounts, warranting action under division (B) shall be as follows:

(a) *Cash, checks and other bearer instruments.* It will be the policy of the Town Council that any erroneous or irregular variances, losses, shortages, or thefts of cash in excess of \$200, except for inadvertent clerical errors that are identified timely and promptly with no loss to the town, shall be deemed material, and reported in accordance with division (B).

(b) *Credit card and Other EFT and non-cash items.* It will be the policy of the Town Council that any erroneous or irregular variances, losses, shortages, or thefts of credit card, EFT, or other non-cash items, including town property, in excess of \$500, estimated market value, except for those resulting from inadvertent clerical errors or misplacements that are identified timely, and promptly corrected with no loss to the town, and except for losses from genuine accidents, shall be deemed material and reported in accordance with division (B).

(B) *Material variances.*

(1) *Reporting mandate.* All erroneous or irregular material variances, losses, shortages, or thefts of political subdivision funds or property shall be reported immediately to the State Board of Accounts. As per I.C. 5-11-1-27(j) the State Board of Accounts shall take appropriate investigative and/or enforcement action, as it deems necessary, in order to rectify said material variances, losses, shortages, or thefts.

(2) *Public officer duties.* A public officer, as that term is defined by I.C. 5-11-1-16(d), who has actual knowledge of or reasonable cause to believe that there has been a misappropriation of public funds or assets of the public office, shall immediately send written notice of the misappropriation to the State Board of Accounts and the prosecuting attorney serving in Pulaski County. These misappropriations include:

- (a) Information obtained as a result of a police report;
- (b) An internal audit finding; or
- (c) Another source indicating that a misappropriation has occurred;

(C) *Oversight Directive.*

(1) The Town Council hereby endorses the Clerk-Treasurer Directive, attached as Appendix, regarding a policy on materiality and a process for reporting material items.

(2) *Compliance.* The Town Council calls upon all town officials, employees, and agents to enforce and comply with this policy on materiality and adhere to the appropriate process for reporting material variances, losses, shortages, or thefts, and to report noteworthy items to the Town Clerk-Treasurer or the Town Council.

(3) *Oversight Committee.* The Town Council directs its Oversight Committee to monitor, as it deems necessary, compliance with the policy on materiality and process of reporting material items and report noteworthy items to the full Town Council.

(4) *Changes.* The Town Council asks the Clerk-Treasurer to advise the Town Council of any changes in the policy on materiality and process for reporting material items, as directed in the corresponding Clerk-Treasurer's Directive.

(Ord. 6 of 2016, passed 5-9-2016)

§ 35.05 TITLE VI PLAN ADOPTED.

(A) The town wishes to formally adopt and implement a policy and procedure for the benefit of all Winamac citizens including members of the LGBT population of this town.

(B) The Town Council hereby adopts the Title VI Program and Implementation Plan attached to Res. 5 of 2017, a copy of which is available for inspection and review in the office of the Town Clerk-Treasurer during normal business hours.

(Res. 5 of 2017, passed 5-8-2017)

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
- 50.11 Insufficient funds service
- 50.12 Underground and buried utilities district

§ 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.

('94 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.

('94 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.

('94 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.

('94 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 \$175 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.

('94 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)

§ 50.11 INSUFFICIENT FUNDS SERVICE.

(A) *Insufficient funds service fee.* Any user of any of the services currently provided by the utilities of the town, who delivers any form of payment to any collections agent, financial institution, or any other intermediary or agent of the town, including the town itself, they being duly authorized to receive such funds, and is dishonored due to insufficient funds, shall be charged an insufficient funds service fee of \$27.50, 5% of the amount of the payment, whichever is greater (not to exceed \$250), per transaction.

(B) *Authority.* Such power is expressly reserved to the town under the applicable I.C. 35-43-5-5, and shall be administered strictly

and in adherence to said statute.

(Ord. 1 of 2016, passed 1-11-2016)

§ 50.12 UNDERGROUND AND BURIED UTILITIES DISTRICT.

(A) *Purpose.* The purpose of this section is to adopt a local policy regarding the designation of locations within the incorporated areas of the town as underground or buried utility areas pursuant to I.C. 8-1-32.3-15(c)(1).

(B) *Designation.* The town, through its Town Council, hereby establishes an underground and buried utilities district (the "area") to be in effect April 29, 2017, and to apply throughout the town's rights-of-way and granted utility easements, and is hereinafter defined as follows:

(1) In all areas of the town where no overhead or above ground utilities, utility facilities, overhead lines, or associated overhead structures used or useful in supplying electric, communication, or similar and associated services currently exist;

(2) In all areas of the town where planned road projects, redevelopment areas and/or economic development areas provide for and require underground buried utilities and utility facilities, including but not limited to electric, communication or similar and associated services; and

(3) In all other areas of the town's rights-of-way throughout the town, or in a utility easement granted by the town, whether or not above ground utilities or utility facilities currently exist.

(C) *Restrictions.* With respect to the construction, placement, or use of a small cell facility and the associated support structure, the Town Council hereby restricts and prohibits the placement of new utility poles or new wireless support structures in the designated area of the town rights-of-way as outlined in this section, except as otherwise permitted in division (D) below.

(D) *Exceptions.* Notwithstanding the restrictions and prohibitions contained in division (C) above, the following provisions shall be met and the following exceptions are hereby permitted:

(1) Collocation of small cell facilities on existing utility poles and wireless support structures within the incorporated areas of the town are hereby allowed;

(2) Repair and/or replacement of existing utility poles and wireless support structures within the incorporated areas of the town are hereby allowed;

(3) A petition for a request to install new utility poles or new wireless support structures within the incorporated areas of the town may be filed with the Town Council, which shall hold a public hearing on such petition within 30 days of the filing, and upon which a decision shall be made by the Town Council within 60 days of the filing;

(4) Upon receipt of a petition for the construction, placement, or use of a small cell facility on one or more new utility poles or one or more new wireless support structures in the incorporated areas of the town, the town shall post notice of the petition on the town's internet website with a statement that the petition is available to the public, upon request; and

(5) The prohibition or other restrictions with respect to the placement of new utility poles or new wireless support structures within the incorporated areas of the town shall be applied in a nondiscriminatory manner.

(Res. 4 of 2017, passed 4-29-2017)

CHAPTER 51: GARBAGE

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
- 51.09 Garbage carts
- 51.10 Town dump

- 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

§ 51.09 GARBAGE CARTS.

(A) *Carts provided to be utilized as garbage containers.*

(1) *Required.* It shall be the duty of every person owning or leasing a residence or place of business in the town wherein garbage accumulates from anything whatsoever to maintain in a clean and odor free condition a cart provided by the town.

(2) *Standards.* The only container that may be used must be a cart that the town, by and through its third party garbage collection contract, will supply. Plastic garbage bags with tight-fitting tie closures may be used, but shall be placed inside the cart or dumpster with the lids thereof being closed at all times other than when something is being placed in them. Each cart provided by the town will be equipped with convenient handles and wheels so it will be readily moveable by one person. The carts shall be equipped with a tight-fitting lid or cover so constructed that is shall be watertight, fly proof, raccoon proof, and rat proof.

(3) *Placement for collection.* All carts must be put out for collection by 6:00 a.m. on the day scheduled for the collection. All carts must have open access for the trash collectors to retrieve them. For street pick-up, carts shall be set out no more than 24 hours prior to the usual time of collection and shall be removed within 24 hours after collection.

(4) For purposes of division (A)(3), set out means the premise owner placing their cart within two feet from the edge of their property by the street or curbside for the pickup of their trash, and removed shall mean the premises owner taking their cart from their set out position and placing the cart within their home or garage for storage. If a homeowner is incapable of storing their cart within their home or garage or it is impractical for the homeowner to store their cart within their home or garage, the cart may be stored outside in a discrete place in close proximity, which shall not be greater than five feet, from the home. A cart shall not be stored or placed in any area that impedes pedestrian or vehicular traffic in a public right-of-way.

(5) Reasonable precautions must be taken by customers to protect the carts from the depredations of dogs, cats and other animals to prevent the scattering of the material stored in the cart until collected. At no time shall the cart be removed from its

assigned address.

(6) *Storage of garbage.* All garbage, trash or rubbish which accumulates shall be deposited in either a cart or dumpster. The lid to every cart and dumpster shall be kept on and closed at all times other than when placing items in them.

(B) *Enforcement/fines.* Whoever violates any of the provisions of this section shall pay a civil penalty of not more than \$100 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense. In addition, any abatement procedures provided by law shall be in addition to any penalties prescribed in this section.

(Ord. 8 of 2015, passed 9-14-2015)

§ 51.10 TOWN DUMP.

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

APPROVED WASTE. Branches, grass, and other forms of plant material that constitute yard waste. This specifically excludes all other forms of waste, including, but not limited to, trash, building materials, tires, furniture, metal, rubber, and all other forms of man-made waste.

TOWN DUMP. The property located at the northeast corner of 200 West and 50 North, and maintained by the town for use as a location for the dumping of approved waste.

(B) *Prohibited dumping; approved waste only.* No person shall throw, place, deposit, or cause to be thrown, placed, or deposited at the town dump any form of trash, refuse, rubbish, or any other item whatsoever, except for approved waste.

(Ord. 7 of 2017, passed 7-10-2017) 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

Section

- 52.01 Rates and charges
- 52.02 Terms of payment
- 52.03 Non-payment of bills
- 52.04 Disconnection of charges
- 52.05 Net emergency metering

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>
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:

<i>Commercial Power Service - Rate "CP"</i>	<i>Existing Rate</i>	<i>Rate Effective with Passage</i>
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:

<i>Power Service - Rate "P"</i>	<i>Existing Rate</i>	<i>Rate Effective with Passage</i>
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:

<i>Power Service - Rate "LP"</i>	<i>Existing Rate</i>	<i>Rate Effective with Passage</i>
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:

<i>Municipal Service - Rate "M"</i>	<i>Existing Rate</i>	<i>Rate Effective with Passage</i>
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

(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)

§ 52.04 DISCONNECTION CHARGES.

(A) Connection and disconnection requirements.

(1) *Disconnection.* A current user of the utilities may request from the town, in writing, a temporary disconnection from the applicable utility system by means of a petition. The petition shall include:

- (a) The reason for the disconnection;
- (b) The duration of the desired disconnection; and
- (c) Funds in the amount of \$25 for the requested disconnection.

(2) The town reserves the right, in its sole and absolute discretion, to grant or deny said petition. Should the town deny such request, the Petitioner shall have their petition funds returned.

(3) *Reconnection.* At the expiration of the disconnection period listed in the petition, user will be responsible for contacting the town to reconnect to the applicable system. A user who had previously disconnected from the applicable utility system under division (A)(1) of this section, who desires to reconnect to said system before the expiration of the disconnect period listed in the Petition, may request a reconnection at any time prior to such expiration. User will be responsible for the \$25 reconnection fee, whether requested during the disconnection period, or at the expiration of the period listed in the petition.

(4) *Reasonableness of fee.* In accordance with I.C. 8-1.5-3-8, the required \$25 fees are a reasonable calculation of the required maintenance, repair and operating expenses associated with the disconnection and reconnection from the utilities.

(Ord. 3 of 2016, passed 3-14-2016)

§ 52.05 NET ENERGY METERING.

(A) The findings and determinations set forth in the preambles to this section are hereby made findings and determinations of the Council.

(B) The town encourages interested citizens and businesses to invest in renewable electric energy generation systems and enter into a net metering arrangement with the municipal electric utility of the town.

(C) "Eligible net metering customers" include single phase customers in good standing that own and operate a renewable generating facility that: (a) has a nameplate capacity less than or equal to ten kilowatts (kW); (b) is located on the customer's premises and is operated by the customer; and (c) is used primarily to offset all or part of the customer's own electricity requirements.

(D) The Council authorizes the utility to offer net metering to eligible net metering customers on a first come, first served basis. The utility shall limit the aggregate amount of net metering facility nameplate capacity from all eligible net metering customers to one-tenth of 0.1% of the utility's most recent summer peak load.

(E) The utility shall measure the difference between the amount of energy delivered by the utility to the eligible net metering customer and the amount of energy generated by the eligible net metering customer and delivered to the utility. If the eligible net metering customer generates more energy than it consumes in a month, the customer shall receive a bill credit from the utility for the amount of surplus energy generated. The utility shall not purchase or wheel power produced by an eligible net metering customer's facilities.

(F) The attached "Net Metering Tariff" shall be adopted as the rates, terms and conditions under which the utility will offer net metering to eligible net metering customers.

(G) In accordance with the terms of the attached net metering tariff, the utility shall enter into an interconnection agreement with the eligible net metering customer, which incorporates technical interconnection requirements and does not conflict with this section before the net metering facility may be interconnected with the utility's system.

(H) It shall be unlawful for any person or entity to connect or maintain the connection of a renewable generating facility to the utility's system without first executing an interconnection agreement with the utility. Any person or entity found to be in violation of this section shall be fined not less than \$500, nor more than \$2,500 for each such violation, plus costs. In addition to the foregoing fines and at the utility's sole discretion, property where a renewable generating facility is unlawfully connected to the utility's system may be disconnected from the utility's system until an interconnection agreement is executed between the owner of such property and the utility. Every day that a violation of this section occurs shall constitute a separate offense.

(Ord. 11 of 2015, passed 10-12-2015)

CHAPTER 53: WATER

Section

General Provisions

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

Cross-Connection Control

- 53.15 Definitions
- 53.16 Cross-connection prohibited
- 53.17 Installment requirements
- 53.18 Inspection

Cross-reference:

Lawn sprinkling meters, see § 54.56

Meter deposits, see § 50.09

GENERAL PROVISIONS

§ 53.01 RATES AND CHARGES.

(A) (1) *Inside corporate town boundaries.* The rate for monthly consumption per 1,000 gallons of water usage is in accordance with the following chart:

<i>Inside Corporate Town Boundaries</i>		
(1)	First 5,000 gallons	\$7.54
(2)	Next 10,000 gallons	6.30
(3)	Next 20,000 gallons	5.07
(4)	Next 40,000 gallons	3.82
(5)	Over 75,000 gallons	2.49

(2) *Outside corporate town boundaries.* 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>Outside Corporate Town Boundaries</i>		
(1)	First 5,000 gallons	\$8.67
(2)	Next 10,000 gallons	7.24
(3)	Next 20,000 gallons	5.82
(4)	Next 40,000 gallons	4.38
(5)	Over 75,000 gallons	2.86

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

(1) *Inside corporate town boundaries.*

<i>Inside Corporate Town Boundaries</i>	
<i>Meter Size</i>	<i>Monthly Minimum Charge</i>

5/8" to 3/4"	\$19.13
1"	\$47.52
1 1/4"	\$77.72
1 1/2"	\$103.66
2"	\$189.82
3"	\$430.50
4"	\$775.64
6"	\$1,723.73

(2) *Outside corporate town boundaries.* 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>Outside Corporate Town Boundaries</i>	
<i>Meter Size</i>	<i>Monthly Minimum Charge</i>
5/8" to 3/4"	\$21.98
1"	\$54.64
1 1/4"	\$89.37
1 1/2"	\$119.20
2"	\$218.29
3"	\$495.07
4"	\$891.98
6"	\$1,982.28

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

(1) *Inside corporate town boundaries.*

<i>Inside Corporate Town Boundaries</i>	
Private - per hydrant, per annum	\$773.45

(2) *Outside corporate town boundaries.* 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>Outside Corporate Town Boundaries</i>	
Private - per hydrant, per annum	\$889.45

(3) *Public hydrant surcharge.*

Public Hydrant Surcharge

<i>Size of Meter</i>	<i>Charge per Month</i>
Single family residential structure	\$7.25
5/8" to 3/4"	7.25
1"	18.13
1 1/2"	36.24
2"	57.99
3"	108.73
4"	181.21
6"	362.43

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

(1) *Inside corporate town boundaries.*

<i>Inside Corporate Town Boundaries</i>	
<i>Sprinkler Connection Size</i>	<i>Annual Rate</i>
2-inch	\$190.75
4-inch	818.60
6-inch	1,721.50
8-inch	3,028.75
10-inch	4,740.05

(2) *Outside corporate town boundaries.* 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>Outside Corporate Town Boundaries</i>	
<i>Sprinkler Connection Size</i>	<i>Annual Rate</i>
2-inch	\$219.35
4-inch	941.35
6-inch	1,979.70
8-inch	3,483.05
10-inch	5,451.05

(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.

(F) The bulk rate for consumption for 1,000 gallons of water usage will be \$20.

(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; Am. Ord. 13 of 2017, passed 12-11-2017)

§ 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.

(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)

CROSS-CONNECTION CONTROL

§ 53.15 DEFINITIONS.

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

AIR GAP. An unobstructed vertical distance through an atmosphere between the discharge end of a pipeline supplied from a public water, supply and the overflow rim of the receiving portion of the customer's water system.

BACKFLOW. The flow of contaminant into the public water supply distribution system from a source other than the public water supply.

BOOSTER PUMP. A pump installed on a pipeline to increase water pressure and flow.

CROSS-CONNECTION. Any physical arrangement, including cross-connection control devices not in working order or not installed properly, whereby a public water supply distribution system is directly connected, either continuously or intermittently with any secondary source of supply, sewer, drain, conduit, pool, piping, storage reservoir, plumbing fixture or other device which contains, or may contain, and is capable of imparting to the public water supply, contaminants, contaminated water, sewage or other waste or liquid of unknown or unsafe quality.

CROSS-CONNECTION CONTROL DEVICES. Any device or assembly, approved by the town, Water Department, for construction on, or installation in water supply piping which is capable of preventing contaminants from entering the public water supply distribution system.

CROSS-CONNECTION CONTROL DEVICE TESTER. A person who has successfully completed training in testing and inspection of cross connection control devices at an agency or school acceptable to the Commissioner (IDEM) who has registered with the Commissioner (IDEM) and who has not been notified by the Commissioner (IDEM) or the town that his work is unacceptable under this subchapter.

CROSS-CONNECTION HAZARD. Any customer's facility which, because of the nature and extent of activities on the premises or the materials used in connection with the activities or stored on the premises, would present an immediate or potential danger or health hazard to customers of the public water supply should backflow occur.

CUSTOMER. Any person who receives water from a public water supply.

CUSTOMER SERVICE LINE. The pipeline from the public water supply to the first tap, fixture, receptacle or other point of customer water use; or the first secondary source of supply or pipeline branch in a building.

CUSTOMER WATER SYSTEM. All piping, fixtures and appurtenances including secondary sources of supply used by a customer to convey water on his premises.

DOUBLE CHECK VALVE ASSEMBLY. A device or assembly composed of two tightly closing shut-off valves surrounding two independently acting spring loaded check valves, with four test cock, one up stream of the four valves and one between each of the check and shut-off valves.

DOWN STREAM. The direction of flow when only the public water supply is supplying water through the customer water system and backflow is not occurring.

PRESSURE TYPE VACUUM BREAKER. A chamber fitted with a spring-loaded air inlet for relieving a vacuum or partial vacuum in a pipeline.

PUBLIC WATER SUPPLY. Any wells, reservoirs, lakes, rivers, source of supply, pumps, mains, pipes, facilities and structures through which water is obtained, treated as may be required, and supplied through which water is obtained, treated as may be required, and supplied through a water distribution system to at least 100 persons per day for drinking, domestic or other purposes, including state-owned facilities.

REDUCED PRESSURE PRINCIPLE BACKFLOW PREVENTER. A device composed of two tightly closing shut-off valves surrounding two independently acting spring loaded pressure reducing check valves which in return surround an automatic pressure differential relief valve and four test cocks, one upstream of the five valves and one between each of the four test cocks, one upstream of the five valves and one between each of the four check and shut-off valves. The check valves effectively divide the structure into three chambers; pressure is reduced in each downstream chamber allowing the pressure differential relief valve to vent the center chamber to atmosphere should either or both check valves malfunction.

SECONDARY SOURCE OF SUPPLY. Any well, spring, cistern, lake, stream or other water source, intake structure, pumps, piping, treatment units, tanks and appurtenances, used either continuously or intermittently, to supply water other than that from the public water supply to the customer, including tanks used to store water to be used only for firefighting, even though the water contained therein is supplied from the public water supply.

SUPPLIER OF WATER. Any person who owns and/or operates a public water supply.

UPSTREAM. The direction of flow opposite to downstream.

(Ord. 10 of 2015, passed 10-12-2015)

§ 53.16 CROSS-CONNECTIONS PROHIBITED.

(A) No customer shall cause or allow the construction or maintenance of a cross-connection. Piping installed to by-pass a cross connection control device constitutes a cross-connection control device.

(B) No customer shall cause or allow the installation or maintenance of a booster pump in a customer water system unless a control device is installed to prevent operation of the booster pump when pressure to pump suction drops below 20 pounds per square inch, gauge.

(C) Customers constructing a new facility which is designated a cross-connection hazard as defined in IAC 8-10-4(c) or making modifications to the customer service line or installing a higher capacity meter at an existing facility which is designated a cross-connection hazard or change of use that would be designated a cross-connection hazard by IAC 8-10-4(c), shall construct an air gap or install a reduced pressure backflow preventer in accordance with § 53.17, herein, on the customer service line to the facilities so designated.

(1) *Existing buildings.* All existing buildings which house a business activity and are operated as such, will be required to comply

with this subchapter upon the occurrence of any one of the following events:

- (a) New ownership of the building;
- (b) Remodeling;
- (c) Change of occupancy;
- (d) Installation of a new service line or upgrade of service;
- (e) Addition of machinery or chemicals; and
- (f) If backflow occurs.

(2) All fire sprinkler systems must have an approved double check valve assembly installed before the fire systems apparatus. Any system that uses chemicals must install a reduced pressure backflow preventer, pursuant to Town of Winamac Water Department specifications on file in the office of the Winamac Water Utility.

(D) No secondary source of water supply can be connected to customer's building with a water distribution system unless a backflow device is installed on the service line.

(E) Customers shall construct an air gap or install a reduced pressure principle backflow preventer or pressure type vacuum breaker in accordance with § 53.17, herein, on the water line connecting the public water supply to any land irrigation facility buried below ground which has a sprinkling outlet located less than six inches above grade. All installations must comply with Town of Winamac Water Department specifications.

(Ord. 10 of 2015, passed 10-12-2015)

§ 53.17 INSTALLATION REQUIREMENTS.

(A) The discharge pipe of an air gap shall terminate a minimum of two pipe diameters of the discharge pipe or six inches, whichever is the lesser above the maximum record flood level or above the flood level rim of the receiving vessel, whichever is higher.

(B) Only those models of double check valve assemblies, reduced pressure principle backflow preventers or pressure type vacuum breakers approved by the Town of Winamac Water Department are acceptable.

(C) Reduced pressure principle backflow preventers shall be installed horizontally, with no plug or additional piping affixed to the pressure differential relief valve port, and with the pressure differential relief valve port a minimum of 12 inches above floor level. Additionally, the device must be installed at a location where any leakage from the pressure differential relief port will be noticed, and that allows access to the device for maintenance and testing from floor level, so that it will not subject the device to flooding, excessive heat or freezing.

(D) All double check valve assemblies shall be installed horizontally at a location that allows access to the device for maintenance and testing from floor level and that will not subject the device to excessive heat or freezing.

(E) Pressure type vacuum breakers shall be installed as near as possible to the irrigation facility, at a location that allows access to the device for maintenance and testing from floor or ground level and that will not subject the device to flooding, excessive heat or freezing. Additionally, the device must be installed with its center line or datum point a minimum of 12 inches above floor level; the highest downstream shut-off valve; and the highest downstream overflow rim or discharge point.

(Ord. 10 of 2015, passed 10-12-2015)

§ 53.18 INSPECTION.

(A) The customer shall install and maintain in working order at all times any cross-connection control device or booster pump control device or booster pump control device required hereunder. All cross-connection control devices must be tested in accordance with this subchapter.

(B) To ensure that each cross-connection control device required is in working order, the customer shall have each device inspected or tested by a cross-connection control device tester at the time of construction or installation and at the following intervals in the following manner:

(1) Air gaps shall be inspected at intervals not exceeding on year to ensure that they continue to meet the requirements.

(2) Reduced pressure principle backflow preventers shall be tested at intervals not exceeding six months to ensure that both check valves are drip tight under all pressure differentials and that the pressure differential relief valve will maintain pressure in the center chamber at least two pounds per square inch below that of the inlet chamber.

(3) Double check valve assemblies shall be teste at intervals not exceeding one year to ensure that both check valves are drip tight under all pressure differentials.

(4) Pressure type vacuum breakers shall be tested at intervals not to exceed six months to ensure that the air inlet opens fully when water pressure is at or below atmospheric pressure.

(5) The customer shall permit access to his premises by the inspector and the supplier of water at reasonable times and upon presentation of identification, for inspection of the customer's water system or testing of cross-connection control devices installed in accordance with this subchapter.

(6) All cross-connection control device testers shall be registered with the Indiana Environmental Management Board.

(7) The testers shall report to Town of Winamac Water Department on a form, provided by the Town of Winamac Water Department the results of inspections or test conducted pursuant to air gaps, reduced pressure principle, backflow preventers, double check valve assemblies and pressure type vacuum breakers. Reports shall be submitted to the Town of Winamac Water Department, the customer (and IDEM if they request one) within 30 days of the inspection or test.

(Ord. 10 of 2015, passed 10-12-2015)

§ 53.19 FINES.

A violation of this subchapter shall be subject to fines set forth in the town in the amount of \$500 for each occurrence.

(Ord. 10 of 2015, passed 10-12-2015)

§ 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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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 ***BOD₅***.

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.

§ 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:

(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;

(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.

Unless the context specifically indicates otherwise, the meaning of terms used in this subchapter shall be as follows:

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

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

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

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 SURCHARGES. 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.

NPDES (NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM) PERMIT. The same as defined in the sewer use ordinance.

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) Phosphorus not more than 200 mg/l; and

(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.

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

OTHER SERVICE CHARGES. 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. shall mean the expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of treatment works to maintain the capacity and performance for which such works were designed and constructed.

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

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.

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

USER CLASS. 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 wastes or wastes from sanitary conveniences.

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

(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; Am. Ord. 8 of 2016, passed 7-11-2016)

§ 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 USEPA. 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) Class I - Residential;
- (b) Commercial;
- (c) Governmental;
- (d) Institutional; and
- (e) Industrial.

(B) For the use of and the service rendered by said 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. Such rates and charges include user charges, debt service costs, excessive strength surcharges and other service charges, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows:

(1) The sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to such rates and charges, as the same is measured by the water meter there in use, plus a base charge based on the size of the water meter installed, except as herein otherwise provided. For the purpose of billing and collecting the charges for sewage service, the water meters shall be read monthly and the users shall be billed monthly (or period equaling a month). The water usage schedule on which the amount of said rates and charges shall be determined is as follows:

All 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.)

(a) Inside corporate town boundaries:

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

<i>User Charge</i>	<i>Debt Service</i>	<i>Total</i>
\$6.60	\$3.74	\$10.34

plus

2. 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	\$7.40	\$11.70	\$19.10
1-inch water meter	\$11.55	\$29.20	\$40.75
1 1/4-inch water meter	\$15.75	\$46.85	\$62.60
1 1/2-inch water meter	\$20.65	\$67.85	\$88.50
2-inch water meter	\$32.15	\$117.05	\$149.20
3-inch water meter	\$68.00	\$269.20	\$337.20
4-inch water meter	\$117.55	\$479.80	\$597.35
6-inch water meter	\$258.00	\$1,076.70	\$1,334.70

(b) Outside corporate town boundaries:

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

<i>User Charge</i>	<i>Debt Service</i>	<i>Total</i>
\$7.58	\$4.30	\$11.88

plus

2. 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	\$8.55	\$13.40	\$21.95
1-inch water meter	\$13.25	\$33.60	\$46.85
1 1/4-inch water meter	\$18.05	\$53.90	\$71.95
1 1/2-inch water meter	\$23.75	\$78.00	\$101.75
2-inch water meter	\$37.00	\$134.55	\$171.55
3-inch water meter	\$78.15	\$309.55	\$387.70
4-inch water meter	\$135.10	\$551.85	\$686.95
6-inch water meter	\$296.70	\$1,238.20	\$1,534.90

(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 said rates and charges shall be determined is amended as follows:

1. Inside corporate town boundaries:

	<i>User Charge</i>	<i>Debt Service</i>	<i>Total</i>
Residential:			
Single-family residence/unit	\$37.15	\$28.40	\$65.55

2. Outside corporate town boundaries:

	<i>User Charge</i>	<i>Debt Service</i>	<i>Total</i>

Residential Single-family residence/unit	\$42.70	\$32.65	\$75.35
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(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.

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

(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 subchapter.

(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; Am. Ord. 8 of 2016, passed 7-11-2016)

§ 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 such 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 such 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 subchapter, the owner or other interested party shall at his expense, install and maintain meters, weirs, volumetric measuring devices, or any adequate and approved method of measurement acceptable to the town for 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 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 house-keeping 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 such dwelling units times base rate per month as shown below:

Inside corporate town boundaries	\$19.10
Outside corporate town boundaries	\$21.95

(5) In order that domestic and residential users of sewage services shall not be penalized for the sprinkling of lawns during the months June, July, August, and September, the billing for sewage service for residents and/or domestic users for said 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 average water usage for said previous months of December, January, February and March is greater than the water usage for said months of June, July, August and September, then the billing for sewage service 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. Said sprinkling rate shall not apply to any premises which are partially or wholly used for commercial or industrial purposes. In the event a portion of such premises shall be used for commercial or industrial purposes, the owner shall have the privilege of separating the water service so that the residential portion of the premises is served through a separate meter, and in such case, the water usage as registered by the water meter serving such portion of the premises used for residential purposes would qualify under the sprinkling rate.

(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 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.

(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 service rendered to users, the town shall base its charges not only on the volume, but also the strength and character of the stronger-than-normal domestic sewage and wastes which it is required to treat and dispose of. The town shall require the user to determine the strength and content of all sewage and wastes discharged, either directly or indirectly into the sanitary sewage system, in such manner and by such 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.

\$0.38 per pound of suspended solids received in excess of 200 milligrams per liter of fluid
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(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.

\$0.38 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 addition 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; Am. Ord. 8 of 2016, passed 7-11-2016)

§ 54.53 BILLING.

(A) Such 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 such billing shall in no way relieve the owner from the liability in the event payment is not made as herein required. The owners of properties served, which are occupied by a tenant or tenants, shall have the right to examine the collection records of the town for the purpose of determining whether bills have been paid by such tenant or tenants, provided that such examination shall be made at the office at which said records are kept and during the hours that such 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 such 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; Am. Ord. 8 of 2016, passed 7-11-2016)

§ 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. Such 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) Will maintain proportionally among the user classes of the rate and charges for sewage services.

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

(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; Am. Ord. 8 of 2016, passed 7-11-2016)

§ 54.55 ENFORCEMENT.

(A) (1) The town shall make and enforce such by-laws and regulations as may be deemed necessary for the safe, economical and efficient management of the town's sewage system, pumping stations and 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 such 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 said 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 such special rates shall be based on such costs.

(C) That the rules and regulations promulgated by the town, after approval of 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 of 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 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; Am. Ord. 8 of 2016, passed 7-11-2016)

§ 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

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.

('94 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.

(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, and as further defined in I.C. 9-13-2-69.7.

(B) *Registration.*

(1) *Registration/transfer fee.* A registration fee of \$25 for each cart registered shall be payable at the time of registration, and the registration shall be effective for a period of one year. The registration fee shall be paid by January 31 of each year, in order to utilize a golf cart for the current year in which the registration is paid. All registration fees for motorized carts are to be deposited in the Winamac Police Department's Continuing Education Fund.

(2) *Decals issued upon registration.* Prior to operation on private roads, highways, and other public-right-of-way, within the jurisdiction of the town, 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. Registration and decals are non-transferable.

(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 that term is defined by 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. 9-21-9-2, and equipped with headlights, taillights, brake lights, and turn signals, which will allow the licensed operator to operate on non-prohibited private roads, highways, and other public rights-of-way, under the jurisdiction of the town, 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, under the jurisdiction of the town.

(4) No children under 48 pounds, that would 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) Operators 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 occasions include, but are not limited to, parade participations and festivals.

(Ord. 11-2012, passed 8-13-2012; Am. Ord. 11 of 2017, passed 11-13-2017) 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 the Indiana Code, or any town ordinance, while operating a motorized cart, whether the offending person is a juvenile or any other person.

(2) Any unregistered motorized cart in violation of § 70.03 shall be issued an Indiana Uniform Traffic Citation, and may be towed, at the owner's expense.

(3) Any owner and/or operator of any motorized cart found to be in violation of § 70.03, shall be issued the following fines:

(a) First offense: A \$50 fine shall be issued.

(b) Second offense (within one year): A \$100 fine shall be issued.

(c) Third offense (within one year): A \$500 fine shall be issued, and the owner's registration to operate a golf cart shall be revoked for a period of one year from the date of the third offense.

(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; Am. Ord. 11 of 2017, passed 11-13-2017)

CHAPTER 71: PARKING REGULATIONS

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

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	-	-
Intersection of 12th	Right side of 12th			

Street and Market Street	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	Right side of		11,	11-23-

Agnew Street and 17th Street	Agnew Street	South	1999	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
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	Right side of 15th	East	-	-

and 15th Street	Street			
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 West Street	Right side of West Street	South	11, 1999	11-23-1999
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 16th Street	Right side of Market Street	North	2, 2015	5-11-2015
Intersection of Market Street and	Right side of Market Street	South	2, 2015	5-11-2015

16th Street				
Intersection of Market Street and 16th Street	Right side of 16th Street	East	2, 2015	5-11-2015
Intersection of Market Street and 16th Street	Right side of 16th Street	West	2, 2015	5-11-2015
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	-	-
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 Riverside Drive and Main Street	Right side of Riverside Drive	North	-	-
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
Intersection of the alley between Riverside Drive and Monticello Street and the alley between Superior	Right side of both alleys	All	8, 1999	8-24-1999

Street and Huddleston Street				
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 and Spring 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 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	Right side of both alleys	All	8, 1999	8-24-1999

Huddleston Street and Washington Street				
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 between Monticello Street and Market 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 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	Right side of both alleys	All	8, 1999	8-24-1999

Street 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 between Market Street and Burson 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 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	Right side of both			8-24-

Burson Street and the alley between Huddleston Street and Washington Street	alleys	All	8, 1999	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
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	Right side of both	All	8, 1999	8-24-

and the alley between 11th Street and 12th Street	alleys			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 Street	Right side of 14th Street	East
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
Intersection of Erie Street and Monticello Street	Right side of Erie Street	West
Intersection of Huddleston Street	Right side of	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	Right 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 Monticello Street	Right side of Meridian Street	West
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

(C) *One-way stop intersections.*

<i>Street/Intersection</i>	<i>Location</i>	<i>Direction</i>
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	Right side of Willow	North

and Willow Creek Court	Creek Court	
Intersection of Huron Street and Monticello Street	Right side of Huron Street	West
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 Huddleston Street	Right side of Huddleston Street	North
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
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(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

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 intersection with the alley between Main Street and Pearl Street	East	2 of 2007	6-11-2007
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	East	2 of 2007	6-11-2007

	door of the Justice Center			
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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 of 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 of 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 Huddleston Road	North/ South	2 of 2007	6-11-2007

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	East	2 of 2007	6-11-2007

	intersection with Pearl Street			
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>
	Going north for 80 feet		4A of	5-12-

Logan Street	from its intersection with Main Street	West	2008	2008
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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**
- 99. DISCRIMINATION**

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

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

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

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.

§ 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

Section

Trees

94.01 Winamac Tree Committee; duties

94.02 Street trees

94.03 Tree care; regulations

Vegetation

94.10 Weeds and rank vegetation

94.99 Penalty

TREES

§ 94.01 WINAMAC TREE COMMITTEE; DUTIES.

(A) (1) There is hereby created and established the Winamac Tree Committee, which shall consist of five members, citizens and residents of the town who shall be appointed by the Town Council.

(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 Tree Committee shall serve without compensation.

(B) (1) Winamac Tree Committee shall serve in an advisory capacity to the Town Council.

(2) It shall be the responsibility of Winamac Tree Committee 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 Tree Committee 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 Tree Committee, 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 Tree Committee 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; Am. Ord. 3 of 2015, passed 6-15-2015; Am. Ord. 4 of 2016, passed 4-11-2016)

§ 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 Tree Committee 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 Tree Committee.

(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 Tree Committee.

(Ord. 15, 1999, passed 12-13-1999; Am. Ord. 3 of 2015, passed 6-5-2015; Am. Ord. 4 of 2016, passed 4-11-2016)

§ 94.03 TREE CARE; REGULATIONS.

(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 Tree Committee 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 of 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 Tree Committee.

(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 Tree Committee, 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 Tree Committee, and any person may appeal from any ruling or order of Winamac Tree Committee to the Town Council, who may hear the matter and make final decision.

(Ord. 15, 1999, passed 12-13-1999; Am. Ord. 3 of 2015, passed 6-5-2015; Am. Ord. 4 of 2016, passed 4-11-2016) 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.

CHAPTER 95: NOISE

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

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.
- (’94 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

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.

('94 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

Section

- 98.01 Park rules
- 98.02 Exemptions
- 98.03 Prohibited persons
- 98.04 Posting of signage
- 98.98 Enforcement

§ 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.
- (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)

CHAPTER 99: DISCRIMINATION

Section

- 99.01 Policy statement
- 99.02 Definitions
- 99.03 Unlawful practice
- 99.04 Sale or rental of housing

- 99.05 Residential real estate-related transactions
- 99.06 Provision of brokerage service
- 99.07 Interference, coercion, or intimidation
- 99.08 Prevention of intimidation in fair housing cases
- 99.09 Equal access to housing in HUD programs
- 99.10 Exemptions
- 99.11 Administrative enforcement ordinance

§ 99.01 POLICY STATEMENT.

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

(Ord. 7 of 2015, passed 7-13-2015)

§ 99.02 DEFINITIONS.

The definitions set forth in this section shall apply throughout this chapter.

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

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

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

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

DISCRIMINATORY HOUSING PRACTICE. An act that is unlawful under §§ 99.04 through 99.08 or I.C. 22-9.5-5.

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

FAMILY. A single individual (I.C. 22-9.5-2-9) with the status of such family being further defined in **FAMILIAL STATUS**.

HANDICAP.

- (1) With respect to a person:
 - (a) A physical or mental impairment which substantially limits one or more of such person's major life activities;
 - (b) Record of having such an impairment;
 - (c) Being regarded as having such an impairment;
 - (d) An impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990; and
 - (e) Any other impairment defined in 910 IAC 2-3.

(2) The term **HANDICAP** shall not include current illegal use of or addictions to a controlled substance as defined in Section 802 of Title 21 of the United States Code 910 IAC 2-3-2(14); nor does the term **HANDICAP** include an individual solely because that individual is a transvestite 910 IAC 2-3-2(14).

FAMILIAL STATUS.

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

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

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

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

(Ord. 7 of 2015, passed 7-13-2015)

§ 99.03 UNLAWFUL PRACTICE.

Subject to the provisions of division (B), § 99.09 and I.C. 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth I.C. 22-9.5-5-1 and in § 99.04 shall apply to:

(A) All dwellings except as exempted by division (B) and I.C. 22-9.5-3.

(B) Other than the provisions of division (C), nothing in § 99.04 shall apply to:

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

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

(b) Without the publication, posting or mailing, after notice of advertisement or written notice in violation § 99.04(C), but noting in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other such professional assistance as necessary to perfect or transfer this title, or

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

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

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

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

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

(Ord. 7 of 2015, passed 7-13-2015)

§ 99.04 THE SALE OR RENTAL OF HOUSING.

As made applicable by § 99.03 and except as exempted by § 99.03(B) and § 99.09, it shall be unlawful:

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

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

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

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

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

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

- (1) That buyer or renter;
- (2) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
- (3) Any person associated with that person.

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

- (1) That person; or
- (2) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
- (3) Any person associated with that person.

(H) For purposes of this section, discrimination includes:

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

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

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

- (a) The public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;
- (b) All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
- (c) All premises within such dwellings contain the following features of adaptive design:
 1. An accessible route into and through the dwelling;
 2. Light, switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
 3. Reinforcements in bathrooms such that an individual in a wheelchair can maneuver about the space.

(I) Compliance with the appropriate requirement Americans with Disabilities Act of 1990 and of the American National Standard for Buildings and Facilities providing accessibility an usability for physically handicapped people (commonly cited as ANSI A117.1) suffices to satisfy the requirements of division (H)(3)(c)3.

(J) Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat

to the health of safety of other individuals of whose tenancy would result in substantial physical damage to the property of others.

(Ord. 7 of 2015, passed 7-13-2015)

§ 99.05 RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS.

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

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

- (1) The making or purchasing of loans or providing other financial assistance:
 - (a) For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
 - (b) Secured by residential real estate.
- (2) The selling, brokering, or appraising of residential real property.

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

(Ord. 7 of 2015, passed 7-13-2015)

§ 99.06 PROVISION OF BROKERAGE SERVICE.

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

(Ord. 7 of 2015, passed 7-13-2015)

§ 99.07 INTERFERENCE, COERCION, OR INTIMIDATION.

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by §§ 99.03 through 99.06.

(Ord. 7 of 2015, passed 7-13-2015)

§ 99.08 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES.

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

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

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

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

(2) Affording another person or class of persons opportunity or protection so to participate; or

(C) Any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in division (A), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined according to local, state and federal law; and if bodily injury results shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

(Ord. 7 of 2015, passed 7-13-2015)

§ 99.09 EQUAL ACCESS TO HOUSING IN HUD PROGRAMS.

Pursuant to 24 CFR Part 5.403 and 24 CFR Part 574.3 the definition of "family" is revised to include families regardless of the actual or perceived sexual orientation, gender identity, or marital status of its members.

(Ord. 7 of 2015, passed 7-13-2015)

§ 99.10 EXEMPTIONS.

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

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

(C) Nothing in this chapter regarding familial status shall apply with respect to housing for older persons. As used in this section, 'housing for older persons' means housing:

(1) Provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development or the state civil rights commission determines is specifically designed and operated to assist elderly person (as defined in the state or federal program);

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

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

(Ord. 7 of 2015, passed 7-13-2015)

§ 99.11 ADMINISTRATIVE ENFORCEMENT OF ORDINANCE.

(A) The authority and responsibility for properly administering this chapter and referral of complaints hereunder to the Commissioner as set forth in division (B) hereof shall be vested in the chief elected official of the town.

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

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

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

(Ord. 7 of 2015, passed 7-13-2015)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. GENERAL PROVISIONS

111. ADULT-ORIENTED BUSINESSES

CHAPTER 110: GENERAL PROVISIONS

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

- 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.

(‘94 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.

(‘94 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**
- 154. UNIFIED DEVELOPMENT ORDINANCE**

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

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.

('94 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.

CHAPTER 152: FLOOD HAZARD AREAS

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
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Administration

- 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 it's 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.

§ 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.

(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.

Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.

(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 variances 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

Section

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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 be 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.

(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)

CHAPTER 154: UNIFIED DEVELOPMENT ORDINANCE

Section

154.01 Unified Development Ordinance adopted

§ 154.01 UNIFIED DEVELOPMENT ORDINANCE ADOPTED.

(A) Ordinance No. 3 of 2017, An Ordinance for Unified Development with the exception of the current zoning map and zoning fee permits, shall be in full force and effect on January 1, 2017.

(B) Ordinance No. 3 of 2017 repeals and replaces the Winamac Zoning and Subdivision Control Ordinance as adopted in 1994 and subsequently amended, but excludes the Official Zoning Map and change to the zoning permit fee. Copies of the Winamac, Indiana, Unified Development Ordinance will be available for inspection and review, during regular business hours, in the Clerk-Treasurer's Office/Town Hall as well as the Office of the Planning Commission.

(Ord. 3 of 2017, passed 2-13-2017)

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 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
3 of 2016	6-13-2016	Vacation of a 16-foot alley, commencing at a point 132 feet north of the south boundary of Lots 3 and 4 of McClelland's Addition and running 132 feet east of Keller Street
Res. 2 of 2017	2-13-2017	Vacation of a 30-foot wide parcel north of Lots 1 through 7 in Hogan's Addition, and a 30-foot wide parcel on the south side of Lot 8 or Reidelbach's Addition to the town

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.
5 of 2017	5-18-17	Adoption of economic development rider to Indiana Municipal Power Agency

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
Res. 14 of 2017	--	Authorization for purchase of 251 Main Street for use as police station

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
3-5-3-11	30.03
4-21.5-3-7	153.39
5-3-1	33.03, 34.03

5-4-1-18	33.03
5-11-1-16(d)	33.04
5-11-1-27(j)	35.03, 35.04
5-11-1-27(l)	35.03
5-11-10 et seq.	34.04
5-11-10-1.6	34.06
5-13-9-5.7	35.02
5-13-9-5.7(a)	35.02
5-13-9-5.7(b)	35.02
6-1.1-41	33.03
8-1-26-2 - 8-1-26-12	50.10
8-1-32.3-15(c)(1)	50.12
8-1.5-3-8	52.04
9-13-2-69.7	70.03
9-17-2	70.01
9-21-9-2	70.03
9-22-1-1 et seq.	90.02
9-22-1-32	90.04
9-25-2-3	70.03
13-11-2-191	33.02
13-17-9	96.01
22-9.5-1	99.01
22-9.5-2-2	99.02
22-9.5-2-3	99.02
22-9.5-2-4	99.02
22-9.5-2-8	99.02
22-9.5-2-9	99.02
22-9.5-2-11	99.02
22-9.5-2-13	99.02
22-9.5-3 et seq.	99.10
22-9.5-3	99.03
22-9.5-4-8	99.11
22-9.5-5	99.02
22-9.5-5-1	99.03
22-9.5-6	99.02, 99.11
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
32-25-2-9	153.03
35-42-4-1 et seq.	111.08
35-43-5-5	50.11
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
36-5-4-12(b)	34.06
36-8-17	153.26
36-10-3 et seq.	33.03
36-10-3	33.03
36-10-3-4.1	33.03
36-10-3-22	33.03

REFERENCES TO 1994 CODE

<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
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8-2-1	93.05
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
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10-3-4	50.04
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10-3-6	50.06
10-3-7	50.07
10-3-8	50.08
10-5	50.09

11-1	130.02
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REFERENCES TO RESOLUTIONS

<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
6, 2003	8-11-2003	T.S.O. I
2 of 2017	2-13-2017	T.S.O. I
4 of 2017	4-29-2017	50.12
5 of 2017	5-8-2017	35.05
14 of 2017	- -	T.S.O. IV

REFERENCES TO ORDINANCES

<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
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. 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
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 - 54.55
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
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
2 of 2015	5-11-2015	Ch. 72, Sch. II
3 of 2015	6-15-2015	94.01 - 94.03
4 of 2015	6-15-2015	Adopting Ordinance
7 of 2015	7-13-2015	99.01 - 99.11
8 of 2015	9-14-2015	51.09
10 of 2015	10-12-2015	53.15 - 53.19
11 of 2015	10-12-2015	52.05
12 of 2015	10-12-2015	34.04
16 of 2015	12-30-2015	34.05

3 of 2016	3-14-2016	39.04
4 of 2016	4-11-2016	94.01 - 94.03
5 of 2016	4-28-2016	33.03
6 of 2016	5-9-2016	35.04
7 of 2016	6-13-2016	35.03
8 of 2016	7-11-2016	54.50 - 54.55
11 of 2016	9-12-2016	34.06
13 of 2016	10-31-2016	33.03
3 of 2017	2-13-2017	154.01
4 of 2017	4-10-2017	30.04
5 of 2017	5-18-2017	T.S.O. II
7 of 2017	7-10-2017	51.10, 51.99
11 of 2017	11-13-2017	70.03, 70.99
13 of 2017	12-11-2017	53.01