

VERSAILLES
INDIANA
CODE

Published by Order of the Town Council

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OFFICIALS

of the

TOWN OF

VERSAILLES, INDIANA

AT THE TIME OF THIS CODIFICATION

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Town Council

Kiersten Libby
Clerk-Treasurer

Cheryl Richmond
Town Judge

Larry L. Eaton
Town Attorney

PREFACE

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

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

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

Chapter and Section Numbering System

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

Page Numbering System

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

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

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

Index

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

Looseleaf Supplements

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

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

Acknowledgments

This publication was under the direct supervision of Roger D. Merriam, Senior Code Attorney, and Lisa Stevens, Editor, of the Municipal Code

Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

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

Copyright

All editorial enhancements of this Code are copyrighted by Municipal Code Corporation and the Town of Versailles, Indiana. Editorial enhancements include, but are not limited to: organization; table of contents; section catchlines; prechapter section analyses; editor's notes; cross references; state law references; numbering system; code comparative table; state law reference table; and index. Such material may not be used or reproduced for commercial purposes without the express written consent of Municipal Code Corporation and Town of Versailles, Indiana.

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CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

- Sec. 1-1. How Code designated and cited.
- Sec. 1-2. Definitions and rules of construction.
- Sec. 1-3. Catchlines of sections; history notes; references.
- Sec. 1-4. Effect of repeal of ordinances.
- Sec. 1-5. Amendments to Code; effect of new ordinances; amendatory language.
- Sec. 1-6. Supplementation of Code.
- Sec. 1-7. General penalty; continuing violations.
- Sec. 1-8. Severability.
- Sec. 1-9. Provisions deemed continuation of existing ordinances.
- Sec. 1-10. Code does not affect prior offenses or rights.
- Sec. 1-11. Certain ordinances not affected by Code.

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

The ordinances embraced in this and the following chapters shall constitute and be designated the "Versailles, Indiana Code," and may be so cited.

State law reference—Codification of ordinances required, IC 36-1-5-3.

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

The following definitions and rules of construction shall apply to this Code and to all ordinances unless the context requires otherwise:

Generally.

- (1) When provisions conflict, the specific shall prevail over the general.
- (2) All provisions shall be liberally construed so that the intent of the town council may be effectuated. Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings.
- (3) This Code shall be interpreted and applied so as to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare.
- (4) If a manifest error be discovered consisting of the misspelling of any word or 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 were clearly intended to express such intent, such spelling shall be corrected, and such word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provision 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 such error.

Code. The term "Code" means the Versailles, Indiana Code, as designated in section 1-1.

Computation of time. In computing any period of time, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, legal holiday, or a day on which the town office in which the act is to be done is closed during regular business hours. In any event, the period runs until the end of the next day that is neither a Saturday, Sunday, legal holiday or a day on which the town office in which the act is to be done is closed. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, legal holidays and days on which the town office is closed shall be excluded from the computation.

Conjunctions. In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunctions "and," "or" or "either . . . or," the conjunctions shall be interpreted as follows, except that in appropriate cases the terms "and" and "or" are interchangeable:

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

Council, town council. The terms "town council" and "council" mean the town council of the Town of Versailles, Indiana.

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

Delegation of authority. A provision that authorizes or requires a town officer or town employee to perform an act or make a decision authorizes such officer or employee to act or make a decision through subordinates.

Gender. Words of one gender include all other genders.

IC. The abbreviation "IC" refers to the Indiana Code, as amended.

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

Joint authority. Words giving a joint authority to three or more persons give such authority to a majority of such persons.

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

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

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

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

Oath. A solemn affirmation is the equivalent to an oath and a person shall be deemed to have sworn if such person makes such an affirmation.

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

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

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

Personal property. The term "personal property" means any property other than real property.

Premises. The term "premises," as applied to real property, includes lands and structures.

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

Public place. The term "public place" includes any street, sidewalk, park, cemetery, schoolyard, body of water or watercourse.

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

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

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

Signature, subscription. The terms "signature" and "subscription" include a mark when the signer or subscriber cannot write. In such situations, such person's name shall be written near the mark by a witness who writes his own name near such person's name.

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

Street. The term "street" includes any alley, avenue, boulevard, lane, road, highway, viaduct or other public thoroughfare.

Tenant, occupant. The terms "tenant" and "occupant," as applied to premises include any person holding a written or oral lease, or who actually occupies the whole or any part of such premises, alone or with others.

Tenses. The present tense includes the past and future tenses. The future tense includes the present tense.

Town. The term "town" means the Town of Versailles, Ripley County, Indiana.

Town manager. Any reference to the town manager is a reference to the town officer or town employee authorized to administer or enforce the provision.

Week. The term "week" means a period of seven consecutive days.

Writing. The term "writing" includes any form of recorded message capable of comprehension by ordinary visual means.

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

State law reference—Similar rules of statutory construction, IC 1-1-4.

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

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

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

(c) Unless specified otherwise, all references to chapters or sections are to chapters or sections of this Code and are references to such provisions as amended.

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

(a) Unless specifically provided otherwise, the repeal of an ordinance does not revive any previously repealed ordinance.

(b) The repeal or amendment of an ordinance does not affect any punishment or penalty incurred before the repeal took effect, nor does such repeal or amendment affect any suit, prosecution or proceeding pending at the time of the amendment or repeal.

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

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

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

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

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

Sec. 1-6. Supplementation of Code.

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

obsolete or partially obsolete. The new pages shall be so prepared that when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

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

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

- (1) Arrange the material into appropriate organizational units.
- (2) Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in this Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in the Code.
- (3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to this Code.
- (4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.
- (5) Change the words "this ordinance" or similar words to "this chapter," "this article," "this division," "this subdivision," "this section" or "sections _____ to _____" (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated in the Code).
- (6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.

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

- (a) In this section the term "violation of this Code" means any of the following:
- (1) Doing an act that is prohibited or made or declared unlawful, an offense, a violation or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.
 - (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
 - (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.

(b) In this section the term "violation of this Code" does not include the failure of a town officer or town employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.

(c) Except as otherwise provided by law or ordinance:

- (1) A person convicted of a violation of this Code shall be punished by a fine of not more than \$2,500.00 for a first offense and a fine not to exceed \$7,500.00 for a second or subsequent offense, unless the violation is of an ordinance that regulates traffic or parking. In such cases, the fine may not exceed the sum of \$2,500.00.
- (2) With respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense.
- (3) With respect to violations of this Code that are not continuous with respect to time, each violation is a separate offense.

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

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

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

State law references—Limitations on penalties, IC 36-1-3-8(9), 36-1-3-8(10); enforcement of ordinances, IC 36-1-6-1 et seq.

Sec. 1-8. Severability.

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

Sec. 1-9. Provisions deemed continuation of existing ordinances.

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

Sec. 1-10. Code does not affect prior offenses or rights.

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

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

Sec. 1-11. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code affects the validity of any ordinance or portion of an ordinance listed below that is not published in this Code. Such provisions continue in full force and effect to the same extent as if published at length in this Code.

- (1) Annexing property, deannexing property or excluding property from the town or describing the corporate limits.
- (2) Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.
- (3) Authorizing or approving any contract, deed, or agreement.
- (4) Making or approving any appropriation or budget.
- (5) Providing for salaries or other officer or employee benefits.
- (6) Granting any right or franchise.
- (7) Dedicating or naming any park.
- (8) Adopting or amending the comprehensive plan.
- (9) Levying or imposing any special assessment.
- (10) Establishing the grade of any street or sidewalk.
- (11) Dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any street or alley.
- (12) Dedicating, accepting or vacating any plat or subdivision or establishing subdivision regulations.
- (13) Levying, imposing or otherwise relating to taxes not codified in this Code.
- (14) Amending the zoning map or zoning atlas, rezoning specific property or otherwise pertaining to zoning.
- (15) That is temporary, although general in effect.
- (16) That is special, although permanent in effect.
- (17) The purpose of which has been accomplished.

Chapter 2

ADMINISTRATION*

Article I. In General

Secs. 2-1—2-30. Reserved.

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Sec. 2-32. Rules of order and procedure.
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Sec. 2-203. Designated purchasing agents; limitations.
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Sec. 2-209. Modification and termination of contracts.
Sec. 2-210. Purchase of services.
Sec. 2-211. Wastewater utility.
Sec. 2-212. Purchase of supplies manufactured in the United States.
Sec. 2-213. Publication of notices.
Sec. 2-214. Receiving of offers.
Sec. 2-215. Small purchases.

***State law reference**—Home rule, IC 36-1-3-1 et seq.

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Sec. 2-216. Capital expenditures.
Secs. 2-217—2-250. Reserved.

Article VI. Boards, Commissions And Authorities

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Secs. 2-251—2-275. Reserved.

Division 2. Ripley County Area Plan Commission

Sec. 2-276. Membership.
Sec. 2-277. Appointment of citizen members; terms; removal.

ARTICLE I. IN GENERAL

Secs. 2-1—2-30. Reserved.

ARTICLE II. TOWN COUNCIL***Sec. 2-31. Meetings.**

(a) On or before the first meeting of the town council in January of each year, the town council shall establish the dates and times of their regular meetings.

(b) The president shall have the power to cancel any regularly established meeting. Whenever the president shall deem it advisable to cancel any regularly established meeting, he shall inform the town council during a regular or special council meeting preceding the cancelled meeting.

(c) The president shall have the power to call a special meeting, to be held at such a time and place as he shall designate, by causing written notice to be served on each councilmember by the marshal, deputy marshal or the president. Such written notice shall be served upon each councilmember either in person or by leaving a copy at the last place of residence at least three days prior to the date of such special meeting. Such three-day notice shall not be required in an emergency of such nature that compliance with the three-day notice is not reasonable in the opinion of the presiding officers.

Sec. 2-32. Rules of order and procedure.

(a) *Presiding officer.* The president shall be the presiding officer at town council meetings. In the absence or other inability to serve as the president, the meeting shall be called to order by the vice-president or, in his absence or inability, by a president pro tem who shall be designated by the president from one of the town councilmembers for particular meetings or for specified periods of time.

(b) *Order of business.* The order of business at regular meetings of the town council shall be as follows:

- (1) Calling of the roll.
- (2) Approval of minutes.
- (3) Unfinished business.
- (4) New business.
- (5) Miscellaneous business.
- (6) Adjournment.

(c) *Rules of parliamentary procedure.* The rules of parliamentary procedure to govern all meetings which do not conflict with this section shall be as determined by the town council.

***State law reference**—Town councils, IC 36-5-2-1 et seq.

(d) *Recognition.* No councilmember shall speak on any question, make or second a motion or present any resolution to the town council until he has addressed the presiding officer and received recognition; provided, however, the presiding officer may speak on questions and make or second a motion or present any resolution without recognition.

(e) *Presiding officer vote.* The presiding officer may cast a vote upon any motion, resolution or other matter coming before the town council.

(f) *Nonmembers.* Nonmembers may address the town council only at the discretion of, and on recognition by, the presiding officer.

Secs. 2-33—2-50. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES (RESERVED)*

Secs. 2-51—2-125. Reserved.

ARTICLE IV. DEPARTMENTS (RESERVED)

Secs. 2-126—2-175. Reserved.

ARTICLE V. FINANCE†

DIVISION 1. GENERALLY

Sec. 2-176. Cumulative capital improvement fund.

(a) There is hereby established for the town a fund to be known as the Versailles Cumulative Capital Improvement Fund.

(b) The term "capital improvement," as used in this section, means as provided in IC 36-9-16.

Sec. 2-177. Belterra revenue sharing fund.

There is created a fund to be known as the Belterra Revenue Sharing Fund. The funds deposited in the Belterra Revenue Sharing Fund shall be used for the purposes established by the town council from time to time by specific resolutions adopted by the council.

(Ord. No. 2001-6, 5-10-2001)

***State law references**—Town clerk-treasurer, IC 36-5-6-1 et seq.; town marshal, IC 36-5-7-1 et seq.; public employee benefits, IC 5-10-0.5-1 et seq.; social security coverage for town employees, IC 5-10-3-1 et seq.

†State law references—Town finance generally, IC 36-5-4-1 et seq.; accounting for public funds, IC 5-11-1-1 et seq.

Secs. 2-178—2-200. Reserved.

DIVISION 2. PURCHASING*

Sec. 2-201. Definitions.

Except as otherwise provided by statute, the following terms shall have the following meanings when used in connection with purchasing, unless the context in which a term is used clearly indicates another meaning, to wit:

Bidder means a person that submits an offer to a governmental body.

Capital expenditure means money spent for purchasing, replacing or improving business facilities, vehicles or equipment, but does not include money spent for operating expenses.

Fiscal body means the Versailles Town Council.

Invitation for bids means all documents, whether attached or incorporated by reference, used for soliciting bids. (IC 5-22-2-14)

Offer means a response to a solicitation. It includes bid, proposal and quote. (IC 5-22-2-17)

Public funds.

(1) The term "public funds" means money:

- a. Derived from the revenue sources of the governmental body; and
- b. Deposited into the general or a special fund of the governmental body.

(2) It does not include either:

- a. Money received by any person managing or operating a public facility under an authorized operating agreement under IC 5-23; or
- b. Proceeds of bonds payable exclusively by a private entity. (IC 5-22-2-23)

Purchase includes buy, procure, rent, lease, or otherwise acquire. (IC 5-22-2-24)

Purchasing agency means the Versailles Town Council.

Purchasing agent means an individual authorized by a purchasing agency to act as an agent for the purchasing agency in the administration of the duties of the agency. (IC 5-22-2-26)

Request for proposals or *RFP* means all documents, whether attached or incorporated by reference, used for soliciting proposals. (IC 5-22-2-28)

Services means the furnishing of labor, time or effort by a person, not involving the delivery of specific supplies other than printed documents or other items that are merely incidental to the required performance. (IC 5-22-2-30)

***State law reference**—Public purchasing, IC 5-22-1-1 et seq.

Solicitation means the procedure by which a governmental body invites persons to submit an offer to enter into a contract with the governmental body for the purchase or sale of supplies by the governmental body. It includes an invitation to bid, a request for proposal and a request for quotes. (IC 5-22-2-32)

Supplies as defined by IC 5-22-2-38, means any property except real property, and includes equipment, goods and materials, unless any of those items are specifically excluded when the term "supplies" is used.

Sec. 2-202. Waivers.

The town council by resolution may waive the applicability of any provisions of this article for a specific purchase or during a declared state of emergency.

Sec. 2-203. Designated purchasing agents; limitations.

(a) In addition to any other requirement herein, each purchasing agent shall comply with all laws of the state, as well as all ordinances and rules of the purchasing agency and the town, with respect to any purchase. A purchasing agent is not permitted to enter into separate purchases for the purpose of avoiding the requirements and limitations set forth herein.

(b) The persons holding the following positions, some of whom may not be employees of the town, are hereby appointed as purchasing agents for the purchasing agency (i.e., the town council).

- (1) *Town marshal.* The town marshal is hereby designated as a purchasing agent subject to the following limitations and rules:
 - a. Except as otherwise provided herein the town marshal shall have the authority to purchase services and supplies, excluding vehicles and other capital expenditures, for the town marshal department, without prior specific approval of the purchasing agency (i.e., town council) if the estimated amount of the purchase is less than \$5,000.00 and is included in the approved budget for the office of the town marshal.
 - b. Purchases not specifically authorized in subsection (b)(1)a of this section, shall be presented to and shall require the specific approval of the purchasing agency (town council) before a contract for purchase is entered into, and the purchasing agent shall comply with each rule, procedure, limitation and requirement of the purchasing agency that is given when authorizing a purchase in response to such request.
 - c. The purchasing agency may, at any time, further modify or limit the authority of the above-identified purchasing agent by regular action of the town council, without need of a resolution or ordinance, and the purchasing agent shall comply with such modification or limitation.

- (2) *Street superintendent.* The street superintendent is hereby designated as a purchasing agent subject to the following limitations and rules:
- a. Except as otherwise provided herein the street superintendent shall have the authority to purchase services and supplies, excluding vehicles and other capital expenditures, for the street department without prior specific approval of the purchasing agency (i.e., town council) if the estimated amount of the purchase is less than \$5,000.00 and is included in the approved budget for the street department.
 - b. Purchases not specifically authorized in subsection (b)(2)a of this section, shall be presented to and shall require the specific approval of the purchasing agency (town council) before a contract for purchase is entered into, and the purchasing agent shall comply with each rule, procedure, limitation and requirement of the purchasing agency that is given when authorizing a purchase in response to such request.
 - c. The purchasing agency may, at any time, further modify or limit the authority of the above-identified purchasing agent by regular action of the town council, without need of a resolution or ordinance, and the purchasing agent shall comply with such modification or limitation.
- (3) *Wastewater superintendent.* The wastewater superintendent is hereby designated as a purchasing agent subject to the following limitations and rules:
- a. Except as otherwise provided herein the wastewater superintendent shall have the authority to purchase services and supplies, excluding vehicles and other capital expenditures, for the wastewater department without prior specific approval of the purchasing agency (i.e., town council) if the estimated amount of the purchase is less than \$5,000.00 and is included in the approved budget for the wastewater department.
 - b. Purchases not specifically authorized in subsection (b)(3)a of this section, shall be presented to and shall require the specific approval of the purchasing agency (town council) before a contract for purchase is entered into and the purchasing agent shall comply with each rule, procedure, limitation and requirement of the purchasing agency that is given when authorizing a purchase in response to such request.
 - c. The purchasing agency may, at any time, further modify or limit the authority of the above-identified purchasing agent by regular action of the town council, without need of a resolution or ordinance, and the purchasing agent shall comply with such modification or limitation.
- (4) *Clerk-treasurer.* The clerk-treasurer of the town is hereby designated as a purchasing agent subject to the following limitations and rules:
- a. Except as otherwise provided herein the clerk-treasurer shall have the authority to purchase services and supplies, excluding vehicles and other capital expendi-

tures, for the office of the clerk-treasurer, and for other departments of the purchasing agency for whom the head of that department has not been identified herein as a purchasing agent, without prior specific approval of the purchasing agency (i.e., town council) if the estimated amount of the purchase is less than \$5,000.00 and is included in the approved budget for the office of the clerk-treasurer, the wastewater department or such other department identified hereinabove.

- b. Purchases not specifically authorized in subsection (b)(4)a of this section, shall be presented to and shall require the specific approval of the purchasing agency (town council) before a contract for purchase is entered into, and the purchasing agent shall comply with each rule, procedure, limitation and requirement of the purchasing agency that is given when authorizing a purchase in response to such request.
- c. The purchasing agency may, at any time, further modify or limit the authority of the above-identified purchasing agent by regular action of the town council, without need of a resolution or ordinance, and the purchasing agent shall comply with such modification or limitation.

(c) A purchasing agent who is given the authority herein to make a purchase of supplies with an estimated cost of an amount of less than \$5,000.00 without prior approval of the purchasing agency may purchase those supplies on the open market without inviting or receiving quotes, but may not make a purchase in excess of the authority given to that purchasing agent herein.

State law reference—Local purchasing agencies, IC 5-22-4-5.

Sec. 2-204. Offers; bids; proposals.

(a) *Protection of offers prior to opening.* The clerk-treasurer shall retain all offers received in a secure location prior to the date and time at which offers will be opened, in order to prevent disclosure of the contents prior to the opening of the offers.

(b) *Unobstructed evaluation of offers.* After offers have been opened, the clerk-treasurer shall be responsible for maintaining the offers in such a manner as to permit evaluation of the offers by the persons responsible for such evaluation.

(c) *Bids submitted in response to an invitation to bid.* Bids submitted in response to an invitation for bids must be available for public inspection and copying after the time of the bid opening.

(d) *Register of proposals.* The clerk-treasurer shall prepare a register of proposals for each request for proposals issued, which shall contain information concerning the proposals available for public inspection and copying. Proposals may not be disclosed.

Sec. 2-205. Discussions with offerors responding to a request for proposals.

The purchasing agent may conduct discussions with, and best and final offers may be obtained from, responsible offerors who submit proposals determined to be reasonably susceptible to being selected for a contract award.

Sec. 2-206. Delay of opening offers.

When the town council makes a written determination that it is in the town's best interests, offers may be opened after the time stated in the solicitation. The date, time and place of the rescheduled opening must be announced at the time and place of the originally scheduled opening.

Sec. 2-207. Evidence of financial responsibility.

(a) The purchasing agent may not require evidence of financial responsibility when the estimated cost of a purchase is less than \$25,000.00.

(b) For purchases between \$25,000.00 and \$100,000.00, the solicitation may include a requirement that an offeror provide evidence of financial responsibility. If evidence of financial responsibility is required, the solicitation must indicate the kind of evidence that will be acceptable. If a bond or certified check is required, it may not exceed ten percent of the estimated cost of the purchase.

(c) For purchases over \$100,000.00, the solicitation shall include a requirement that an offeror provide evidence of financial responsibility and must indicate the kind of evidence that will be acceptable. If a bond or certified check is required, it may not exceed ten percent of the estimated cost of the purchase.

(d) The purchasing agent may determine that no evidence of financial responsibility shall be required for a small business set-aside purchase.

Sec. 2-208. Nonpracticability of purchases of certain types of supplies by sealed competitive bidding; preferred method for purchasing property and liability insurance.

The town council determines that:

- (1) It is either not practicable or advantageous to purchase certain types of supplies by sealed competitive bidding; and
- (2) Receiving proposals is the preferred method for purchasing property and liability insurance every two years.

Sec. 2-209. Modification and termination of contracts.

(a) *Price adjustments.* The purchasing agent may include provisions to permit price adjustments in a purchase contract. The following provisions for price adjustments may be included:

- (1) Price adjustments must be computed by agreement on a fixed price adjustment before the beginning of the pertinent performance or as soon as possible after the beginning of the performance;

- (2) Price adjustments must be computed by unit prices specified in the contract or subsequently agreed upon;
- (3) Price adjustments must be computed by costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;
- (4) Price adjustments must be computed in such other manner as the contracting parties may mutually agree upon; or
- (5) In the absence of an agreement by the parties, price adjustments must be computed by a unilateral determination by the town council of the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as computed by the town council.

(b) *Adjustments for time of performance.* The purchasing agent may include provisions in a purchase contract concerning adjustments for time of performance under the contract.

(c) *Unilateral rights of purchasing agency.* The purchasing agent may include in a purchase contract provisions dealing with the unilateral right of the purchasing agency to order changes in the work within the scope of the contract or to order temporary work stoppage or delays in time of performance.

(d) *Quantity variations.* The purchasing agent may include in a purchase contract provisions dealing with variations between the estimated quantities of work in a contract and the actual quantity delivered.

Sec. 2-210. Purchase of services.

The town council as the purchasing agency may purchase services using any procedure it considers to be appropriate and may, but is not required to, make rules governing the purchase of services. Generally, in purchasing services, the town council as the purchasing agency will give, and expects its authorized purchasing agents to give, consideration to the competence and qualifications of the service provider with respect to the type of services to be performed, but this is a nonbinding guidance as there can be many different variables involved depending on the nature of the service needed. The town and its authorized purchasing agents may engage in negotiations for the compensation and extent of service.

State law reference—Purchase of services, IC 5-22-6-1 et seq.

Sec. 2-211. Wastewater utility.

The town council determines that the wastewater utility will be governed by the IC 5-22 purchasing regulations.

Sec. 2-212. Purchase of supplies manufactured in the United States.

Supplies manufactured in the United States shall be specified for all town purchases and shall be purchased unless the town determines that the:

- (1) Supplies are not manufactured in the United States in reasonably available quantities;

- (2) Prices of the supplies manufactured in the United States exceed by an unreasonable amount the price of available and comparable supplies manufactured elsewhere;
 - (3) Quality of the supplies manufactured in the United States is substantially less than the quality of comparably priced available supplies manufactured elsewhere; or
 - (4) Purchase of supplies manufactured in the United States is not in the public's interest.
- State law reference**—Purchasing preferences, IC 5-22-15-1 et seq.

Sec. 2-213. Publication of notices.

Notices of invitations to bid, requests for proposals and requests for specifications shall be published in the following manner unless the applicable statute does not require publication or unless the applicable statute requires publication to be made differently:

- (1) *Invitation for bids.*
 - a. Notice of an invitation for bids shall be published in accordance with IC 5-3-1, in the Versailles Republican.
 - b. 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 seven days prior to the date the bids will be opened.
- (2) *Request for proposals.*
 - a. Notice of a request for proposals shall be published in accordance with IC 5-3-1 in, at least, the Versailles Republican.
 - b. The purchasing agent shall schedule the publication of notice to provide a reasonable amount of time for preparation and submission of proposals. The notice will be published two times, at least one week apart. The second publication must occur at least seven days prior to the date the proposals will be opened.
- (3) *Request for specifications.*
 - a. Notice of a request for specifications shall be published in accordance with IC 5-3-1 in, at least, the Versailles Republican.
 - b. The purchasing agent shall schedule the publication of notice to provide a reasonable amount of time for preparation and submission of proposals. The notice will be published two times, at least one week apart. The second publication must occur at least seven days prior to the date the proposals will be opened.
- (4) *Sending electronic notices.* Whenever a notice or other material is sent by mail, including, but not limited to, specifications, an invitation for bids, a request for proposals or a request for specifications, 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 and secure as mailing the information.

Sec. 2-214. Receiving of offers.

(a) *Invitation for bids.* 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. (IC 5-22-7-6)

(b) *Request for proposals.* Proposals received in response to a request for proposals must be opened so as to avoid disclosure of the contents to competing bidders during the process of negotiation. (IC 5-22-9-4)

(c) *Request for specifications.* Proposals received in response to a request for specifications may be opened as specified in the request for specifications.

(d) *Electronic receipt of offers.* Electronic offers in response to an invitation to bid, request for proposals or request for specifications may be received, if:

- (1) The solicitation includes the procedure for the electronic transmission of the offer; and
- (2) 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.

(e) *Correction and withdrawal of bids.*

- (1) A bidder may correct inadvertent errors in a bid up to the time at which bids will be opened by supplementing the erroneous bid or by submitting a revised bid. A bidder may not supplement an inadvertently erroneous bid after the time at which the bids were opened.
- (2) 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 the bids were opened or until the time the bid has been accepted, whichever occurs first.

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

Sec. 2-215. Small purchases.

The purchasing agency (i.e., the town council) may purchase supplies with an estimated cost of less than \$50,000.00 on the open market without inviting or receiving quotes.

Sec. 2-216. Capital expenditures.

A capital expenditure shall not be made by a purchasing agent unless the specific expenditure is reviewed and approved by the town council (the purchasing agency). The fact that supplies or capital expenditures are included in a budget adopted and approved by the town council does not constitute the review or approval intended herein. Rather, before making

the purchase, the specific purchase must be submitted to the town council, and the town council will then decide whether the expenditure should be approved, and the limitations, further action and procedures that are to be followed. Consideration of a request for approval may be continued, tabled, or held in abeyance at the will of the purchasing agency. The authority given by the purchasing agency may be given by regular council action without the need of a resolution or ordinance, unless the law otherwise requires.

Secs. 2-217—2-250. Reserved.

ARTICLE VI. BOARDS, COMMISSIONS AND AUTHORITIES

DIVISION 1. GENERALLY

Secs. 2-251—2-275. Reserved.

DIVISION 2. RIPLEY COUNTY AREA PLAN COMMISSION*

Sec. 2-276. Membership.

(a) In accordance with the provisions of IC 36-7-4-211, membership of the Ripley County Area Plan Commission shall hereafter consist of those members as set forth herein:

- (1) Six county representatives designated as follows:
 - a. The county agricultural agent;
 - b. The county surveyor;
 - c. Two citizen members, each of whom is a resident of the unincorporated area of the county, appointed by the county executive; and
 - d. Two citizen members, each of whom is a resident of the unincorporated area of the county, appointed by the county fiscal body.
- (2) One member appointed by each of the following town councils, if the town is a participant in the county planning department:
 - a. The Town Council of Versailles;
 - b. The Town Council of Osgood;
 - c. The Town Council of Sunman;
 - d. The Town Council of Milan;
 - e. The Town Council of Napoleon; and
 - f. The Town Council of Holton.

***State law reference**—Planning commissions generally, IC 36-7-4-200 et seq.

(b) The total number of members depends upon the number of towns participating in the county area planning department. The maximum number of members is 12.
(Ord. No. 1995-3, § 1, 1995)

Sec. 2-277. Appointment of citizen members; terms; removal.

The appointments by participating towns shall be made in a timely manner, and for any towns deciding to participate in the county planning department in the future, their appointment shall accompany their ordinance to participate.
(Ord. No. 1995-3, § 2, 1995)

State law reference—Planning commission membership, IC 36-7-4-207 et seq.

Chapter 3

RESERVED

Chapter 4

ANIMALS*

Article I. In General

Secs. 4-1—4-18. Reserved.

Article II. Animal Control

- Sec. 4-19. Definitions.
- Sec. 4-20. Penalty.
- Sec. 4-21. Use of fees and charges.
- Sec. 4-22. Obstructing enforcement officers.
- Sec. 4-23. Impoundment.
- Sec. 4-24. Farm animals.
- Sec. 4-25. Wild animals.
- Sec. 4-26. Animals as prizes.
- Sec. 4-27. Poisoning animals.
- Sec. 4-28. Animals in vehicles.
- Sec. 4-29. Animals that attack or create danger to the health and/or safety.
- Sec. 4-30. Nuisances.
- Sec. 4-31. Running at large.
- Sec. 4-32. Defecation on property of another.
- Sec. 4-33. Rabies.
- Secs. 4-34—4-54. Reserved.

Article III. Vicious Animals

- Sec. 4-55. Definitions.
- Sec. 4-56. Penalty.
- Sec. 4-57. Exemption.
- Sec. 4-58. Enforcement costs.
- Sec. 4-59. Inspections; entry powers.
- Sec. 4-60. Investigations and complaints.
- Sec. 4-61. Proof of provocation.
- Sec. 4-62. Violations; destruction of animals; limitations on imposition of penalties.
- Sec. 4-63. Additional enforcement actions.
- Sec. 4-64. Determination of vicious animal status.
- Sec. 4-65. Notification of change of circumstances.
- Sec. 4-66. Control of vicious animals.

***State law references**—Home rule, IC 36-1-3-1 et seq.; general powers relative to animals, IC 36-8-6-2; animals generally, IC 15-10-1-1 et seq.; offenses pertaining to animals, IC 35-46-3-0.5 et seq.

ARTICLE I. IN GENERAL

Secs. 4-1—4-18. Reserved.

ARTICLE II. ANIMAL CONTROL**Sec. 4-19. Definitions.**

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

Altered animal means any animal which has been spayed or neutered.

Animal means any live, nonhuman vertebrate creature, domestic or wild.

Animal shelter means any facility operated by a humane society or municipal agency, or its authorized agents for the purpose of impounding, or caring for animals held under the authority of this article or of state law.

At large means any animal shall be deemed at large when it is not under restraint.

Auction means any place or facility where animals are regularly bought, sold, or traded, except for those facilities otherwise defined in this article.

Circus means a commercial variety show featuring animal acts for public entertainment.

Commercial animal establishment means any major and/or minor pet shop, auction, riding school or stable, zoological park, circus or performing animal exhibition.

Commercial kennel means any individual engaged in owning or harboring more than four animals over the age of six months, any one of which is unaltered, or any individual engaged in the business of boarding, training for a fee and/or grooming animals.

Domestic animals means any animal that is a member of one of the following species: dog, cat, cattle, horse, donkey, pig, sheep, goat, rabbit, mouse, rat, reptile as defined herein, guinea pig, chinchilla, hamster, gerbil, ferrets.

Harboring means the actions of any person that permits any animal habitually to remain or lodge or to be fed within his home, store, enclosure, yard or place of business or any premises on which such person resides or controls. An animal shall be presumed harbored if it is fed or sheltered for three consecutive days.

Major breeder means any person who intentionally or unintentionally causes the breeding of more than one litter per female dog or cat in a 12-month period, or makes more than one cat or dog available for breeding purposes in a 12-month period; or any individual who offers for sale, sells, trades, receives any compensation or gives away more than one litter of dogs or cats in a 12-month period, with the exception of a litter of dogs or cats taken to the animal shelter.

Major pet shop means any retail establishment engaging in the purchase and/or sale of cats and dogs, either solely or in addition to the purchase and/or sale of other species of animals.

Minor breeder means any person who intentionally or unintentionally causes the breeding of one litter of dogs or cats per 12-month period, or makes one dog or cat available for breeding purposes per 12-month period; or any individual who offers for sale, sells, trades, receives any compensation or gives away one litter of dogs or cats within a 12-month period, with the exception of a litter of dogs or cats taken to the animal shelter.

Minor pet shop means any retail establishment engaging in the purchase and sale of any species of animal, with the exception of cats and dogs.

Noncommercial kennel means any individual engaged in owning or harboring more than four altered animals over the age of six months.

Owner means a person owning or harboring one or more animals for a period of longer than 21 days.

Performing animal exhibition means any spectacle, display, act, or event other than circuses, in which performing animals are used.

Pet means any animal kept for pleasure rather than utility.

Public nuisance means any animal that:

- (1) Molests passersby or passing vehicles;
- (2) Attacks other animals;
- (3) Damages public property or private property;
- (4) Barks, whines or howls in an excessive or continuous fashion;
- (5) Defecates on public or private property, other than the owner's/harbinger's property, unless the waste is immediately removed and disposed of in a sanitary manner by the animal's owner/harbinger.

Reptile means any air-breathing vertebrate of the class Reptilia, including:

- (1) Any reptile on the federal endangered or threatened species list or on the Convention on International Trade in Endangered Species list;
- (2) Any venomous reptile, including front- or rear-fang reptiles;
- (3) Any python of a species which naturally exceeds 12 feet in length;
- (4) All crocodylians, including alligators, caimans, and crocodiles;
- (5) Monitor lizards; and
- (6) Anacondas.

Research laboratory means any animal research facility registered with the United States Department of Agriculture under authority of the federal Laboratory Animal Welfare Act, 71 USC 2132 et seq.

Restraint means the securing of an animal by a leash or lead or confining it within the real property limits of its owner.

Riding school or stable means any place that has available for hire, boarding, and/or riding instruction, any horse, pony, donkey, mule or burro.

Service dog means any dog engaged in working or training to work for the assistance of hearing- or sight-impaired, or physically handicapped or disabled persons.

Stray means any animal that does not appear, upon reasonable inquiry, to have an owner.

Veterinary hospital means any establishment maintained and operated by a veterinarian for surgery, diagnosis, and treatment of diseases and injuries of animals.

Vicious animal means any animal that by its behavior constitutes an immediate and serious physical threat to human beings or animals.

Wild animal means any animal not a domestic animal, with the exception of small, nonpoisonous aquatic or amphibious animals and small cage birds.

Wildlife rehabilitation means any individuals that acquire the necessary state and federal permits to allow the rehabilitation of wildlife in their homes, on their property or in a professional facility, with the intent of releasing such animals according to state and federal guidelines.

Zoological park means any facility, other than a pet shop or kennel, displaying or exhibiting, without the predominant purpose of selling, one or more species of nondomesticated animals operated by a person or government agency.

(Ord. No. 2005-02, § 1.00, 4-14-2005)

Sec. 4-20. Penalty.

Except as otherwise provided, violations of this article are punishable as provided in section 1-7.

Sec. 4-21. Use of fees and charges.

All fees or moneys collected shall be paid to the clerk-treasurer of the town. Money so paid shall be placed in a special fund and shall be used in carrying out the provisions of this article.

(Ord. No. 2005-02, § 8.01, 4-14-2005)

Sec. 4-22. Obstructing enforcement officers.

Whoever forcibly assaults, resists, opposes, obstructs, prevents, impedes or interferes with any officer while that officer is engaged in the execution of any duties required of the town marshal or any of his deputies under this article shall be guilty of an offense.

(Ord. No. 2005-02, § 8.04, 4-14-2005)

State law reference—Resisting law enforcement, IC 35-44-3-3.

Sec. 4-23. Impoundment.

(a) Animals may be impounded upon the following conditions:

- (1) At-large animals, including, but limited to, nuisance animals, animals suspected of being neglected, subjected to cruelty or abandoned, and animals which have bitten persons may be taken by law enforcement or animal control officers and impounded in the county animal control shelter.
- (2) In lieu of impounding an animal which is at large, or a public nuisance according to this article, the town marshal or any of his deputies may issue to the known owner of such animal a notice of ordinance violation.

(b) The jurisdiction of the town marshal and his deputies shall be co-extensive with the jurisdiction of said officers in the state.

(c) If by a license tag or other means the owner of an impounded animal can be identified, the town marshal or his deputies shall, as soon as possible upon impoundment, notify the owner by telephone or mail. Animals whose owners are not identifiable or cannot be notified after reasonable effort shall be held by the county animal control officer and disposed of according to the rules and regulations adopted by the county commissioners.

(d) An owner reclaiming an impounded animal shall pay such board fees as the county commissioners have adopted from time to time.

(Ord. No. 2005-02, § 4.00, 4-14-2005)

State law references—Animal impoundment authorized, IC 36-8-6-2; impoundment of biting dogs, IC 15-20-1-7, 35-46-3-6.

Sec. 4-24. Farm animals.

(a) It shall be unlawful for any person to maintain cows, swine, chickens, horses, sheep, goats or ducks within the limits of the town in any area consisting of less than three acres, except in an agricultural district.

(b) It shall be unlawful for any person to keep within the town any feeding lots or barns for the stabling and feeding of any cattle, dairy cattle or hogs, for feeding or dairying purposes; or to erect or maintain any stock pens to be used for feeding pens or lots for cattle or hogs. All pens for such purposes are declared a nuisance and dangerous to the public health of the citizens of the town.

(Ord. No. 2007-06, art. V(A), (B), 8-9-2007)

Sec. 4-25. Wild animals.

(a) No person shall keep or permit to be kept on his premises any wild or vicious animal for any purpose, except as provided in subsection (b) of this section.

(b) This section shall not be construed to apply to zoological parks, circuses, performing animal exhibitions, research laboratories, or licensed wildlife rehabilitators.

(c) The town marshal may issue a notice of ordinance violation to any person in violation of this section. The penalty established in subsection (d) of this section may be paid to the clerk-treasurer of the town within 72 hours of issuance of the notice of ordinance violation in full satisfaction of the assessed penalty. In the event that such payment is not made within the period prescribed, proceedings shall be filed in a court of competent jurisdiction.

(d) Persons who violate any provision of this section shall be subject to a fine of \$50.00 for each offense.

(Ord. No. 2005-02, § 6.00, 4-14-2005)

State law reference—Admission of violations and payment of civil penalty to violations clerk, IC 33-36-3-1 et seq.

Sec. 4-26. Animals as prizes.

(a) No person shall give away any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter any contract, game, or other competition, or as an inducement to enter a place of amusement; or offer such vertebrate as an incentive to enter into any business agreement in which the offer was for the purpose of attracting trade.

(b) The town marshal or any of his deputies may issue to any person in violation of this section a notice of ordinance violation. The penalty established in subsection (c) of this section may, at the discretion of the animal owner, be paid to the clerk-treasurer within 72 hours of the issuance of the notice of violation in full satisfaction of the assessed penalty. In the event that such payment is not made within the period prescribed, proceedings shall be filed in a court of competent jurisdiction.

(c) Persons who violate any provision of this section shall be subject to a fine of \$100.00 for each offense.

(Ord. No. 2005-02, §§ 5.01—5.03, 4-14-2005)

State law references—Admission of violations and payment of civil penalty to violations clerk, IC 33-36-3-1 et seq.; dyeing, staining, or altering natural coloring of a bird or rabbit, IC 15-17-18-11; cruelty to animals, IC 35-46-3-4, 35-46-3-7 et seq.

Sec. 4-27. Poisoning animals.

No person shall expose any known poisonous substance, whether mixed with food or not, so that it shall be liable to be eaten by any animal; provided, that it shall not be unlawful for a person to expose on his own property common rat or mouse poison, unmixed or mixed only with vegetable substances.

(Ord. No. 2005-02, § 5.04, 4-14-2005)

State law reference—Cruelty to animals, IC 35-46-3-4, 35-46-3-7 et seq.

Sec. 4-28. Animals in vehicles.

(a) Every person responsible for any animal located within the town shall ensure that such animal is not left unattended in a vehicle when the conditions in that vehicle would constitute a health hazard to the animal.

(b) Every person responsible for any animal located within the town shall ensure that such animal is not transported in the open bed of a vehicle unless confined in an appropriate manner so as to reasonably prevent the animal from jumping or being thrown from same. (Ord. No. 2007-06, art. V(D)(12), (D)(13), 8-9-2007)

Sec. 4-29. Animals that attack or create danger to the health and/or safety.

Every person responsible for any animal located within the town shall ensure that such animal does not, unprovoked, bite, kick, butt, claw, assault, attack or otherwise create a danger to the health and/or safety of other animals or human beings. (Ord. No. 2007-06, art. V(D)(9), 8-9-2007)

State law reference—Dog bites, IC 15-20-1-1 et seq.

Sec. 4-30. Nuisances.

Every person responsible for any animal located within the town shall ensure that such animal does not become a public nuisance under IC 34-1-51-1, or otherwise. (Ord. No. 2007-06, art. V(D)(8), 8-9-2007)

Sec. 4-31. Running at large.

Every person responsible for any animal located within the town shall ensure that such animal is prevented from running at large on property other than private property owned or lawfully occupied by its owner by means of a leash, chain or other appropriate physical restraint.

(Ord. No. 2007-06, art. V(D)(11), 8-9-2007)

State law reference—Livestock or poultry at large, IC 15-17-18-8.

Sec. 4-32. Defecation on property of another.

Every person responsible for any animal located within the town shall ensure that such animal does not defecate on the property of another unless the person responsible for the animal immediately thereafter removes or has removed from such property as much of the feces as is reasonably possible.

(Ord. No. 2007-06, art. V(D)(14), 8-9-2007)

Sec. 4-33. Rabies.

(a) It is unlawful to own or harbor a cat or ferret over the age of three months without a valid rabies vaccination.

(b) If an owned dog, cat or ferret has bitten a person, the animal shall be impounded in the county animal shelter, veterinary hospital, or kennel approved by the animal control officer, at the animal owner's expense. This impoundment shall be for a period of ten days in order to determine whether or not the animal has rabies. If the animal dies during this ten-day period it shall, at the animal owner's expense, be sent to the proper authorities to determine whether

or not it was rabid. Other animals which have bitten a person shall be handled in accordance with the current compendium for animal rabies control, with all expenses being the responsibility of the animal's owner.

(c) Persons failing to quarantine an owned animal that has bitten a person shall be guilty of an offense.

(d) If a stray dog, cat or ferret has bitten a person, it shall be confined in the county animal shelter for five days only. At the end of the five-day period, if unclaimed, the animal shall be euthanized, and its brain sent to the state department of health rabies laboratory for diagnostic tests.

(Ord. No. 2005-02, § 7.00, 4-14-2005)

State law references—Rabies control, IC 15-17-6-1 et seq.; harboring non-immunized dog, IC 35-46-3-1.

Secs. 4-34—4-54. Reserved.

ARTICLE III. VICIOUS ANIMALS

Sec. 4-55. Definitions.

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

Animal control officer means any person or persons employed, contracted for or appointed by the town for the purpose of aiding in the enforcement of this article, including any officer of the town's police department whose duties in whole or in part include assignments which involve the enforcement of this article.

Enclosure means a fence or structure of at least six feet in height or other structure suitable for preventing the entry of young children, and for confining a vicious animal therein, in conjunction with other measures which may be taken by the owner or approved by the animal control officer. An enclosure shall be securely designed, constructed and locked so as to prevent a vicious animal from escaping therefrom. The enclosure shall conform to the building codes and zoning requirements of the town.

Owner means any person, firm, corporation, organization, or department processing, harboring, keeping, possessing or having custody or control of a vicious animal.

Vicious animal.

- (1) The term "vicious animal" means any one of the following:
 - a. Any animal which, when unprovoked, in a vicious or terrorizing manner approaches any person in an apparent attitude of attack upon streets, sidewalks, or any other public grounds or places;

- b. Any animal with a propensity, tendency or disposition to attack unprovoked. Evidence of such propensity, tendency or disposition shall include, but not be limited to, lunging at a fence in a vicious or terrorizing manner in apparent attitude of attack when someone walks by or by chasing any person;
 - c. Any animal which causes injury to or otherwise endangers the safety of human beings or domestic animals;
 - d. Any animal which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property;
 - e. Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for animal fighting; or
 - f. Any animal not licensed according to any applicable federal law and/or any applicable state law other than IC 6-9-39.
- (2) Notwithstanding the above definition of vicious animal, no animal shall be declared vicious if:
- a. An injury or damage is sustained from the animal by a person who, at the time such injury or damage was sustained, was committing a willful trespass or other tort upon the premises occupied by the owner of the animal, or was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime;
 - b. Any injury or damage is sustained from the animal by a domestic animal which at the time such injury or damage was sustained was teasing, tormenting, abusing or assaulting the animal at issue or was on the property of the owner of such animal;
 - c. The animal was protecting or defending a human being within its immediate vicinity from an unjustified attack or assault; or
 - d. The animal is a K-9 patrol dog or police dog owned or kept by a law enforcement agency and is being used in the line of duty or for law enforcement purposes.
- (Ord. No. 2007-06, art. VII(A), 8-9-2007)

Sec. 4-56. Penalty.

Except as otherwise provided, violations of this article are punishable as provided in section 1-7.

Sec. 4-57. Exemption.

If an animal is determined to be a vicious animal under and solely on account of that definition in this Code, such ruling shall become null and void as of the date on which the owner of such animal fully complies with all applicable federal and/or state laws concerning the licensing of such animal.

(Ord. No. 2007-06, art. VII(D), 8-9-2007)

Sec. 4-58. Enforcement costs.

All costs associated with the enforcement of this article shall, to the maximum extent possible, be assessed to the owner of a vicious animal in violation of this article. Such costs shall include, but not be limited to, the costs of investigating whether the animal is vicious, as well as the costs of capturing, impounding and boarding the vicious animal.

(Ord. No. 2007-06, art. VII(H), 8-9-2007)

Sec. 4-59. Inspections; entry powers.

Whenever it is necessary to make an inspection of or enter onto private property in order to enforce any of the provisions of, or perform any duty imposed by, this article, or an animal control officer has reasonable cause to believe that the keeping or maintaining of an animal constitutes a public nuisance or is so hazardous, unsafe or dangerous as to require immediate inspection to safeguard the animal or the public health or safety, such animal control officer shall, if time and circumstances permit, first attempt to present proper credentials to the occupant of the property on which such animal is located and request entry thereon, explaining the reasons therefor. If entry is refused or cannot be obtained, or time and circumstances do not reasonably allow the above procedures to be followed, such animal control officer shall have the power to secure lawful entry to and inspect the property.

(Ord. No. 2007-06, art. VII(I)(2), 8-9-2007)

Sec. 4-60. Investigations and complaints.

(a) The animal control officer is empowered to make whatever investigation he deems necessary to ensure compliance with the provisions of this article, including, but not limited to, obtaining a search warrant from a court of competent jurisdiction.

(b) Any person may file a complaint that a vicious animal is being harbored within the town. Such complaint shall be filed with the town's police department on a written form provided by the town's police department. The animal control officer shall conduct an investigation upon the receipt of such a complaint.

(Ord. No. 2007-06, art. VII(E), 8-9-2007)

Sec. 4-61. Proof of provocation.

In any case arising under this article, the burden of proof shall be upon the owner of an animal to prove that any action by such animal was provoked.

(Ord. No. 2007-06, art. VII(I)(1), 8-9-2007)

Sec. 4-62. Violations; destruction of animals; limitations on imposition of penalties.

(a) Upon a finding by a court of competent jurisdiction that an animal is a vicious animal, such animal shall be confiscated by the animal control officer and, upon order of a court of competent jurisdiction, destroyed in an expeditious and humane manner if the animal:

- (1) Is outside of its dwelling, or outside of its enclosure in violation of the provisions of this article;

- (2) Is not tattooed or otherwise permanently marked;
- (3) When unprovoked, kills, wounds, or assists in killing or wounding a domestic animal;
or
- (4) When unprovoked, attacks, assaults, wounds, bites or otherwise injures or kills a human being.

(b) If a vicious animal commits any of the acts described in subsection (a) of this section, the owner of such animal shall be guilty of an offense, provided that the animal, prior to the offense alleged, had been declared to be a vicious animal pursuant to the provisions of this article. (Ord. No. 2007-06, art. VII(F), 8-9-2007)

Sec. 4-63. Additional enforcement actions.

(a) Nothing in this article shall be construed to limit any other rights or actions, criminal or civil, in law or equity.

(b) Nothing in this article shall be construed to in any way limit any law enforcement officer from exercising his legal authority to seize and/or destroy any animal as a public nuisance in order to protect person and property, or otherwise. (Ord. No. 2007-06, art. VII(I)(3), (I)(4), 8-9-2007)

Sec. 4-64. Determination of vicious animal status.

(a) In the event the animal control officer reasonably believes that an animal is a vicious animal as that term is defined in this Code, he is empowered to refer the matter to a court of competent jurisdiction for the purpose of determining whether or not the animal in question should be declared a vicious animal for purposes of this section.

(b) Pending such court hearing, the court decision, and any appeal thereof on the issue of whether an animal should be declared a vicious animal, the animal control officer is empowered to seize and impound the animal. The owner of such animal shall be responsible for the reasonable costs and expenses of such impoundment.

(c) Whenever a court of competent jurisdiction determines that an animal is a vicious animal, it shall allow an appropriate time for the appeal of such decision and/or of any penalty imposed by the court as a result of such decision, and, if the court orders such animal to be destroyed, for any medical tests which may need to be performed on the animal. (Ord. No. 2007-06, art. VII(G), 8-9-2007)

Sec. 4-65. Notification of change of circumstances.

(a) The owner of a vicious animal shall notify the town's police department immediately upon becoming aware that the vicious animal is on the loose, is unconfined, or has attacked another animal or human being.

(b) The owner of a vicious animal shall notify the town's police department within 24 hours if the vicious animal has died, or has been sold or given away.

(c) If a vicious animal has been sold or given away, the owner shall also provide the town's police department with the name, address and telephone number of the new owner of the vicious animal within 24 hours of the time such action occurred.

(Ord. No. 2007-06, art. VII(B), 8-9-2007)

Sec. 4-66. Control of vicious animals.

(a) All vicious animals shall be confined in an enclosure. It shall be unlawful for any owner to maintain a vicious animal upon any premises which do not have an enclosure.

(b) It shall be unlawful for any owner to allow any vicious animal to be outside of the dwelling of the owner or outside of its enclosure unless it is necessary for the owner to obtain veterinary care for the vicious animal or to sell or give away the vicious animal, or to comply with commands or directions of the animal control officer, or a town police department officer or to comply with the provision of this article which requires the vicious animal to have a tattoo or other identifying permanent mark. In such event, the vicious animal shall be restrained with a chain having a minimum tensile strength of 300 pounds and not exceeding three feet in length, or other appropriate device, and shall be under the direct control and supervision of the owner of the vicious animal. In addition, the vicious animal shall be muzzled or otherwise restrained in such a manner that will prevent the animal from biting or otherwise inflicting injury on a person or animal, but that will not cause injury to the vicious animal or interfere with its vision or respiration.

(Ord. No. 2007-06, art. VII(C), 8-9-2007)

Chapter 5

RESERVED

Chapter 6

BUILDINGS AND BUILDING REGULATIONS*

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- Sec. 6-21. Penalty.
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***State law references**—Home rule, IC 36-1-3-1 et seq.; state building code IC 22-13-2-1 et seq.

ARTICLE I. IN GENERAL**Sec. 6-1. Barbed wire and electric fences.**

No person shall maintain or construct any fence composed in whole or in part of barbed wire or similar material designed to cause injury to persons, or any wire charged with electric current, within three feet of any street, sidewalk, alley or other public way or place, except in an agricultural district.

(Ord. No. 2007-06, art. I(H), 8-9-2007)

State law reference—Fences, IC 32-26-1-1 et seq.

Secs. 6-2—6-20. Reserved.**ARTICLE II. UNSAFE BUILDINGS***

DIVISION 1. GENERALLY

Sec. 6-21. Penalty.

Except as otherwise provided, violations of this article are punishable as provided in section 1-7.

(Ord. No. 2009-02, § III, 11-12-2009)

State law reference—Violation of unsafe building law, IC 36-7-9-28.

Sec. 6-22. Adoption of state laws.

The provisions of IC 36-7-9 are hereby adopted in their entirety, incorporated by reference and made a part hereof as if copied verbatim. These provisions are further supplemented by the provisions of this article. All proceedings within the town for the inspection, repair and removal of unsafe buildings shall be governed by IC 36-7-9 and by the provisions of this article and any other applicable town ordinance.

(Ord. No. 2009-02, § A(1), 11-12-2009)

Sec. 6-23. Substantial property interest defined.

The definition of substantial property interest contained in IC 36-7-9-2 is hereby adopted and incorporated by reference.

(Ord. No. 2009-02, § A(3), 11-12-2009)

State law reference—Mandatory provisions, IC 36-7-9-3.

Sec. 6-24. Application of article.

The provisions of this article shall apply to any building, dwelling or structure that is declared by the council or its designee as unsafe and unfit for human occupancy. The

***State law references**—Unsafe buildings, IC 36-7-9-1 et seq.; local unsafe building ordinances, IC 36-7-9-3.

designation of dwellings as unfit for human occupancy and the procedure for the condemning and placarding of such unfit dwellings, and maintenance of all vacant buildings shall be carried out in compliance with the following requirements of this article.

(Ord. No. 2009-02, § A(5), 11-12-2009)

Sec. 6-25. Certain building conditions deemed unsafe.

The description of an unsafe building contained in IC 36-7-9-4 is hereby supplemented to provide minimum standards for building conditions or maintenance in the town, by adding the following: Any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be an unsafe building provided that such conditions or defects exist to the extent that life, health, property or safety of the public or its occupants are endangered:

- (1) Whenever any door, aisle, passageway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic;
- (2) Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than the working stress or stresses approved for new buildings of similar structure, purpose or location;
- (3) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the approved minimum requirements for new buildings of similar structure, purpose or location;
- (4) Whenever any portion, member or appurtenance thereof is likely to fail, become detached or dislodged or to collapse and thereby injure persons or damage property;
- (5) Whenever any portion of a building or any member, appurtenance, or ornamentation on the exterior thereof is not of sufficient strength or stability or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified for new buildings of similar structure, purpose or location without exceeding the working stresses approved for such building; or whenever any portion thereof has cracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is approved in the case of similar new construction;
- (6) Whenever the building or structure, or any portion thereof, because of dilapidation, deterioration, or decay; faulty construction; the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; the deterioration, decay, or inadequacy of its foundation; or any other cause, is likely to partially or completely collapse;
- (7) Whenever the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used;

- (8) Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the footer (this item shall not be the sole criteria for evaluating noninhabited accessory structures);
 - (9) Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings;
 - (10) Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated so as to become an attractive nuisance to children or freely accessible to persons for the purpose of committing unlawful acts;
 - (11) Whenever any building or structure that has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of the county building department or of any law or ordinance of this state or town relating to the condition, location or structure of buildings;
 - (12) Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than 66 percent of the strength, fire-resisting qualities or characteristics, or weather-resisting qualities or characteristics approved by law in the case of a newly constructed building of like area, height and occupancy in the same location;
 - (13) Whenever a building or structure, used or intended to be used for residential or nonresidential purposes because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangements, inadequate light, air or sanitation facilities or otherwise is determined by the council or its designee to be unfit for human occupancy, to be insanitary or in such a condition that is likely to cause sickness or disease;
 - (14) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connection or heating apparatus or other cause is determined by the council or its designee to be a fire hazard; or
 - (15) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.
- (Ord. No. 2009-02, § A(2), 11-12-2009)

Sec. 6-26. Conditions of buildings constituting unfit for human occupancy.

Any building, dwelling, dwelling unit, roominghouse or rooming unit shall be declared by the council or its designee unfit for human occupancy when the following conditions exist:

- (1) Damage, decay, dilapidation, abandonment, insanitation or vermin or rodent infestation which constitute a serious hazard to the health or safety of occupants or the public;
- (2) The lack of required sanitation, illumination, ventilation, heating, electrical, plumbing or other facilities and systems adequate to protect the health and safety as to create a serious hazard to the occupants or the public;
- (3) Conditions or defects described as follows:
 - a. Whenever any door, aisle, passageway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic;
 - b. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than the working stress or stresses approved for new buildings of similar structure, purpose or location;
 - c. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the approved minimum requirements for new buildings of similar structure, purpose or location;
 - d. Whenever any portion, member or appurtenance thereof is likely to fail, become detached or dislodged or to collapse and thereby injure persons or damage property;
 - e. Whenever any portion of a building or any member, appurtenance, or ornamentation on the exterior thereof is not of sufficient strength or stability or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified for new buildings of similar structure, purpose or location without exceeding the working stresses approved for such building; or whenever any portion thereof has cracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is approved in the case of similar new construction;
 - f. Whenever the building or structure, or any portion thereof, because of: dilapidation, deterioration, or decay; faulty construction; the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; the deterioration, decay, or inadequacy of its foundation; or any other cause, is likely to partially or completely collapse;
 - g. Whenever the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used;

- h. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumbline passing through the center of gravity does not fall inside the middle one-third of the footer (this item shall not be the sole criteria for evaluating noninhabited accessory structures);
- i. Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings;
- j. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated so as to become an attractive nuisance to children or freely accessible to persons for the purpose of committing unlawful acts;
- k. Whenever any building or structure that has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of the county building department or of any law or ordinance of this state or town relating to the condition, location or structure of buildings;
- l. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than 66 percent of the strength, fire resisting qualities or characteristics, or weather-resisting qualities or characteristics approved by law in the case of a newly constructed building of like area, height and occupancy in the same location;
- m. Whenever a building or structure, used or intended to be used for residential or nonresidential purposes because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangements, inadequate light, air or sanitation facilities or otherwise is determined by the council or its designee to be unfit for human occupancy, to be insanitary or in such a condition that is likely to cause sickness or disease;
- n. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connection or heating apparatus or other cause is determined by the council or its designee to be a fire hazard; or
- o. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

(Ord. No. 2009-02, § A(6), 11-12-2009)

Sec. 6-27. Order to vacate; time allowed to vacate.

(a) Whenever a building, dwelling, dwelling unit, roominghouse or rooming unit is declared by the council or its designee as unsafe or unfit for human occupancy, the council or its designee may post an order to vacate placard requiring such building to be vacated and to

remain vacated. Such placard shall be authorized and signed by the administrator of the department. It shall contain the address and phone number of the department and the date by which the occupant shall vacate the building, dwelling or dwelling unit or portion thereof. The council or its designee may issue an order to vacate pursuant to IC 36-7-9-5 or 36-7-9-17 if the owner or occupant fails to vacate the unsafe premises.

(b) Any building, dwelling or dwelling unit condemned as unfit for human occupation and so designated and placarded by the council or its designee shall be vacated within not less than 24 hours or more than 30 days as ordered by the council or its designee.

(Ord. No. 2009-02, § A(7), 11-12-2009)

Sec. 6-28. Written notice of violation and abatement requirements.

The council or its designee, after posting an order to vacate a property, shall, in addition to IC 36-7-9-25, serve to the owner, agent, or person in control of such property, a written notice listing the violations that caused this order to be issued and the action that this order requires.

(Ord. No. 2009-02, § A(8), 11-12-2009)

Sec. 6-29. Removal or alteration of notice or placard prohibited.

It shall be unlawful for any person to deface, remove or alter any notice or placard from any structure or dwelling which has been placarded under this article except by the express written permission of the council or its designee.

(Ord. No. 2009-02, § A(9), 11-12-2009)

Sec. 6-30. Approval required for reoccupancy.

No building or dwelling unit which has been placarded as unfit for human occupancy shall again be used for human occupancy until written approval is secured from and such placard is removed by the council or its designee. The council or its designee shall remove such placard whenever the defects upon which the condemnation and placarding action were based have been eliminated.

(Ord. No. 2009-02, § A(10), 11-12-2009)

Sec. 6-31. Requirements for vacant buildings.

The owner of any building or structure or portion thereof that is vacant is required to secure and maintain such according to all requirements of this article relative to exterior condition of the structure and its premises.

(Ord. No. 2009-02, § A(11), 11-12-2009)

Sec. 6-32. Unsecured openings to be boarded.

Unsecured openings in any building, dwelling, dwelling unit or structure shall be secured with one-half-inch CDX plywood to be nailed with eight-penny Ardox siding nails or equal to the frame of the opening. Other boarding specifications may be approved by the department.

(Ord. No. 2009-02, § A(12), 11-12-2009)

Secs. 6-33—6-52. Reserved.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT

Sec. 6-53. Unsafe building fund.

An Unsafe Building Fund is hereby established in the operating budget of the town in accordance with the provisions of IC 36-7-9-14. Money in the Unsafe Building Fund shall be held and distributed in accordance with state law and pursuant to the instruction of the town clerk-treasurer.

(Ord. No. 2009-02, § A(4), 11-12-2009)

Sec. 6-54. Use of fines and costs.

All fines and costs recovered by the town pursuant to this article shall be placed in the Unsafe Building Fund.

(Ord. No. 2009-02, § III, 11-12-2009)

Sec. 6-55. Performance bonds.

The council shall adopt a schedule setting forth the maximum amount of performance bonds applicable to various types or orders pursuant to IC 36-7-9-7(f), and determine the amount of the average processing expense pursuant to IC 36-7-9-12.

(Ord. No. 2009-02, § A(13), 11-12-2009)

Sec. 6-56. Inspections.

The council or its designee shall inspect buildings, dwellings, dwelling units and accessory structures and premises based on the following provisions:

- (1) The council or its designee is hereby authorized and directed to make inspections where probable cause exists or with consent of the owner, agent or occupant to determine the condition of buildings, dwellings, dwelling units, rooming units and premises located within the town in order that they may perform their duty of safeguarding the health and safety of the occupants of dwellings and of the general public.
 - a. For the purpose of making such inspections, the council or its designee is hereby authorized to enter, examine and survey at all reasonable times all buildings, dwellings, dwelling units, rooming units and premises.
 - b. In the event the owner or occupant of any building, dwelling, dwelling unit or rooming unit or the person in charge thereof refuses to give the council or its designee free access to such dwelling, dwelling unit or rooming unit and its premises, the council or its designee may apply for an inspection warrant pursuant to IC 36-7-9-16.

- (2) Where conditions of an area, passage of time, the nature of the building, or a need to conduct a periodic, areawide inspection exists, and where a showing of such is made by affidavit, an inspection warrant shall be issued by a court of record in the county directing the inspection of the property concerned.
 - (3) The council or its designee is authorized, in order to protect the life, health and safety of persons or property, to take emergency action and recover costs.
 - (4) The council or its designee is authorized and directed to proceed with a full inspection of any structure that is deemed to be a public nuisance by the fact that it is unsealed, unsecured and vacant.
- (Ord. No. 2009-02, § II(1), 11-12-2009)

Sec. 6-57. Other notices of violations.

Whenever the council or its designee determines there are reasonable grounds to believe that there has been a violation of any provision of this article, it may serve notice of such alleged violation to the person or persons responsible therefor. The council or its designee is not required to serve a notice prior to an order pursuant to IC 36-7-9-5.

(Ord. No. 2009-02, § II(2), 11-12-2009)

Sec. 6-58. Hearings.

(a) Any person affected by any notice of any provision of this article may request and shall be granted a hearing on the matter before the council or its designee, provided that such person shall file in the office of the council or its designee a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within ten days after the day the notice was served.

- (1) Upon receipt of such petition the council or its designee shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn.
- (2) The hearing shall be commenced not later than ten days after the day on which the petition was filed; provided, that upon application of the petitioner the council or its designee may postpone the date of the hearing for a reasonable time beyond such ten-day period, if, in its judgment, the petitioner has submitted a good and sufficient reason for such postponement.

(b) When the council or its designee issues an order to repair, a hearing shall be conducted pursuant to IC 36-7-9-7.

(c) The hearing officer shall not be an employee of the town.

(Ord. No. 2009-02, § II(3), 11-12-2009)

Sec. 6-59. Housing receivership program.

In addition to fines levied against the owner and in consideration of the property's effect on the neighborhood, the council may petition the court to place the property in the housing receivership program. The council will petition the court for the appointment of a receiver pursuant to IC 36-7-9-20, granting to the receiver all authority, powers and duties therein set forth.

(Ord. No. 2009-02, § II(4), 11-12-2009)

Chapter 7

RESERVED

Chapter 8

BUSINESSES*

Article I. In General

Sec. 8-1. Moral character.
Secs. 8-2—8-30. Reserved.

Article II. Transient Merchants

Division 1. Generally

Sec. 8-31. Definitions.
Sec. 8-32. Penalty.
Sec. 8-33. Molesting persons on public thoroughfares.
Secs. 8-34—8-50. Reserved.

Division 2. License

Sec. 8-51. Required.
Sec. 8-52. Application.
Sec. 8-53. Fees.
Sec. 8-54. Issuance; investigation; validity; revocation.
Secs. 8-55—8-70. Reserved.

Article III. Massage Therapy Practices And Other Massage Establishments

Division 1. Generally

Sec. 8-71. Definitions.
Sec. 8-72. Penalty.
Sec. 8-73. Inspection required.
Sec. 8-74. Minimum requirements for facilities.
Sec. 8-75. Operation.
Secs. 8-76—8-90. Reserved.

Division 2. Permit

Sec. 8-91. Permit requirements.
Sec. 8-92. Application for massage establishment permit.
Sec. 8-93. Application for massage establishment employee/independent contractor permit.
Sec. 8-94. Rejection of application.
Sec. 8-95. Fees.

***State law references**—Home rule, IC 36-1-3-1 et seq.; authority to regulate businesses, crafts and professions, IC 36-8-2-10.

VERSAILLES CODE

- Sec. 8-96. Renewal.
- Sec. 8-97. Display.
- Sec. 8-98. Revocation or suspension.

ARTICLE I. IN GENERAL**Sec. 8-1. Moral character.**

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

Good moral character, with regard to business licenses or business permits, means the propensity of the person to serve the public in the licensed area in a fair, honest and open manner. A judgment of guilt in a criminal prosecution or a judgment in a civil action shall not be used in and of itself as proof of a person's lack of good moral character. It may be used as evidence in the determination, and, when so used, the person shall be notified and shall be permitted to rebut the evidence by showing that:

- (1) At the current time, he has the ability, and is likely, to serve the public in a fair, honest and open manner; and
- (2) He is rehabilitated, or that the substance of the former offense is not reasonably related to the occupation or profession for which he seeks a business license or business permit.

(b) *Use of criminal records.* The following criminal records shall not be used, examined or requested by the town in a determination of good moral character, when used as a requirement to obtain a business license or business permit:

- (1) Records of an arrest not followed by a conviction.
- (2) Records of a conviction which has been reversed or vacated, including the arrest records relevant to that conviction.
- (3) Records of an arrest or conviction for a misdemeanor or a felony unrelated to the person's likelihood to serve the public in a fair, honest and open manner.
- (4) Records of an arrest or conviction for a misdemeanor for the conviction of which a person may not be incarcerated in a jail or prison.

Secs. 8-2—8-30. Reserved.

ARTICLE II. TRANSIENT MERCHANTS*

DIVISION 1. GENERALLY

Sec. 8-31. Definitions.

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

Transient merchant includes all persons, firms and corporations, both as principals and agents, who have not resided in the county for more than six months and who go upon the public thoroughfares of the town calling at private homes for the purpose of selling, offering or soliciting the sale of merchandise for immediate or later delivery, or who transact any temporary or transient business within the town, offering for sale or selling goods, wares or merchandise by sample or otherwise, and including those who, for the purpose of carrying on such business, hire, lease or occupy any permanent or mobile building, structure or real estate for exhibition by means of samples, catalogues, photographs and price lists, or sale of such goods, wares or merchandise for future delivery. Such term does not include commercial travelers selling to established resident merchants, nor to any person, individual, co-partner or corporation who grows the goods, wares or merchandise where they sell or offer for sale such goods, wares or merchandise.

Sec. 8-32. Penalty.

Except as otherwise provided, violations of this article are punishable as provided in section 1-7.

Sec. 8-33. Molesting persons on public thoroughfares.

It shall be unlawful for a transient merchant to molest any person on the public thoroughfares of the town.

State law reference—Trespass, IC 35-45-5-3.

Secs. 8-34—8-50. Reserved.

DIVISION 2. LICENSE

Sec. 8-51. Required.

A transient merchant shall not transact any business in the town unless such transient merchant, and the owners of any goods, wares or merchandise to be offered for sale or sold, if such goods, wares or merchandise are not owned by the vendor, shall have first secured a license from the town as provided in this division, which license shall be in addition to any license which such transient merchant may be required to obtain from the county.

***State law references**—Authority to regulate peddlers, solicitors, etc., IC 36-8-2-11; Transient Merchant Law of Indiana, IC 25-37-1-1 et seq.

Sec. 8-52. Application.

Application for the license required by this article shall be in writing and verified, and shall provide the following information:

- (1) Name, driver's license number and state of issuance, date of birth, height, weight, hair color, race, color of eyes and the residence address, presently and for the past two years, of the applicant, and, if the applicant is a corporation, the date and state of incorporation, the principal address of the applicant and the date on which the corporation qualified to do business in the state.
- (2) A statement showing the kind of business proposed to be conducted, the length of time for which the applicant desires to transact business, and if for the purpose of transacting such business any permanent or mobile building, structure or real estate is to be used for the exhibition by means of samples, catalogues, photographs and price lists or sale of goods, wares or merchandise, the location of such proposed place of business.
- (3) A detailed inventory and description of such goods, wares and merchandise to be offered for sale or sold, the manner in which the goods, wares and merchandise are to be advertised for sale and the representations to be made in connection therewith, the names of the persons from whom the goods, wares and merchandise to be advertised or represented were obtained, the date of receipt of such goods, wares and merchandise by the applicant for the license, the place from which the goods, wares and merchandise were last taken and any and all details necessary to locate and identify all goods, wares and merchandise to be sold.
- (4) Attachment of a receipt showing that personal property taxes on the goods, wares and merchandise to be offered for sale or sold have been paid.
- (5) Attachment of a copy of a notice which, ten days before such application has been filed, shall have been mailed by registered mail by the applicant to the department of state revenue or such other department as may be charged with the duty of collecting gross income taxes or other taxes of a comparable nature or which may be in lieu of such gross income taxes. The notice shall state the precise period of time and location from which the applicant intends to transact business, the approximate value of the goods, wares and merchandise to be offered for sale or sold and such other information as the department of state revenue or its successor may request or by regulation require.
- (6) If the applicant is an individual, then a recent photograph of the applicant, in duplicate.
- (7) A complete list of felony, misdemeanor or municipal ordinance convictions, guilty pleas, or confessions, of judgment of the applicant, together with the name and location of each court in which such convictions, pleas or confessions were entered.
- (8) A statement of contagious or infectious diseases, if any, with which the applicant is then afflicted.

Sec. 8-53. Fees.

(a) The license fee for a transient merchant is \$25.00 for each license, all payable to the clerk-treasurer of the town.

(b) Each license shall be valid for one event. Each event may extend to a concurring 72-hour period.

(c) If the merchant uses electricity provided by the town, an additional fee of \$10.00 will be assessed to the merchant for any part of each day beginning at 8:00 a.m. to 12:00 midnight.

Sec. 8-54. Issuance; investigation; validity; revocation.

Upon payment of the license fee and tax provided for in section 8-53, together with the completed application provided for in section 8-52, the clerk-treasurer of the town shall issue a license to the transient merchant. The clerk-treasurer shall deliver a copy of the application to the town marshal for investigation. Any license issued under this section shall be valid for the remainder of the calendar year for which it is issued, and may be revoked by the clerk-treasurer if it is discovered that any information in the application is substantially incorrect.

Secs. 8-55—8-70. Reserved.

ARTICLE III. MASSAGE THERAPY PRACTICES AND OTHER MASSAGE ESTABLISHMENTS*

DIVISION 1. GENERALLY

Sec. 8-71. Definitions.

As used in this article, the following terms shall have the meaning ascribed to them in this section:

Massage is a manual soft tissue manipulation, and includes holding, causing movement, and/or applying pressure to the body.

Massage establishment means any building, room, place or establishment where massages, nonmedical, and nonsurgical manipulative exercises are practiced upon the human body with or without the use of mechanical or bath devices, by anyone not a physician, osteopath, chiropractor, podiatrist or physical therapist duly registered with and licensed by the state other than:

- (1) A massage therapy school accredited by the Indiana Commission on Proprietary Education or by any other state's accreditation process;
- (2) A regularly licensed hospital or dispensary; or

***State law reference**—Massage therapists, IC 25-21.8-1-1 et seq.

- (3) A facility wherein each person who administers a massage is exempt from the permit requirement.

Massage therapist means a person, who practices, administers or teaches all or any of the subjects or methods of treatment defined herein as massage therapy and meets the criteria for permit exemption in section 8-91.

Massage therapy is a profession in which the practitioner applies manual techniques, and may apply adjunctive therapies, with the intention of positively affecting the health and well-being of clients.

Massage therapy practice means a building, room, place or establishment that employs only massage therapists to perform massage therapy.

Masseuse, masseur means a person who practices massage but does not meet any of the criteria for permit exemption in section 8-91.

Person employed means any person who performs any function at an establishment required to be permitted under this article, including but not limited to a masseuse, masseur or massage attendant, either:

- (1) As an employee or independent contractor; or
- (2) Otherwise, with the knowledge and consent of the owner or operator of the establishment.

Sexual and/or genital area means and includes genitals, pubic area, anus or perineum, and breast.

Sec. 8-72. Penalty.

Except as otherwise provided, violations of this article are punishable as provided in section 1-7.

Sec. 8-73. Inspection required.

(a) It shall be the duty of the building commissioner and/or through duly authorized representatives, to inspect massage establishment locations from time to time to determine compliance with this article.

(b) Inspections are to be made at reasonable times, with due regard to the nature of the business to be inspected.

(c) Upon showing the proper credentials, the representatives of the building commissioner, including police officers, shall be entitled to inspect the massage establishment to determine compliance with this article.

Sec. 8-74. Minimum requirements for facilities.

The massage establishment permitted must comply with each of the following minimum requirements:

- (1) Construction of rooms used for toilets, tubs, steam baths and showers shall be made waterproof with approved waterproofed materials, and shall be installed in accordance with the local building code. Plumbing fixtures shall be installed in accordance with the local plumbing code:
 - a. Steam rooms and shower compartments shall have waterproof floors, walls and ceilings required by the local building code.
 - b. Floors of wet and dry heat rooms shall be adequately pitched to one or more floor drains properly connected to the sewer. (Exception: dry heat rooms with wooden floors need not be provided with pitched floors and floor drains).
 - c. A source of hot water must be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.
- (2) The premises shall have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials used in administering massages. Such non-disposable instruments and materials shall be disinfected after use on each person.
- (3) Closed cabinets shall be provided and used for the storage of clean linen and towels used in connection with administering massages. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.
- (4) Toilet facilities shall be provided in convenient locations. When employees and patrons of different sexes are on the premises at the same time, separate toilet facilities will be provided for each sex. A single water closet per sex will be provided for each 20 or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.
- (5) Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or washbasins shall be provided with soap and a dispenser and with sanitary towels.
- (6) All electrical equipment shall be installed in accordance with the requirements of the town building code.
- (7) Proof of permit must be displayed in a prominent location in each massage establishment location.

Sec. 8-75. Operation.

- (a) No massage establishment shall be kept open for any purpose between the hours of 10:00 p.m. and 6:00 a.m.

(b) No massage establishment shall be operated or conducted in living quarters, and no one shall use such business premises for a place of habitation. No massage establishment shall have a separate entrance or opening to living quarters, and the entrances to such business premises must be separate from the entrances to any places of habitation.

(c) No person employed by any permit holder under this article or allowed to be within view of any of the services rendered by a massage establishment service shall be under the age of 18 years.

(d) Each person employed in an establishment permitted under this article shall wear clean outer garments with a fully opaque covering of such person's sexual and/or genital areas.

(e) The sexual and/or genital areas of patrons of establishments required to be permitted under this article must be covered with towels, clothes or undergarments when in the presence of a person employed or other patron.

(f) No person in any massage establishment under this article shall place his or her hand upon, touch with any part of his or her body, fondle in any manner, or massage a sexual and/or genital area of any other person or of themselves.

(g) No person employed in a massage establishment under this article shall perform, offer or agree to perform, any act which shall require the touching of the patron's sexual and/or genital area.

(h) Every massage establishment shall be open for inspection during all business hours and at other reasonable times by police officers, health and fire inspectors, and duly authorized representatives of the town upon the showing of proper credentials by such persons.

(i) Any massage establishment is prohibited from installing or maintaining any lock or similar device on the inside of any door to an area where massage services are provided. The entrance to the massage establishment shall remain unlocked during business hours.

(j) Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.

(k) No massage establishment shall place, publish, or distribute or cause to be placed, published or distributed any advertisement, picture or statement which is known or through the exercise of reasonable care, should be known to be false, deceptive or misleading in order to induce any person to purchase or utilize any massage services.

Secs. 8-76—8-90. Reserved.

DIVISION 2. PERMIT

Sec. 8-91. Permit requirements.

(a) A person can operate a massage therapy practice or practice as a massage therapist without a permit if he:

- (1) Has been awarded the National Certification for Therapeutic Massage and Body Work or its equivalent, with certification displayed in a prominent location;

- (2) Has graduated from an educational institute of professional massage therapy instruction accredited by the state in which it is located with diploma displayed in a prominent location;
 - (3) Is a licensed practical nurse, registered nurse, physician, chiropractor, osteopath, cosmetologist, esthetician, physical therapist, or assistant physical therapist with license displayed in a prominent location; or
 - (4) Is a student enrolled in an educational institute of professional massage therapy instruction accredited by the Indiana Commission on Proprietary Education, performing massage therapy as part of his training requirements.
- (b) All other businesses and persons employed must obtain a town permit.

Sec. 8-92. Application for massage establishment permit.

(a) The application for a permit to operate a massage establishment under this article shall be made with the town clerk-treasurer on forms provided by the clerk-treasurer, and shall contain the following information:

- (1) The name of the applicant and all aliases and business names used by the applicant to conduct business.
- (2) The residence address of the applicant, and the applicant's residence addresses for the past three years.
- (3) A current photo picture of the applicant.
- (4) The business address of the applicant.
- (5) The number of massage tables, showers, stalls, or other such individual units in the establishment.
- (6) Applicant information:
 - a. In the case of an individual: age, date of birth and citizenship of the applicant.
 - b. In the case of a corporation, limited liability company: date of incorporation or proof of business entity existence, federal employer identification and citizenship of each manager, officer or partner.
- (7) In the case of a corporation, the state in which it is incorporated.
- (8) Information regarding persons employed by the applicant's establishment or who have a financial interest in the applicant's establishment: names, addresses, dates of birth, citizenship and designations.
- (9) Whether any applicant, or in the case of a corporation, limited liability company or partnership, its managers, officers, directors or stockholders, have ever been previously engaged in operating a massage establishment.
- (10) Whether any applicant, or in the case of a corporation, limited liability company or partnership its managers, officers, directors or stockholders, have ever been convicted

of any act of violence, moral turpitude, sex offense including but not limited to prostitution or public indecency involving the act of touching oneself or another in a sexual manner.

(11) Authorization for the town, its agents and employees to seek information and to conduct an investigation into the truth of the statements set forth in the application and to permit necessary inspection.

(b) If there is any change in the permitted business during the term of the permit such that the information provided in the application form is no longer complete or accurate, then the permittee shall notify the clerk-treasurer in writing within 30 days after such change occurs. Failure to comply with this subsection shall be a violation of this Code.

(c) The clerk-treasurer shall process the application in a reasonable amount of time, but not greater than 30 days. In cases where inadequate information has been provided or problems are found with the facilities, the clerk-treasurer may extend the time to process the application by making written notice to the applicant. A massage establishment may not be open for business if it does not have a current permit.

Sec. 8-93. Application for massage establishment employee/independent contractor permit.

(a) Along with the operator's application for a permit, there shall be filed a verified application by each person employed in the establishment who is required by this article to be permitted. The application shall contain the following information regarding the person:

- (1) Name and aliases;
- (2) Age and date of birth;
- (3) Current residence address and former addresses for past three years;
- (4) A copy of the applicant's driver's license;
- (5) A current three-inch by five-inch photo of the applicant;
- (6) Citizenship;
- (7) Whether the person has been convicted of any public offense concerning an act of violence, moral turpitude, sex offense including but not limited to prostitution or public indecency involving the act of touching oneself or another in a sexual manner;
- (8) Nature of work performed;
- (9) Name of massage establishment where employed; and
- (10) Authorization for the town, its agents and employees to seek information and to conduct an investigation into the truth of the statements set forth in the application.

(b) The county board of health may establish restrictions on the activity of persons permitted under this article with respect to communicable diseases.

(c) The clerk-treasurer shall process the application in a reasonable amount of time but not greater than 15 days. In cases where inadequate information has been provided, the clerk-treasurer may extend the time to process the application by making written notice to the applicant. The applicant cannot be employed at a massage establishment if he does not have a current permit.

State law reference—Massage therapists, IC 25-21.8-1-1 et seq.

Sec. 8-94. Rejection of application.

(a) *Massage establishment.* Before a permit under this article is issued, the clerk-treasurer or the clerk-treasurer's designee shall investigate the character of the applicant or the officers, directors and managers of the business if the applicant is a business. No permit shall be issued if the clerk-treasurer determines:

- (1) Any of such persons previously have been connected with any massage establishment where the permit therefor has been revoked, or where any law applicable to such establishments has been violated; or
- (2) The premises sought to be permitted fail to comply in any manner with any applicable laws and ordinances.

(b) *Masseuse or masseur.* No person who has been convicted of any public offense concerning an act of violence, moral turpitude, sex offense including but not limited to prostitution or public indecency involving the act of touching oneself or another in a sexual manner, and no business that employs such a person, shall be permitted under this article.

Sec. 8-95. Fees.

(a) The permit fee for a business entity which operates a massage establishment is \$150.00 per calendar year or any part thereof for each location. The permit is transferable to a new location upon written notice to the clerk-treasurer.

(b) The nonrefundable fee for a person employed in a massage establishment is \$25.00 per calendar year or any part thereof. The permit is transferable to a new location upon written notice to the clerk-treasurer.

Sec. 8-96. Renewal.

(a) Permits are effective from the date of issue to the end of that calendar year.

(b) Permits may be renewed by following the application process provided for in this division for obtaining a permit.

(c) Applications for renewal may be submitted not more than 60 days nor less than 30 days prior to expiration of the permit.

Sec. 8-97. Display.

All establishments permitted under this article shall display the permit in a visible location in the establishment for which the permit was issued. Persons employed must also display their permit in a visible location within their work area.

Sec. 8-98. Revocation or suspension.

Any massage establishment can be closed by the building commissioner and/or town marshal or deputies for failure to comply with this article.

- (1) Upon notification by the clerk-treasurer of a denial or revocation of a permit, the applicant or permittee may, within ten days, request a hearing by written notice to the clerk-treasurer's office. During those ten days a current permitted massage establishment may remain open. If no hearing is requested, the massage establishment permit will stand denied or revoked.
- (2) When a hearing is set by the clerk-treasurer, the applicant or permittee shall receive, with not less than 20 days' notice, a notice of the charge made, as well as time and place where the hearing will be held. A current permitted massage establishment may remain open until notified of the hearing results or 30 days whichever is less.
- (3) At a hearing conducted pursuant to this section, the applicant or permittee shall have the right to be represented by counsel, to present witnesses, to testify and cross examine any other witnesses, and to subpoena witnesses. Proceedings shall be conducted under oath.
- (4) The town council shall preside at the hearing and shall make the final determination.
- (5) If any decision adverse to the applicant or permittee is made by the town council after a hearing as provided above, the town council shall provide the applicant or permittee with a written reason for such decision, as well as notice of the applicant's or permittee's right to appeal to the courts of the state.

Chapter 9

RESERVED

Chapter 10

ELECTIONS*

Sec. 10-1. Primary elections.

***State law references**—Elections, IC 3-5-1-1 et seq.; town elections, IC 3-10-7-1 et seq.

Sec. 10-1. Primary elections.

Pursuant to IC 3-8-5-2(c), candidates for the offices of council, clerk-treasurer and judge shall be nominated by primary elections pursuant to IC 3-8-5.

(Ord. of 5-9-2002)

Chapter 11

RESERVED

Chapter 12

EMERGENCY MANAGEMENT AND EMERGENCY SERVICES*

Article I. In General

Sec. 12-1. National incident management system (NIMS).
Secs. 12-2—12-30. Reserved.

Article II. Civil Emergencies

Sec. 12-31. Definitions.
Sec. 12-32. Declaration authorized.
Sec. 12-33. Emergency orders.
Sec. 12-34. Enforcement.
Sec. 12-35. Duty to obey orders.
Sec. 12-36. Conflicting orders; coordination of efforts.

***State law references**—Home rule, IC 36-1-3-1 et seq.; emergency management, IC 10-14-1-1 et seq.

ARTICLE I. IN GENERAL**Sec. 12-1. National incident management system (NIMS).**

The National Incident Management System dated March 1, 2004, is hereby adopted.
(Ord. No. 2006-04)

Secs. 12-2—12-30. Reserved.**ARTICLE II. CIVIL EMERGENCIES*****Sec. 12-31. Definitions.**

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

Curfew means an order prohibiting any person in general from being, or motoring, upon any alley, street, highway, public property or vacant premises within the town, except persons officially designated to duty with reference to a disaster.

Disaster means occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or manmade cause, including, but not limited to, fire, flood, earthquake, wind, storm, wave action, oil spill, other water contamination requiring emergency action to avert danger or damage, air contamination, drought, explosion, riot or hostile military or paramilitary action.

Evacuation means an order requiring persons on property to leave and vacate or be removed from a geographical area of the town and further prohibiting persons from entering such geographical area of the town during a disaster, except persons officially designated to duty with reference to such disaster.

Quarantine means an order, during a disaster, prohibiting persons from leaving or entering a designated geographical area of the town, except persons officially designated to duty with reference to such disaster.

Sec. 12-32. Declaration authorized.

(a) The president of the town council is hereby empowered and authorized to declare a disaster within the town when, in his judgment, a disaster exists. The declaration of a disaster shall be in the form of a written proclamation.

(b) If the president is absent from town, or otherwise unable to act, the vice-president is hereby authorized and empowered to act in the stead of the president, and in the absence or other inability to act by both the president and vice-president, then the town coordinator is hereby authorized and empowered to act in the stead of the president of the town council.

***State law reference**—Emergency management, IC 10-14-3-1 et seq.

Sec. 12-33. Emergency orders.

(a) After the proclamation of a disaster as provided in this article, the president or person acting, and empowered to act, in his stead is hereby empowered and authorized, in the interest of public health, safety or welfare, to make any or all of the following orders:

- (1) Order a curfew for the whole town or for specific geographical areas of the town during such hours and for such periods as are set forth in the order of curfew.
- (2) Order an evacuation or quarantine of the whole town or for specific geographical areas of the town during such hours and for such periods as are set forth in the order.
- (3) Order restriction of parking upon any streets, or parts thereof.
- (4) Order the closing of any street, alley, thoroughfare, highway, sidewalk or bike path, or parts thereof.
- (5) Order the removal of vehicles or other property from specified streets, or parts thereof.
- (6) Order the redirection of traffic flow upon streets, alleys, highways or thoroughfares in the town.
- (7) Enter any other orders which are reasonably necessary to preserve or protect the life, health, safety, peace or welfare of persons or property within the town, including, but not limited to, the discontinuance of specific activities or business during the disaster.
- (8) Enter any other orders which are reasonably necessary to aid in the delivery or furnishing of emergency service to persons or property during a disaster.

(b) Any orders entered under this section may be rescinded, cancelled, terminated or reinstated at any time during a disaster.

State law reference—Local restrictions on sale of firearms, IC 35-47-11-6.

Sec. 12-34. Enforcement.

Orders entered pursuant to section 12-33 shall be enforceable by the town marshal and his deputies, and by such other persons duly designated by the president or such other person acting in his stead as provided by this article.

Sec. 12-35. Duty to obey orders.

All persons within the town shall obey all orders entered pursuant to section 12-33. Persons failing to do so shall be punished as provided in section 1-7.

Sec. 12-36. Conflicting orders; coordination of efforts.

(a) If the county emergency management and disaster director enters orders which are in conflict with an order entered pursuant to section 12-33, the orders of the director shall prevail and supersede the conflicting order entered under section 12-33, but parts of any order entered under section 12-33 that are not in conflict with orders of the director shall continue in full force and effect.

(b) In the event of an emergency under the authority of the director, the president or such person authorized to act in his stead shall cooperate with the director so as to coordinate the efforts of the town with the efforts of the civil defense.

Chapter 13

RESERVED

Chapter 14

FIRE PREVENTION AND PROTECTION*

Article I. In General

Secs. 14-1—14-18. Reserved.

Article II. Open Burning

- Sec. 14-19. Definitions.
- Sec. 14-20. Penalty.
- Sec. 14-21. Exemptions.
- Sec. 14-22. Waiver.
- Sec. 14-23. Liability.
- Sec. 14-24. Compliance.
- Sec. 14-25. Public roads and public properties.

***State law references**—Home rule, IC 36-1-3-1 et seq.; firefighting and fire prevention system authorized, IC 36-8-2-3; regulation of dangerous conduct authorized, IC 36-8-2-4; fire safety generally, IC 22-12-1-1 et seq., 22-13-1-1 et seq.; fireworks, IC 22-11-14-1 et seq.

ARTICLE I. IN GENERAL

Secs. 14-1—14-18. Reserved.

ARTICLE II. OPEN BURNING***Sec. 14-19. Definitions.**

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

Contained fire means any fire contained in an incinerator, fireplace or cooking grill or other enclosure designed for outdoor cooking, or fireproof container.

Fire means any fire set or maintained outside of a building.

Responsible adult means an individual 18 years or older who is not under the influence of drugs or alcohol or suffering from any other disability which would impair his or her ability to properly supervise a fire.

Uncontained fire means any fire not included in the definition of a contained fire.
(Ord. No. 2000-08, art. 1, 8-10-2000)

Sec. 14-20. Penalty.

Except as otherwise provided, violations of this article are punishable as provided in section 1-7.

(Ord. No. 2000-08, art. 3(1), (2), 8-10-2000)

Sec. 14-21. Exemptions.

Nothing in this article shall be deemed to prohibit indoor cooking activities providing that reasonable safeguards are maintained. Cooking grills may be less than 20 feet from a building providing that reasonable safeguards are maintained.

(Ord. No. 2000-08, art. 2(C), 8-10-2000)

Sec. 14-22. Waiver.

In the event that it is necessary to have an uncontained fire of a size and/or at times other than permitted under this article, special permission must be obtained in advance from the town council. In the event any fire company is required to respond to a fire which violates the provisions of this article, a service fee may be levied by the responding fire company.

(Ord. No. 2000-08, art. 2(D), 8-10-2000)

***State law references**—Open burning, IC 13-17-9-1 et seq.; local air pollution laws, IC 13-17-12-1 et seq.

Sec. 14-23. Liability.

The town and its agents, officials, and representatives shall not, under any circumstances, be liable or responsible for damages caused to any person or property by reason of the provisions of this article, or by reason of the conduct of any burning activity in compliance with the terms and provisions of this article. The individual person or party responsible for any such fire shall bear sole liability for any damages caused as a result thereof.

(Ord. No. 2000-08, art. 3(3), 8-10-2000)

Sec. 14-24. Compliance.

It shall be unlawful to burn, ignite, incinerate, maintain or permit to burn any materials whatsoever, of whatever nature, without complying with this article. Nothing herein shall be construed to prevent firefighting training by the town's volunteer fire department.

(Ord. No. 2000-08, art. 2(A), 8-10-2000)

Sec. 14-25. Public roads and public properties.

No person shall set, start, feed, permit to burn, or maintain any fire upon any of the streets and/or rights-of-way, sidewalks, alleys, or public grounds in the town, except where a designated area has been set aside or reserved for this purpose and an appropriate container has been provided to contain such fire.

(Ord. No. 2000-08, art. 2(B), 8-10-2000)

Chapter 15

RESERVED

Chapter 16

MISCELLANEOUS PROVISIONS AND OFFENSES*

- Sec. 16-1. Penalty.
- Sec. 16-2. Noise.

***State law reference**—Home rule, IC 36-1-3-1 et seq.

Sec. 16-1. Penalty.

Except as otherwise provided, violations of this chapter are punishable as provided in section 1-7.

Sec. 16-2. Noise.

(a) No person shall play, use or operate any machine or device for the producing or reproducing of sound, including, but not limited to, loudspeakers, radios, CD players, television sets, musical instruments, phonographs and cassette players, nor any other machine or tool that produces sound, nor shall any person operate any motor vehicle that contains a modified or defective exhaust system, if such machine, tool or vehicle is located in or on any of the following:

- (1) Any public property, including any public right-of-way, highway, building, sidewalk, public space, park or thoroughfare, and the sound generated therefrom is:
 - a. Audible 40 feet or more from its source; or
 - b. Is at a level of 90 decibels or more when measured on a dB(A) scale from a distance of not less than six feet from its source;
- (2) Is:
 - a. Audible 40 feet or more outside of said private property line; or
 - b. At a level of 90 decibels or more when measured on a dB(A) scale from a distance of not less than six feet from said private property line.
- (b) The following are exempted from the provisions of this section:
 - (1) Sounds emitted from authorized emergency vehicles.
 - (2) Lawn mowers, weed blowers, garden tractors, construction and repair equipment, go-carts and power tools, when properly muffled, between the hours of 6:00 a.m. and 10:00 p.m. only.
 - (3) Burglar alarms and other warning devices when properly installed, providing the cause for such alarm or warning device sound is investigated and turned off within a reasonable period of time.
 - (4) Parades, festivals, carnivals, fairs, celebrations, concert performances, band and drum corps performances, and artistic performances, as well as any rehearsals for same, and all other events authorized by the board of public works and safety or other appropriate governmental entity.
 - (5) Attendant noise connected with the actual performance of athletic or sporting events and practices related thereto.
 - (6) The emission of sound for the purposes of alerting persons to the existence of an emergency, or for the performance of emergency construction, repair or other work.
 - (7) Sounds associated with the use of legal fireworks.

- (8) Sounds associated with the normal conduct of legally established nontransient businesses, organizations and governmental entities, when such sounds are customary, incidental and within the normal range appropriate for such use.
- (9) Rubbish collection utilizing any mechanical equipment between the hours of 6:00 a.m. and 9:00 p.m. only.
- (10) Subject to the other provisions of this section, and any other applicable law, rule or regulation, those sounds associated with motor vehicles lawfully operating on town streets.
- (11) Sounds associated with equipment or animals lawfully utilized by handicapped persons to accommodate their handicap.
- (12) Sounds associated with the operation of aircraft or snow removal equipment.

(c) No person shall keep any animal, other than a service animal lawfully used by a handicapped person to accommodate his handicap, which, by causing frequent or long continuing noise that is audible 40 feet or more from its source when the animal is on public property, or 40 feet or more outside of a private property line when the animal is on private property, does disturb the comfort or repose of any other person.

(d) Citations for violation of this section may be issued by any member of the town's police department.

(Ord. No. 2007-06, art. VIII, 8-9-2007)

State law references—Unreasonable noise, IC 35-45-1-3(a)(2); authority to regulate generation of sound, IC 36-8-2-8.

Chapter 17

RESERVED

Chapter 18

NUISANCES*

Article I. In General

Secs. 18-1—18-18. Reserved.

Article II. Public Nuisances

Sec. 18-19. Defined.
Sec. 18-20. Prohibited.
Sec. 18-21. Abatement.
Sec. 18-22. Health.
Sec. 18-23. Morals and decency.
Sec. 18-24. Peace and safety.
Secs. 18-25—18-51. Reserved.

Article III. Graffiti

Sec. 18-52. Definitions.
Sec. 18-53. Prohibited.
Sec. 18-54. Abatement.
Secs. 18-55—18-81. Reserved.

Article IV. Weeds, Debris, And Other Such Rank Vegetation

Sec. 18-82. Definitions.
Sec. 18-83. Penalty.
Sec. 18-84. Article supplemental.
Sec. 18-85. Prohibited; cutting required.
Sec. 18-86. Abatement.
Secs. 18-87—18-115. Reserved.

Article V. Junk And Junk Cars

Sec. 18-116. Definitions.
Sec. 18-117. Nuisance declared.
Sec. 18-118. Violations.
Sec. 18-119. Exempt vehicles.
Sec. 18-120. Prohibited.
Sec. 18-121. Removal procedures.
Sec. 18-122. Disposing and sale of stored vehicles.
Sec. 18-123. Towing and storage charges of abandoned vehicles.

***State law references**—Municipal home rule, IC 36-1-3-1 et seq.; nuisance actions, IC 32-30-6-1 et seq.

ARTICLE I. IN GENERAL

Secs. 18-1—18-18. Reserved.

ARTICLE II. PUBLIC NUISANCES*

Sec. 18-19. Defined.

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

Public nuisance means a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- (1) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
- (2) In any way render the public insecure in life or in the use of property;
- (3) Greatly offend the public morals or decency;
- (4) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way; or
- (5) Is injurious to health, or indecent, or offensive to the senses, or an obstruction to the full use of property, so as essentially to interfere with the comfortable enjoyment of life or property.

(Ord. No. 2007-06, art. II(A)(2), 8-9-2007)

State law reference—Nuisance defined, IC 32-30-6-6.

Sec. 18-20. Prohibited.

(a) No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the town.

(b) An agricultural operation or any of its appurtenances is not and does not become a nuisance, private or public, by any changed conditions in the vicinity of the locality after the agricultural operation has been in operation continuously for more than one year if: there is no significant change in the hours of operation, there is no significant change in the types of operation, and the operation would not have been a nuisance at the time the agricultural operation began on that locality.

(Ord. No. 2007-06, art. II(A)(1), 8-9-2007)

State law reference—Agricultural operations constituting nuisances, IC 32-30-6-1.5.

***State law reference**—Nuisance actions, IC 36-30-6-1 et seq.

Sec. 18-21. Abatement.

(a) *Inspection of premises.* Whenever complaint is made to the president of the town council that a public nuisance exists or has existed within the town, the president shall promptly notify the town manager, or some other town official whom the president of the town council shall designate, who shall forthwith inspect or cause to be inspected the premises and shall make a written report of the findings to the president of the town council. Whenever practicable, the inspection officer shall cause photographs to be made of the premises and shall file the same in the office of the town clerk-treasurer.

(b) *Summary abatement.*

- (1) *Notice to owner.* If the inspection officer shall determine that a public nuisance exists on private property and that there is a great and immediate danger to the public health, safety, peace, morals or decency, the president of the town council may direct the town marshal or a deputy sheriff to serve a notice on the owner or, if the owner cannot be found, on the occupant or person causing, permitting or maintaining such nuisance and to post a copy of the notice on the premises. Such notice shall direct the owner, occupant or person causing, permitting or maintaining such nuisance and all persons holding a substantial interest in the property to abate or remove such nuisance within a reasonable time of at least ten days but not more than 40 days and shall state that unless such nuisance is so abated, the town will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the same, as the case may be.
- (2) *Abatement by town.* If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the town manager, or some other town official whom the president of the town council shall designate, shall cause the abatement or removal of such public nuisance.

(c) *Abatement by court action.* If the inspecting officer shall determine that a public nuisance exists on private premises, but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall file a written report of his findings with the president of the town council, who shall cause an action to abate such nuisance to be commenced in the name of the town.

(d) *Cost of abatement.* In addition to any other penalty imposed by this article for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the town shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as other special taxes.

(Ord. No. 2007-06, art. II(A)(6), 8-9-2007)

State law references—Actions to bring property into compliance with ordinance conditions, IC 36-1-6-2; nuisance abatement actions, IC 32-40-6-7 et seq.

Sec. 18-22. Health.

The following acts, omissions, places, conditions and things are specifically declared to be public health nuisances, but shall not be construed to exclude other health nuisances coming within the definition hereof:

- (1) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public;
- (2) Carcasses of animals, birds or fowl not buried or otherwise disposed of in a sanitary manner within 24 hours after death;
- (3) Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, junk vehicles, scrap metal or any material in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed, or which may be a fire hazard;
- (4) All stagnant water in which mosquitoes, flies or other insects can multiply;
- (5) Garbage cans which are not flytight, or not kept clean;
- (6) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the town limits in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property;
- (7) The pollution of any public well or cistern, stream, river, lake, canal or body of water by sewage, creamery or industrial wastes or other substances;
- (8) Any use of property, substances or things within the town emitting or causing foul, offensive, noisome, nauseous, noxious, or disagreeable odors, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the town; or any slaughterhouse;
- (9) All abandoned wells not securely covered or secured from public use;
- (10) All noxious weeds;
- (11) Any accumulation of junk, rubbish, scrap metal, automotive parts, building materials, machinery, dead trees, or parts thereof, upon any premises in a residential area; or
- (12) Any structure used for the collection or deposit of trash or garbage that has an open door allowing access into said structure, except when the door is open to allow the structure to be used for the deposit or removal of trash or garbage, or to allow the structure to be cleaned or repaired.

(Ord. No. 2007-06, art. II(A)(3), 8-9-2007)

Sec. 18-23. Morals and decency.

(a) The following acts, omissions, places, conditions and things are specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition hereof.

- (1) All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling;
- (2) All gambling devices and slot machines;
- (3) All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by this Code or state law;
- (4) Any place or premises within the town where town ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated;
- (5) Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the state or the ordinances of the town.

(b) Public nuisances offending morals and decency shall also mean:

- (1) Any place in or upon which prostitution (as described in IC 35-45-4);
- (2) Any public place in or upon which deviate sexual conduct (as defined in IC 35-41-1) or sexual intercourse (as defined in IC 35-41-1); or
- (3) Any public place in or upon which the fondling of the genitals of a person;

is conducted, permitted, continued, or exists, and the personal property and contents used in conducting and maintaining the place or such a purpose. (Statutory reference: Actions for indecent nuisances, see IC 34-19-2)

(Ord. No. 2007-06, art. II(A)(4), 8-9-2007)

Sec. 18-24. Peace and safety.

The following acts, omissions, places, conditions and things are declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of this section:

- (1) All buildings erected, repaired or altered within the town in violation of the provisions of the ordinances of the town, the county, or the state relating to materials and manner of construction of buildings and structures.
- (2) All unauthorized signs, signals, markings or devices which purport to be or may be mistaken as official traffic control devices placed or maintained upon or in view of any public highway or railway crossing.

- (3) All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- (4) All limbs of trees which project over a public sidewalk less than eight feet above the surface thereof or less than ten feet above the surface of a public street.
- (5) All use of display of fireworks except as provided by the laws of the state and ordinances of the town.
- (6) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use, or shall be an invitation to children and endanger the lives of such children, or any building, which, because of its condition, has become a fire hazard.
- (7) All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface of the street or ground.
- (8) All loud and discordant noises or vibrations of any kind, except as may be permitted under a zoning ordinance.
- (9) All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the town, which, although made in accordance with such ordinances, are kept or maintained for an unreasonable length of time after the purpose thereof has been accomplished.
- (10) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalks.
- (11) All abandoned refrigerators, iceboxes or similar containers from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside by pushing only with the strength of a small child.
- (12) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.
- (13) Any sign, marquee, or awning which is in an unsafe condition, or which overhangs any roadway, or which overhangs any sidewalks less than eight feet above the sidewalk surface.
- (14) Any nuisance so defined by the Indiana Code.
(Ord. No. 2007-06, art. II(A)(5), 8-9-2007)

Secs. 18-25—18-51. Reserved.

ARTICLE III. GRAFFITI

Sec. 18-52. Definitions.

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

Graffiti shall include markings which deface, deform, mar or which cause the defacing, deforming, or marring of any public or private property including, by way of illustration and not limitation, buildings, trees, lampposts, poles, hydrants, bridges, piers, sidewalks, streets, and alleyways, or the surface of any public or private property located upon any public thoroughfare or right-of-way, or upon any public place within the town. However, this section shall not prohibit the posting of notices required by law to be posted.

Owner means all public and private property owners in the town.
(Ord. No. 2007-06, art. III(A), 8-9-2007)

Sec. 18-53. Prohibited.

(a) It shall be unlawful for any person to cause the appearance of graffiti on public or private property within the limits.

(b) All fines collected for violation of this section shall be deposited in a special fund (the Fund) for reimbursement to qualified owners of expenses incurred pursuant to this article.
(Ord. No. 2007-06, art. III(B), 8-9-2007)

Sec. 18-54. Abatement.

(a) Any owner or tenant shall notify the town's police department (the department) within 48 hours of the appearance of graffiti on his property.

(b) Upon notification, the department shall cause an inspection of the graffiti to be made, a police report to be filed, and shall begin an investigation as the department deems necessary and prudent. A copy of the police report shall be forwarded to the town manager for purposes of commencement of deadlines and notification requirement contained herein.

(c) Once an inspection has been made, the owner shall have ten business days in which to remove or cover the graffiti.

(d) Noncompliance with the removal provision of this section shall occur at the expiration of the ten-business-days period if the graffiti has not been either removed or covered.

(e) In the event of such noncompliance, the town manager shall issue a written notice to the violating owner. Said notice shall order the owner to correct the noncompliance by removal and/or covering of the graffiti within five days of receipt of notice. Such notice may be served either personally on the owner or sent by certified mail with a return receipt requested. If the owner is a nonresident of the town, notice shall be sent to owner's last known address.

(f) Expenses incurred by the owner in abating the violation may be reimbursed from the Fund upon compliance with reporting procedures and removal time frames. No reimbursement will be made if the owner does not comply with the requirements set forth herein.

(g) If the owner fails to abate the violation within the time prescribed by the notice, the owner shall be deemed to have granted permission to the respective town official to cause a designee of the town to enter the property for the limited purpose of covering and/or removing such graffiti.

(h) The clerk-treasurer shall make a certified statement of the actual cost incurred by the town in such covering and/or removal, and issue a bill for such costs, including administrative costs and removal costs, which bill shall be delivered to the owner either by hand or by certified mail, return receipt requested. The owner shall, within ten days of receipt or refusal of such notice, pay the amount due at the clerk-treasurer's office.

(i) Any notice of violation or bill issued under this section may be appealed to the town council if notice of appeal is given to the clerk-treasurer within seven days of the owner's receipt or refusal of the notice of violation. The town council shall hear any properly requested appeal at a regularly scheduled meeting within 30 business days following receipt of such appeal request and shall make a determination at the meeting at which it hears the appeal or at its subsequent regularly scheduled meeting.

(j) If the owner fails to pay a bill issued under this section within the time specified, the clerk-treasurer shall certify to the county auditor the amount of the bill, plus any additional administrative costs incurred in the certification. The auditor shall place the total amount certified on the tax duplicate for the property affected, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the general fund of the town.

(k) Nothing contained herein shall be construed to preclude any criminal investigation by any other law enforcement agency.

(Ord. No. 2007-06, art. III(C), 8-9-2007)

State law references—Actions to bring property into compliance with ordinance conditions, IC 36-1-6-2; nuisance abatement actions, IC 32-40-6-7 et seq.

Secs. 18-55—18-81. Reserved.

ARTICLE IV. WEEDS, DEBRIS, AND OTHER SUCH RANK VEGETATION*

Sec. 18-82. Definitions.

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

Debris means and includes the remains of something broken down or destroyed.

***State law reference**—Weed removal, IC 36-7-10.1-1 et seq.

Rank vegetation means and includes those weeds and growing vegetation which is excessively vigorous in growth, shockingly conspicuous, malodorous and/or flagrant.

Weeds means and includes any plant that is not valued where it is growing, and is of rank growth, tends to overgrow or choke out more desirable plants and/or is listed as a weed in the U.S. Department of Agriculture publication entitled Common Weeds of the United States, or in any similar government publication.

(Ord. No. 2007-06, art. IV(A), 8-9-2007)

Sec. 18-83. Penalty.

Except as otherwise provided, violations of this article are punishable as provided in section 1-7.

(Ord. No. 2007-06, art. IV(J), 8-9-2007)

Sec. 18-84. Article supplemental.

This article supplements and does not limit any other remedy or action available in law or in equity regarding the subject matter of this article.

(Ord. No. 2007-06, art. IV(L), 8-9-2007)

Sec. 18-85. Prohibited; cutting required.

(a) It is a violation of this article to have weeds, rank vegetation and/or debris on any real property located within the town's corporate limits.

(b) All owners of real property located within the town shall cut and remove weeds and other rank vegetation growing thereon that exceeds an average height of six inches and shall keep their property clear of debris.

(Ord. No. 2007-06, art. IV(B), (C), 8-9-2007)

Sec. 18-86. Abatement.

(a) *Violation notice.*

(1) In the event of a violation of this article, the town manager and/or his designee, or an officer of the police department shall issue a written notice (violation notice) to the violating landowner. The violation notice shall identify the violation and order the landowner to correct the same within seven calendar days from the date on which the violation notice is served on the landowner (abatement period). Personal service, service by U.S. certified mail, or any other manner of service recognized in the state rules of trial procedure shall constitute proper service upon the landowner for purposes of this subsection.

(2) Any violation notice issued pursuant to this section may be appealed to the town council if written notice of appeal is served on the landowner. The timely appeal of a violation notice shall toll the abatement period pending the issuance of a decision thereon by the town council.

(b) *Abatement by town.*

- (1) If the landowner fails to timely abate each violation set forth in a violation notice, the landowner shall be deemed to have granted permission to the town to enter the landowner's property for the limited purpose of cutting and/or removing such debris, weeds or rank vegetation located thereon and identified in the violation notice. In such case, the town manager, or his designee, shall prepare a certified statement as to the actual administrative and other costs incurred by the town in taking such action, and serve a copy of the invoice on the landowner. The landowner shall, within seven calendar days from the date on which the landowner is served with such invoice (payment period), pay in full the amount stated thereon to the clerk-treasurer.
- (2) Any invoice issued pursuant to this section may be appealed to the town council if written notice of appeal is served on the clerk-treasurer within seven calendar days from the date on which the invoice is served on the landowner. The timely appeal of an invoice shall toll the payment period pending the issuance of a decision thereon by the town council.
- (3) If the landowner fails to timely pay an invoice issued pursuant to this section or the amount assessed to this section, the clerk-treasurer shall certify to the county auditor the amount of the invoice, plus any additional administrative costs incurred in the certification of the same. The auditor shall place the total amount so certified on the tax duplicate for the property at issue, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the general fund of the town.

(c) *Hearing of appeals.* The town council shall hear any timely requested appeal of a notice of violation or invoice within 30 calendar days following receipt of the same, and shall thereafter promptly issue a written decision granting or denying, in whole or in part, the appeal. The date on which the town council's decision is served on the landowner shall thereafter become the first calendar day of the abatement period or payment period, as applicable.

(Ord. No. 2007-06, art. IV(D)—(I), (M), 8-9-2007)

State law reference—Collection of expenses, IC 36-7-10.1-4.

Secs. 18-87—18-115. Reserved.

ARTICLE V. JUNK AND JUNK CARS***Sec. 18-116. Definitions.**

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

Abandoned vehicle means:

- (1) A vehicle located on public property illegally.
- (2) A vehicle left on public property without being moved for 24 hours.
- (3) A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicular traffic on a public right-of-way.
- (4) A vehicle that has remained on private property without the consent of the owner or person in control of that property for more than 48 hours.
- (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 the ordinance from which this article is derived, if the impounded vehicle is not claimed or redeemed by the owner or the owner's agent within 20 days after the vehicle's removal.
- (7) A vehicle that is at least three model years old, is mechanically inoperable, and is left on private property continuously in a location visible from public property for more than 20 days. For purposes of this subsection, a vehicle covered by a tarpaulin or other plastic, vinyl, rubber, cloth, or textile covering is considered to be visible.

Junk means any articles in any form composed of or consisting of any of the following enumerated secondhand, discarded, abandoned or cast off metals or materials, namely: iron, brass, bronze, copper, tin, zinc, lead or any other metals or compounds thereof, broken glass, rags, clothing, rubber, plastics, synthetic substances and fabrics, bottles, papers, feathers or any other waste material or any compound or byproduct of the foregoing enumerated materials. Junk shall also include and mean, wrecked, abandoned or dismantled automobile or parts thereof.

Junk car means any motor vehicle which does not bear a currently valid license plate and is not kept in a garage or building.

(Ord. No. 2007-06, art. VI(A), (F), 8-9-2007)

State law reference—Abandoned vehicle defined, IC 9-13-2-1.

***State law references**—Abandoned, salvaged and scrap vehicles, IC 9-22-1-1 et seq.; certain procedures to be established by ordinance, IC 9-22-1-30.

Sec. 18-117. Nuisance declared.

(a) Because of the danger to the health from vermin, the danger of personal injury to children attracted by such vehicles as defined in section 18-116, and the danger of fire by the storage of gasoline and oil thereon, any abandoned, unlicensed, inoperable, disassembled, wrecked or junked motor vehicle on any street or public property for more than five days or upon any private property for more than 15 days, except as hereinafter provided, is declared to be a nuisance and unlawful.

(b) Because of the danger of health by vermin and insects and because of the danger of the safety of children attracted by junk or junk cars, abandoned and junked motor vehicles are declared to be nuisances except in lawfully operated junkyards.

(Ord. No. 2007-06, art. VI(B), (E), 8-9-2007)

Sec. 18-118. Violations.

(a) If a vehicle is not removed within the time period provided in section 18-121 after such notice, the town marshal or his designee shall issue a written order of violation hereof and enforcement shall be by the town attorney or his designee, and appropriate action by a court of competent jurisdiction.

(b) The form of all notices shall be issued pursuant to the provisions of IC 9-22-1-11.

(c) Any person who is judged to have violated the provisions of this Code shall be punished as provided in section 1-7 in addition to towing and storage charges.

(Ord. No. 2007-06, art. VI(I), 8-9-2007)

Sec. 18-119. Exempt vehicles.

The provisions of this division do not apply to:

- (1) A vehicle in operable condition specifically adapted or constructed for operation on privately owned raceways;
- (2) A vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment;
- (3) A vehicle located on a vehicle sale lot or at a commercial vehicle servicing facility;
- (4) A vehicle located upon property licensed or zoned as an automobile scrap yard; or
- (5) A vehicle registered and licensed under IC 9-18-12 as an antique vehicle.

(Ord. No. 2007-06, art. VI(J)(2), 8-9-2007)

Sec. 18-120. Prohibited.

(a) It shall be unlawful for any person to store or to allow to remain in the open upon public or private property within the town, any disassembled and/or nonoperative and unlicensed, junked, or wrecked motor vehicle for a period of five days or more on public property, or a period of 15 days or more on private property unless it is in connection with an automobile sale or repair business.

(b) It shall be unlawful for any person to store or allow to remain in the open upon any public street, public property or private property within the town, any disassembled or inoperable and unlicensed, or any junked, wrecked or abandoned motor vehicle.

(Ord. No. 2007-06, art. VI(C), (G), 8-9-2007)

Sec. 18-121. Removal procedures.

(a) *Public property.* Whenever the town marshal or his designee shall find such vehicle placed or stored in the open upon a public highway, alley, or thoroughfare, or other public property within the town, he shall issue an order to the owner of such vehicle, if known, to remove such vehicle within three days; provided, however, in the case of a highway that is designated as part of the state highway system under IC 8-23-4, the removal period shall be one day.

- (1) Notice of such order shall be given to such owner, if known, in writing, but if such owner shall be unknown, such written notice shall be placed in plain view upon the vehicle.
- (2) If such vehicle is not removed within three days after such notice, the town marshal, or his designee shall cause said vehicle to be removed by a junk or salvage yard or wrecker service, the cost and expense of such removal by a junk or salvage yard or by a wrecker service to be paid by the owner of the vehicle.
- (3) Impounded vehicles shall be released either upon payment by the owner, operator, or authorized representative of same, of the fees charged for towing and storage, or upon order of the town marshal or his designee, or upon the order of the judge of a court of competent jurisdiction.
- (4) The form of all notices shall be issued pursuant to the provisions of IC 9-22-1-11.

(b) *Private property.* Whenever the town marshal or his designee shall find such vehicle placed or stored in the open upon private property within the town, he shall issue an order to the owner of such vehicle, if known, or the person who owns or controls the private property upon which such vehicle is placed or stored according to the procedures set forth in IC 9-22-1-11—9-22-1-14.

(c) *Release.* Impounded vehicles shall be released either upon payment by the owner, operator, or authorized representative of the same of the fees charged for towing and storage, or upon order of the town marshal or his designee, or upon the order of a court of competent jurisdiction.

(Ord. No. 2007-06, art. VI(H), 8-9-2007)

Sec. 18-122. Disposing and sale of stored vehicles.

The provisions of IC 9-22-1-27 shall govern the disposition and sale of stored vehicles. The abandoned vehicle fund as shall be governed by the provisions of IC 9-22-1-30.

(Ord. No. 2007-06, art. VI(J), 8-9-2007)

Sec. 18-123. Towing and storage charges of abandoned vehicles.

An owner or lien holder who claims a vehicle impounded and declared abandoned by the town's police department shall be charged a towing fee and a per day storage fee. The storage fee shall be allowed to accumulate for a maximum period of 60 days.

(Ord. No. 2007-06, art. VI(K), 8-9-2007)

State law references—Towing charges for abandoned vehicles to be established by ordinance, IC 9-22-1-30; liability of vehicle owner for towing fee, IC 9-22-1-4.

Chapter 19

RESERVED

Chapter 20

PARKS AND RECREATION*

- Sec. 20-1. Department of parks and recreation created; composition; property.
Sec. 20-2. Compliance with park rules.

***State law reference**—Recreation, cultural and community facilities, IC 36-10-1-1 et seq.

Sec. 20-1. Department of parks and recreation created; composition; property.

(a) There is hereby created a department of parks and recreation to be known hereafter as the Versailles Department of Parks and Recreation.

(b) The department shall consist of a park and recreation board, a superintendent, and such other personnel as the board may from time to time deem necessary.

(c) All books, papers, documents and other property of the preceding department of parks and recreation shall become and be property of the department.

(Ord. No. 2010-02, § I, 9-2-2010)

State law references—Authority to so provide, IC 36-10-3-3; park and recreation board, IC 36-10-3-4 et seq.

Sec. 20-2. Compliance with park rules.

It is unlawful for any person to violate any rules promulgated by the park and recreation board pertaining to conduct or use of parks or other facilities under the jurisdiction of the board. Persons violating this section shall be punished as provided in section 1-7.

Chapter 21

RESERVED

Chapter 22

SECONDHAND GOODS*

Article I. In General

Secs. 22-1—22-30. Reserved.

Article II. Garage Sales

- Sec. 22-31. Definitions.
- Sec. 22-32. Injunction; penalty.
- Sec. 22-33. Citations.
- Sec. 22-34. Purpose.
- Sec. 22-35. Time limits.
- Sec. 22-36. Time between sales.
- Sec. 22-37. Signs.

***State law reference**—Municipal home rule, IC 36-1-3-1 et seq.

ARTICLE I. IN GENERAL

Secs. 22-1—22-30. Reserved.

ARTICLE II. GARAGE SALES

Sec. 22-31. Definitions.

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

Event means that period of time from the commencement of a garage sale through the end of that garage sale.

Garage sale means any garage, porch, patio, tag or yard sale which:

- (1) Is conducted from a residence (single-family or multifamily) within the town, which is displayed in the open, clear view of the public, in a garage, in the yard, or adjacent to a dwelling house or other building primarily used for residential purposes;
- (2) Sells appliances, household or yard or garden tools and equipment, household furnishings, furniture and/or personal items.

Sec. 22-32. Injunction; penalty.

(a) In addition to the penalty provided for hereunder, the town may apply to the courts for an injunction against an individual or individuals and, where appropriate, a specific piece of real estate, to enjoin them as to such matter as may be reasonably necessary to prohibit future violations of this article, and if the injunction is being sought in connection with or as a result of a penalty of the violation of this article, the persons violating this article shall be responsible for the attorneys' fees incurred by the town by obtaining the injunction; provided, however, that the fine and attorneys' fees for both the penalty and the injunction do not exceed a total of \$2,500.00 for each violation. Upon a statement by an individual of his intent to violate the terms of this article, the town may without a violation of this article having occurred, apply to the courts for an injunction against that person and/or property for the enforcement of this article; provided, however, then in such an instance, the person making such statement shall not be responsible for the attorneys' fees incurred by the town in obtaining such an injunction without an accompanying violation.

(b) The town marshal or deputy town marshal may elect to furnish a person in violation of this article a citation allowing such person up to 14 days to pay the fine or fines herein to the clerk-treasurer to be deposited in the general funds of the town. In such event, the ordinance violation charge shall not be filed unless the offender fails to pay the fine to the clerk-treasurer within the allotted time, except that, upon being notified by the town marshal or deputy

marshal that the garage sale is in violation of this article, then each hour that a person so notified either directly or through his agent permits the violation to continue shall constitute a separate offense.

State law reference—Admission of violations and payment of civil penalty to violations clerk, IC 33-36-3-1 et seq.

Sec. 22-33. Citations.

An officer of the town's police department may issue a town ordinance violation citation to a person who violates this article. The citation shall impose:

- (1) A \$50.00 fine for each and every one of the following reasons for the first violation:
 - a. Sale starts too early;
 - b. Sale extends beyond ending time;
 - c. Sale items or display paraphernalia is not removed within allotted time;
 - d. Sale other than permitted days;
 - e. More than three garage sales per year.
- (2) A \$75.00 fine for the second violation; and
- (3) A \$200.00 fine for the third and all subsequent violations.

State law reference—Admission of violations and payment of civil penalty to violations clerk, IC 36-36-3-1 et seq.

Sec. 22-34. Purpose.

The purpose of this article is to regulate the conduct of garage sales in the town so as to preserve the peace, safety, health and welfare of the community, its citizens and visitors. It will further serve the integrity of the general concept of the zoning regulations of the town, which provide for commerce that have different rules, regulations and standards than areas for residential living. Further, it is the intent to provide for one weekend day, namely Sunday, to be more peaceful and quiet in areas with a residence and to limit the times for such events.

Sec. 22-35. Time limits.

Garage sales are limited as follows:

- (1) Only three sales per calendar year may be conducted from any one location;
- (2) Each sale may be active and display items for sale for a period not to exceed Thursday at 7:00 a.m. to 5:00 p.m.; Friday from 7:00 a.m. to 5:00 p.m.; and Saturday from 7:00 a.m. to 5:00 p.m. No sales on Sunday, Monday, Tuesday or Wednesday. At the end of any sale period all sale items and display paraphernalia must be removed from public view within an hour.

Sec. 22-36. Time between sales.

There must be a period of eight days between sales at any specific location. Consecutive sales are specifically prohibited.

Sec. 22-37. Signs.

Signs giving notice of the garage sale shall be regulated by chapter 24.

Chapter 23

RESERVED

Chapter 24

SIGNS*

- Sec. 24-1. Definitions.
- Sec. 24-2. Violations and penalty.
- Sec. 24-3. General regulations.
- Sec. 24-4. Permits generally.
- Sec. 24-5. Signs exempt from permit requirement.
- Sec. 24-6. Permitted signs.
- Sec. 24-7. Electrical signs.
- Sec. 24-8. Portable signs.
- Sec. 24-9. Engineering design standards.
- Sec. 24-10. Vehicle signs.

***State law reference**—Municipal home rule, IC 36-1-3-1 et seq.

Sec. 24-1. Definitions.

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

Area means the total area of a sign normally to be used for presenting information or attracting attention.

Attention-attracting device means any publicly displayed board, with one face (the surface of a thing) with a flashing beacon, animation, banner cloth, or other object mounted onto or in a sign.

Building facade means the part of the exterior of a building that extends from the grade to the top of the parapet or eaves and the entire width of the building (building face).

Copy area means the area of the words and numbers included in the sign copy, not including pictures, trademarks or other advertising symbols.

Detached sign means any sign not attached to a building.

Development sign means a sign of the architect, engineer, contractor, subcontractor, financier or sponsor of a development and designating the future occupant or use of the development.

Display area means the total area of the words and numbers included in the sign copy, not including pictures, trademarks or other advertising symbols.

Embellishment means anything that would be an addition to the sign copy.

Illuminated signs:

- (1) *Fully illuminated sign* means any sign which is illuminated by an external/internal light source which is visible.
- (2) *Indirectly illuminated sign* means any sign which is illuminated by an external light source which is not visible at eye level.
- (3) *Semi-illuminated sign* means any sign which is uniformly illuminated internally over its entire area.

Incidental sign means a sign which guides or directs pedestrian or vehicular traffic.

Off-premises sign means a sign that directs attention to a business, commodity, service, activity or product sold, conducted or offered off the premises where the sign is located.

On-premises sign means a sign that directs attention to a business, commodity, service, activity or product sold, conducted or offered on the premises where the sign is located.

Political sign means any sign bearing a photograph or oriented material which promotes a person or issues which will be determined by an election by voters.

Portable sign means a sign that is not permanently affixed to one location and can be moved from one site to another.

Projecting sign means a sign extending more than one foot from the face of a building to which it is attached or which extends more than one foot above the roofline.

Public information sign means a sign containing only emergency or legal notices and regulation information.

Pylon/monument sign means an identification sign that rises from the ground and generally has no clearance under it.

Real estate sign means a sign advertising the fact that the premises on which it is located are for sale, lease or rent.

Roof sign means a sign extending more than one foot from the face of the building to which it is attached or extends more than one foot above the roofline.

Subdivision development amenity sign means a sign directing traffic to amenities, such as a clubhouse or swimming pool, within the subdivision.

Temporary sign means a sign of cloth or other combustible material, with or without a frame, to be used for a limited period of time and not permanently attached to the ground or a building.

Under-canopy sign means a display attached to the underside of a marquee or canopy and protruding over public or private sidewalks or rights-of-way.

Sec. 24-2. Violations and penalty.

(a) The owner or agent of a building or premises in or upon which a violation of any provision of this chapter has been committed or shall exist, or the lessee or tenant of that part of a building or premises in or upon which a violation of this chapter exists, shall be guilty of an offense. Each and every day that the violation continues after notification shall constitute a separate offense.

(b) Any architect, builder, contractor, agent or other person who commits, participates and assists in or maintains the violation may each be found guilty of a separate offense and suffer the penalties provided in section 1-7.

(c) In the event of any action to enforce the terms of this chapter, the person violating the terms of this chapter shall be responsible for the reasonable attorney's fees incurred by the town; provided, however, that the penalty provided for in section 1-7 and the attorney's fees shall not exceed \$2,500.00 per violation.

Sec. 24-3. General regulations.

(a) Signs are not to:

- (1) Constitute traffic hazards.
- (2) Be erected at intersections of any streets in a way that they obstruct free and clear vision at any intersection.

- (3) Use any intensity, position, shape or color that would obstruct or interfere with vision at any intersection.
 - (4) Use any word, such as "stop," "look," or "danger," or any word, phrase, symbol or character that would interfere with, misdirect or confuse traffic.
- (b) Signs required by law to be a specific size, composition or location may be permitted by the plan commission.
- (c) The local power company must be contacted if any sign is placed directly under or within ten feet of any power line.
- (d) Before an application for a sign permit is granted, a permit fee shall be paid to the town in the amount set forth by section 24-4.
- (e) Signs shall generally conform with the provisions of this chapter, however:
- (1) All signs not complying with the provisions of this chapter, after the passage of the ordinance from which this chapter is derived, shall be deemed nonconforming signs.
 - (2) A nonconforming sign may not be replaced or repaired if said sign is damaged more than 40 percent of its value, to be determined by the building commissioner, and/or if it requires structural repair or readability, it shall meet compliance (removed).
 - (3) Upon the change of use, occupancy or ownership of any property or structure, the sign offered to such structure or erected on-premises shall be brought into compliance.
- State law reference**—Signs resembling traffic signs, IC 9-21-4-4.

Sec. 24-4. Permits generally.

- (a) No person shall erect a sign without a permit issued by the town.
- (b) Before being granted a sign permit, every applicant shall pay a fee, per sign, to the town, according to the following:
 - (1) Residential signs, \$10.00.
 - (2) Commercial signs, \$10.00.
 - (3) Institutional signs, \$10.00.
 - (4) Billboards, \$50.00.
 - (5) Temporary signs, \$10.00.
- (c) The building commissioner shall have the authority to permit, prohibit or send to the board of zoning appeals any sign permit request. The board of zoning appeals shall have the authority to approve any sign permit request presented to it, and, upon appeal, may overrule the decision of the building commissioner.

Sec. 24-5. Signs exempt from permit requirement.

(a) A permit will not be required for the following signs. Such exemptions, however, shall apply only to the requirement of a permit and shall not relieve the owner of the sign from the requirements of this chapter or any other ordinance of the town concerning the erection, maintenance and appearance of the sign.

- (1) *Real estate signs.*
 - a. One project, for sale or for rent sign is allowed per street frontage. The sign must be located on the premises and must be removed upon completion of the project or within ten days of the sale or letting of the property.
 - b. Agricultural, residential or commercial acreage for sale or rent signs shall have a maximum size of 32 square feet.
 - c. Residential structure for sale signs shall have a maximum size of six square feet.
- (2) *Political signs.* Political signs:
 - a. Shall not exceed the maximum allowed sign area for any sign in a zoning district in which the sign is located.
 - b. Are subject to sections of the town ordinances that prohibit the placement of signs in public rights-of-way or in locations where they may impede the view of traffic signs, traffic signals, other traffic devices or intersections.
 - c. Shall not be placed on any public or private property without the consent of the property owner.
 - d. Shall not apply to legally established billboards off the premises.
- (3) *Historical place signs.* Historical place signs shall not exceed two square feet.
- (4) *Business signs.* Business signs may be placed, hung or painted on the inside windows and/or glass portions of doors (i.e., credit card signs, business hours signs or sale signs).
- (5) *Street numbers.* Street numbers shall be displayed prominently, but not in any manner that will pose any risk or hazard to the public.
- (6) *Temporary signs.* Temporary signs for special events for public, charitable, religious or fraternal organizations shall:
 - a. Have a maximum size of 32 square feet.
 - b. Have only one sign per street frontage.
 - c. Be located on the premises and not block visibility.
 - d. Not be placed sooner than 45 days prior to the event and be removed within ten days after the event.
- (7) *Temporary residential garage sale signs.* Temporary residential garage sale signs:
 - a. Cannot be displayed sooner than two days prior to the sale.

- b. Shall include the name, address and telephone number of the person conducting the sale and the date of the sale.
 - c. Must be removed within two days after the sale.
 - d. Cannot be placed on any traffic sign or town sign.
- (8) *Parking signs.* Parking signs shall have a maximum size of six square feet per entrance, and shall not exceed two signs at each access.
- (9) *Contractor signs.* Contractor signs shall:
- a. Have a maximum size of 15 square feet.
 - b. Be constructed of metal, wood or industrial plastic.
 - c. Be freestanding.
 - d. Have a display area of professional quality.
 - e. Be displayed on the premises where the work is being done.
 - f. Be displayed only while work is in progress.

(b) All signs not requiring a permit shall be stand-alone signs. All signs shall be required to have a post, frame or fixture for displaying the sign by itself, and the construction of the sign, post, frame or fixture for display shall be of such construction as not to become a nuisance.

Sec. 24-6. Permitted signs.

Signs shall be permitted as follows:

- (1) *Suburban resident district.*
- a. *Home occupations.* One nonilluminated sign, not to exceed one square foot in area, shall be allowed, and such sign shall be mounted directly on the residence, except when the residence is not visible from the street or right-of-way. One detached sign may be substituted for such residence attached sign. The detached sign shall not exceed four square feet in area, nor six feet in height, and must be set back ten feet from the property line.
 - b. *Agricultural products.* One nonilluminated sign, not to exceed 32 square feet in area and four feet in height, shall be allowed. Such sign will have a setback of ten feet from existing rights-of-way and property lines.
 - c. *Subdivision/development and multifamily signs.* A limit of two signs shall be allowed on the premises, and the signs can be nonilluminated or indirectly illuminated. Each sign will be no larger than 40 square feet in area and not more than four feet in height. Subdivision signs shall be at least ten feet from existing or proposed rights-of-way and property lines.
 - d. *Churches and other institutional uses.* A limit of two nonilluminated, semi-illuminated or indirectly illuminated detached signs shall be allowed. Each detached sign will be no larger than 32 feet in area and not more than four feet

in height. The signs shall be set back ten feet from any property line. One wall sign, not larger than ten percent of the facade on which it is mounted, is allowed.

- (2) *Single-family resident district.* Signs are allowed in the single-family resident district as set forth in subsection (1) of this section for the suburban resident district, except that detached home occupation signs are not permitted.
- (3) *Two-family and multiple-family residence districts.*
 - a. Signs shall be allowed as set forth in subsections (1)c and (1)d of this section.
 - b. A multifamily development shall be allowed one nonilluminated wall sign per building, not to be larger than 12 square feet in area, identifying the building.
- (4) *Central business districts, highway commercial districts and neighborhood commercial districts.*
 - a. Each business or commercial establishment shall be allowed two wall signs which may be illuminated or semi-illuminated. The total square footage of the two signs cannot exceed 15 percent of the facade to a maximum of 32 square feet on which they are placed.
 - b. In lieu of one of the above attached signs, a single detached sign which may be illuminated or semi-illuminated, shall be permitted. The detached sign will be placed at least ten feet from an existing or proposed right-of-way and be set back from any residential district boundary a distance equal to the height of the sign. The detached sign shall not exceed the height of structures permitted in such districts. The sign shall not exceed 32 square feet per sign. A detached illuminated or semi-illuminated, two-sided sign is considered to be two signs. Any detached sign that is larger than four feet in height, measured from the ground to the top of the sign, shall have open space of eight feet, measuring from the ground to the bottom of the sign.
 - c. A shopping center or office park designed as one entity and having one or more buildings shall be permitted one detached sign identifying the center. Such signs can be illuminated or semi-illuminated, and not exceed 35 feet in height and be no larger than 500 square feet in size. All other signs which may be illuminated or semi-illuminated shall be wall signs, and are to be no more than 25 percent of the total wall space per side. Incidental signs may be placed within the development, subject to approval of the town council.
- (5) *Light industrial districts and heavy industrial districts.* Signs for light industrial districts and heavy industrial districts are as allowed in subsection (4) of this section.

Sec. 24-7. Electrical signs.

All new signs using electricity must comply with the state building code.

Sec. 24-8. Portable signs.

(a) A portable sign permit shall be effective for duration not to exceed 30 days, with one possible extension not to exceed 30 days.

(b) All portable signs shall be located on private property.

Sec. 24-9. Engineering design standards.

All signs shall be built in accordance with the state building code.

Sec. 24-10. Vehicle signs.

It shall be prohibited to park or use a vehicle in such a way as to function as a sign, defined to include the parking of any vehicle, trailer or similar movable structure containing or supporting any signage between the right-of-way line and any public street and forward of the front line of a building with the exception of:

- (1) Vehicles actively involved in construction on or serving of the site;
- (2) Vehicles delivering products to the site in designated loading areas;
- (3) Vehicles parked in designated truck parking areas of a development that have been screened from or are not generally visible from the public right-of-way;
- (4) Passenger vehicles, pick-up trucks, and vans of a size that can fully fit within a standard parking space, containing signs painted on or permanently affixed on the doors or integral body panels that do not exceed 16 square feet in area.

Chapter 25

RESERVED

Chapter 26

SOLID WASTE*

Article I. In General

- Sec. 26-1. Definitions.
- Sec. 26-2. Penalty.
- Sec. 26-3. Legislative intent.
- Sec. 26-4. Enforcement.
- Sec. 26-5. Refuse disposal sites.
- Secs. 26-6—26-28. Reserved.

Article II. Accumulation And Storage

- Sec. 26-29. Compliance.
- Sec. 26-30. Method of storage and accumulation; composting.
- Sec. 26-31. Household rubbish.
- Sec. 26-32. Ashes.
- Sec. 26-33. Construction and demolition waste.
- Sec. 26-34. Bulky waste.
- Secs. 26-35—26-56. Reserved.

Article III. Collection

- Sec. 26-57. Fees for town collection services.
- Sec. 26-58. Residential and limited commercial collection.
- Sec. 26-59. Industrial and commercial properties.
- Sec. 26-60. Construction and demolition waste.

***State law references**—Solid waste management, IC 13-20-1-1 et seq.; municipal waste collection and transportation requirements, IC 13-20-4-1 et seq.; municipal solid waste disposal, IC 36-9-30-1 et seq.; regulation of waste disposal authorized, IC 36-9-2-18; establishment of waste disposal systems, IC 36-9-2-17.

ARTICLE I. IN GENERAL**Sec. 26-1. Definitions.**

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

Ashes means the residue resulting from the burning of wood, coal, coke or other combustible material. This definition excludes ashes resulting from industrial processes.

Authorized commercial collector means a person, firm or corporation licensed to collect, convey and dispose of refuse in accord with the laws of the state.

Bimetal container means an empty food or beverage container consisting of ferrous sides and bottom and an aluminum top.

Building or accessory structure means a building or other structure constructed, existing and used in conformity with the zoning, building and fire prevention ordinances, codes and regulations of the town.

Bulky waste means large household appliances, such as stoves, refrigerators, television sets, washing machines or the equivalent in size in; furniture and furnishings, plumbing fixtures, large crates, tools, machinery or parts thereof and similar items.

Construction and demolition waste means lumber, roofing, material, sheathing, rubble, broken concrete, plaster and brick, conduit, pipe, wire, insulation and similar material which results from a construction, demolition or remodeling process.

County means the County of Ripley and its regulatory agencies.

Disposal bag means any plastic bag designed specifically for the purpose of containing and disposing of waste material.

Dwelling unit means any room or group of rooms located within a building and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating by one family.

Garbage means all animal and vegetable waste solids resulting from the handling, preparation, cooking and consumption of foods.

Glass containers means clean bottles and jars made of clear, green or brown glass. Expressly excluded are noncontainer glass and porcelain and ceramic products.

Household rubbish means paper, wood, excelsior, plastics, rags and cloth, leather, rubber, metals, tin cans, metal foils, ceramics, crockery and similar items normally produced by or originating from private residential occupancy; provided, however, that the items set forth herein need not be produced by or originate from a residence to be classed as household rubbish so long as such waste is similar to the waste produced by or originating in a residence as to size, weight and material.

Industrial and commercial waste means any material or substance which is a waste byproduct of the industrial or commercial process and shall include packaging materials and equipment used in the delivery or shipment of goods to or from the industrial or commercial site.

Municipal collection service means a collection service established and operated by a private collection service under contract with the town.

Noncollectable waste means includes poisons, acids, caustics, explosives and other hazardous material that may cause damage or injury to collection equipment or personnel; human or animal excreta; and dead animals.

Refuse means all solid wastes, except body wastes, and shall include, but not be limited to, ashes, rubbish, garbage, industrial and commercial wastes and junk, except that the term "refuse" shall specifically exclude hazardous waste.

Rubbish means solid waste exclusive of garbage (e.g., plant material, wood or nonputrescible solid waste).

State means the State of Indiana and its regulatory agencies.

Vehicle means any device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

(Ord. No. 2006-03, art. I, § C, 4-13-2006)

Sec. 26-2. Penalty.

Except as otherwise provided, violations of this chapter are punishable as provided in section 1-7.

(Ord. No. 2006-03, art. V, § A, 4-13-2006)

Sec. 26-3. Legislative intent.

The purpose of this chapter is to promote, protect and facilitate the public health, safety, morals and general welfare by:

- (1) Regulating the collection, accumulation and storage of solid wastes so as to:
 - a. Retard the propagation and the harboring of rats, mice, mosquitoes, flies and other vermin;
 - b. Eliminate filth and filthy deposits;
 - c. Eliminate attractive nuisances which may endanger the safety of children;
 - d. Reduce the potential pollution of land, air or water and the disease-producing potential of decaying organic matter;
 - e. Reduce the potential of spontaneous combustion and fire; and
 - f. Generally promote harmonious, peaceful and comfortable neighborhood life by the elimination of nuisances;

- (2) Providing for the safe, orderly and economic collection and removal of accumulated waste;
 - (3) Providing for the disposal of solid waste in safe and sanitary methods and in compliance with applicable state and local rules and regulations; and
 - (4) Complying with the purpose and intent of laws of the state.
- (Ord. No. 2006-03, art. I, § B, 4-13-2006)

Sec. 26-4. Enforcement.

The town council president is hereby authorized from time to time to designate any officer or employee of the town to monitor collection sites, receive complaints of violations of this chapter and to bring legal action to enforce the provisions of this chapter.

(Ord. No. 2006-03, art. V, § B, 4-13-2006)

Sec. 26-5. Refuse disposal sites.

It shall be unlawful to dump, destroy or otherwise dispose of refuse within the jurisdictional limits of the town, except at a state- or county-approved disposal site.

(Ord. No. 2006-03, art. II, 4-13-2006)

Secs. 26-6—26-28. Reserved.

ARTICLE II. ACCUMULATION AND STORAGE

Sec. 26-29. Compliance.

No person shall accumulate or store or permit to be accumulated or stored on any property within the town any refuse in a method or in quantities not authorized by this chapter and as specified in this chapter.

(Ord. No. 2006-03, art. III, § A, 4-13-2006)

Sec. 26-30. Method of storage and accumulation; composting.

- (a) Garbage shall be drained of liquid, wrapped securely in paper, plastic bags or similar material and placed with other household rubbish in a container designed for the accumulation and disposal of garbage. Garbage shall not be stored for a period exceeding seven days.
 - (b) Material being composted shall be stored in such a manner as not to create a nuisance or to endanger the public safety. Given this condition, material being composted may be stored for more than seven days.
- (Ord. No. 2006-03, art. III, § B, 4-13-2006)

Sec. 26-31. Household rubbish.

(a) Household rubbish and garbage shall be collected, stored and/or prepared for collection only in the following containers and methods:

- (1) The municipal collection service shall be the sole collecting service for residential rubbish and garbage.
- (2) For disposal of rubbish and garbage, town residents will be required to acquire appropriate disposal bags and to place all household rubbish and garbage for collection in those bags. The town will only collect household rubbish and garbage contained in appropriate disposal bags. These bags shall not be filled so as to weigh more than 40 pounds and shall be securely tied or scaled at the time of collection.
- (3) Tree trimmings, shrubbery clippings and similar material shall be cut in lengths not to exceed four feet. Collection shall be arranged on an individual basis with the town. Trimmings not prepared as prescribed will not be collected. The street superintendent or his designee may determine an amount of trimmings to be excessive and refuse collection. Material denied for collection under this provision may be collected by a private hauler.

(b) Household rubbish and garbage shall not be stored in a manner that creates offensive or obnoxious odors.

(c) General storage methods.

- (1) Generally, household rubbish must be stored in appropriate disposal bags. Where metal or rigid plastic containers are used for the temporary storage of material, the bottoms and sides of such shall be kept free of residual liquids and solids by periodic cleaning.
- (2) All rubbish shall be drained of liquids before deposited in containers or disposal bags.
(Ord. No. 2006-03, art. III, § C, 4-13-2006)

Sec. 26-32. Ashes.

Ashes shall be thoroughly extinguished before placement for collection. Total net weight of ash shall not exceed 40 pounds per empty bag provided by resident.
(Ord. No. 2006-03, art. III, § D, 4-13-2006)

Sec. 26-33. Construction and demolition waste.

Construction and demolition waste may be stored upon the land where actual construction or demolition is in progress; provided, however, that such waste shall not be stored for a period exceeding 90 days and shall not be stored in a way which will allow it to be scattered by wind or rain.
(Ord. No. 2006-03, art. III, § E, 4-13-2006)

Sec. 26-34. Bulky waste.

Bulky waste shall not be stored outside of a building or accessory building on any land in the town, except for a period not exceeding 14 days pending collection and disposal. However, brush, tree trimmings, yard clippings, leaves, grass or other waste from live plants may be stored for longer periods of time if necessary, until the next scheduled collection day for such items, or for composting as future mulch material. Commercial and industrial properties shall not place bulky items for collection by the town's collection service. It shall be unlawful for any individual to place bulky waste for collection by municipal collection if that waste is not generated at or directly associated with the residence. Only one bulky waste item shall be collected each Thursday per household.

(Ord. No. 2006-03, art. III, § F, 4-13-2006)

Secs. 26-35—26-56. Reserved.**ARTICLE III. COLLECTION****Sec. 26-57. Fees for town collection services.**

(a) The owners of each property upon which a residence is located shall pay to the town a monthly fee of \$10.00 for collection of solid waste authorized by the town to be collected by its contracted collection service; provided, however, such fee shall be suspended in the event any such residence will not be occupied continuously for a period of 180 days and the town water service is discontinued for such period.

(b) In the event the fee provided for in this section is not paid within 20 days of the due date, a penalty of \$3.00 will be assessed.

(c) The town may terminate collection services for nonpayment of the fee provided for in this section.

(Ord. No. 2006-03, art. VI, 4-13-2006)

State law reference—Fees authorized, IC 36-9-30-21.

Sec. 26-58. Residential and limited commercial collection.

The collection of up to six containers of no more than 40 pounds each, on each collection day of ashes, garbage, household rubbish, recyclables and bulky waste from residences and commercial establishments in the town shall be by the town's contracted collection service in accordance with the following:

- (1) All refuse shall be prepared for collection in strict conformity with article II of this chapter and deposited for collection in accordance with collection standards as adopted by the town from time to time.

- (2) It shall be unlawful to place any material for the municipal collection service in unauthorized or defective disposal bags or containers or torn bags. Collection personnel may refuse to collect improperly prepared material and may give notice of such by affixing a tag to the container or material citing the violation.
 - (3) Except when specifically authorized by the town, disposal bags and containers shall be placed for collection at ground level on the property, not within the right-of-way of a street or alley and readily accessible to and not more than ten feet from the side of the street or alley from which the collection is made.
 - (4) Routes of collection will be along streets, alleys and rights-of-way as from time to time established by the town. Routes and pickup points will be determined on the basis of the most efficient routing of collection equipment.
 - (5) It shall be unlawful for any person to deposit for collection any refuse or bulky trash item not produced at the address from which collection is made or to bring any refuse or bulky trash into the town or from one address to another in the town for the purpose of taking advantage of the collection service. It shall also be unlawful for any resident to deposit refuse or bulky items for residential collection service, which refuse was produced by any professional or business enterprise engaged in by the resident.
 - (6) It shall be unlawful to store or place for residential collection with household rubbish any of the materials defined as noncollectable waste.
 - (7) Refuse shall not be placed at collection points earlier than 6:00 p.m. on the day prior to scheduled collection. Empty refuse containers shall be removed from the collection points prior to 6:00 p.m. on the day of collection. In no event shall disposal bags or recycling containers remain at curbside for more than 24 hours.
 - (8) It shall be unlawful for any person to bring rubbish, refuse, and other waste materials into the town for deposit at any designated collection location or curbside collection area, which materials have not been generated at or from a residence within the town. It shall be unlawful for any nonresident of the town to bring any rubbish, refuse and waste materials whatsoever into the town for deposit at any designated collection location or curbside collection area.
- (Ord. No. 2006-03, art. IV, § A, 4-13-2006)

Sec. 26-59. Industrial and commercial properties.

It shall be the responsibility of the owner or occupant of all commercial and industrial properties which generate refuse of more than six containers of 40 pounds each on each collection day to dispose of said refuse produced by such industrial or commercial process by contracting for the collection, conveyance and disposal with an authorized commercial collector, or collecting, conveying and disposing of such refuse with its own vehicles; provided, however, that all such collections must be in accord with the other conditions of this chapter. For purposes of this chapter, all buildings with four or more dwelling units shall be treated as commercial properties.

(Ord. No. 2006-03, art. IV, § B, 4-13-2006)

Sec. 26-60. Construction and demolition waste.

All waste material resulting from building or structure alteration, repair, construction or demolition shall be removed by and at the expense of the owner of the premises upon which such waste was produced.

(Ord. No. 2006-03, art. IV, § C, 4-13-2006)

Chapter 27

RESERVED

Chapter 28

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*

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- Sec. 28-1. Penalty.
- Sec. 28-2. Specifications for public streets adopted.
- Sec. 28-3. Planting and removal of trees and shrubs.
- Sec. 28-4. Overhanging trees or shrubs.
- Sec. 28-5. Permit for erection of poles and wires.
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Division 2. Permit

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***State law references**—Municipal home rule, IC 36-1-3-1 et seq.; general authority relative to streets and sidewalks, IC 36-9-2-5 et seq.

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Sec. 28-112. Exemptions.
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Division 2. Permit

Sec. 28-131. Required.
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Sec. 28-139. Compliance with laws and regulations.

ARTICLE I. IN GENERAL**Sec. 28-1. Penalty.**

Except as otherwise provided, violations of this chapter are punishable as provided in section 1-7.

(Ord. No. 2006-03, art. V, § A, 4-13-2006)

Sec. 28-2. Specifications for public streets adopted.

The Standard Specifications for Public Streets previously approved by the town council are hereby adopted by reference. Two copies of such specifications are on file in the office of the clerk-treasurer of the town for public inspection.

Sec. 28-3. Planting and removal of trees and shrubs.

(a) Within the town, no person shall plant trees between the street and the sidewalk and/or property line unless they are in compliance with regulations, rules and specifications adopted by the town.

(b) The owner or person in control of the dominant real estate adjacent to the area between the street and the sidewalk and/or property line on which any removal of a tree or a shrub is planted shall comply with the rules and regulations adopted by the town.

(c) If any tree or shrub planted pursuant to this section shall, in the opinion of the town, create a hazardous obstruction to vision which may endanger vehicular or pedestrian traffic, then said tree or shrub shall be appropriately trimmed or removed pursuant to the rules adopted by the town.

(d) If any tree or shrub planted pursuant to this section shall cause damage to any street, curb or sidewalk, then said tree or shrub causing such damage shall be removed and the damage repaired by the dominant land owner or person in control as set forth by the town.

(e) The town and all public utilities retain their ownership and right to access to the area between the street and the property line of the dominant owner and retain the right to reasonably remove any tree or shrub impeding necessary work to be performed by the town and/or all public utilities, or other properly authorized users.

(f) Public utilities are not exempt from the responsibility for the replacement of street trees which must be removed due to construction and maintenance unless otherwise directed by the town.

(g) Public utilities may trim street tree roots and branches as necessary for the maintenance of utility service as prescribed by state law and the rules and regulations adopted by the street tree committee. The cost of such tree care is the responsibility of the affected utility.

(Ord. No. 2007-06, art. I(T), 8-9-2007)

Sec. 28-4. Overhanging trees or shrubs.

(a) Any tree or shrub which overhangs any sidewalk, street or other public place in the town so as to impede or interfere with traffic or travel shall be trimmed by the owner of the abutting premises or of the premises on which the tree or shrub grows so as to remove the obstruction. Traffic vision shall be made to conform to the subdivision and zoning regulations of the town.

(b) Any tree or limb of a tree which is likely to fall on or across any street, sidewalk or other public place shall be removed by the owner of the premises on which such tree stands.

(c) The town may trim or remove any tree or shrub which obstructs or endangers traffic or travel on any street, sidewalk or other public place, or any subsurface utility provided for public use.

(Ord. No. 2007-06, art. I(L), 8-9-2007)

Sec. 28-5. Permit for erection of poles and wires.

No person shall erect or maintain any poles or wires on or over any street, alley or other public way without a permit issued by the town manager. Such a permit shall be issued upon a showing that public property and public safety will not be endangered.

(Ord. No. 2007-06, art. I(M), 8-9-2007)

Sec. 28-6. Games on streets.

No person shall play any game upon any street.

(Ord. No. 2007-06, art. I(O), 8-9-2007)

Sec. 28-7. Display of goods for sale on public property.

No person shall use any street, sidewalk or other public place for the display or sale of goods or merchandise, or write or affix any signs or advertisements on any pavement.

(Ord. No. 2007-06, art. I(P), 8-9-2007)

Sec. 28-8. Obstruction of gutters or drains.

No person shall obstruct any gutter or drain in any street.

(Ord. No. 2007-06, art. I(Q), 8-9-2007)

Sec. 28-9. Cleaning sidewalks of debris required.

The occupant, or the owner where there is no occupant, of the property adjoining any public sidewalk shall keep the sidewalk free of debris and any foreign matter.

(Ord. No. 2007-06, art. I(R), 8-9-2007)

Secs. 28-10—28-30. Reserved.

ARTICLE II. VEHICLE OR ENGINE REPAIR OR MAINTENANCE**Sec. 28-31. Definitions.**

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

Hard-surfaced means surfaced with concrete, asphalt, blacktop, chip and seal, brick or cement, or any combination thereof.

Hard-surfaced public way includes the right-of-way on either side of such public way, regardless whether such right-of-way is improved or surfaced, and in cases where there is not a right-of-way on either side of such public way, then the term "hard-surfaced public way" shall include such parts of either side of the hard-surfaced public way which are maintained by the town, even though such sides are not themselves hard-surfaced.

Public way means any highway, street, alley, public drive or sidewalk within the town, and shall include any property which is maintained by the town and used by the public as a highway, street, alley, public drive or sidewalk, even though the property is not platted or dedicated of record as such.

Vehicle means any automobile, truck, van, semi-trailer, boat trailer, utility trailer, go-cart, lawnmower, tractor, moped, motorcycle, motorized three-wheeler, or any combustion or diesel engine machine intended to be used to transport one or more persons including the operator.

Sec. 28-32. Violations.

(a) The continuation of an act or activity prohibited by this article after being notified of such violation by the town marshal or deputy marshals shall constitute a separate violation of this article.

(b) The town marshal may elect to furnish a person in violation of this article with a citation allowing such person up to 14 days to pay the fine to the clerk-treasurer of the town, which fine is to be deposited in the general funds of the town. In such event, the article violation charge shall not be filed unless the offender fails to pay the fine to the clerk-treasurer within the allotted time.

(c) The town marshal or deputy town marshal observing any of the acts or activities prohibited by section 28-33 may take such protective measures as such officer deems necessary to protect the health and welfare of others or to protect the hard-surfaced public ways of the town, which protective measures may include, but are not limited to, engaging a towing service to remove the vehicle if the owner is not present and willing to move such vehicle, or, with or without assistance, lowering or removing the jacks, temporary ramps or blocks, hoists or block and tackle holding such vehicle. If a towing service is engaged, the owner of the vehicle shall be responsible for the cost of storage and removal of such vehicle.

State law reference—Admission of violations and payment of civil penalty to violations clerk, IC 33-36-3-1 et seq.

Sec. 28-33. Acts and activities prohibited on hard surfaced public ways.

The following acts and activities are hereby prohibited upon any hard-surfaced public way within the town:

- (1) Removing or replacing the transmission, or any part thereof, of any boat or vehicle.
- (2) Removing or replacing an engine or motor of a vehicle.
- (3) Removing or replacing the head gasket or any part of the block of any engine or motor.
- (4) Removing or replacing a rear axle, front axle or differential of a vehicle.
- (5) Leaving a vehicle unattended while such vehicle is, in whole or in part, supported by a jack, temporary ramp, blocks of any substance or any form of a makeshift jack.
- (6) Leaving a vehicle unattended while such vehicle is, in whole or in part, lifted above the ground by a hoist or block and/or tackle.
- (7) Draining of fluids, such as oil, transmission fluid or antifreeze, from any motor or vehicle.

Sec. 28-34. Permitted maintenance and repairs.

The adding of oil, transmission fluid or antifreeze shall be allowed upon any hard-surfaced public way. Maintenance repairs, such as changing a flat tire, washing vehicles, fixing burned out lights, etc., shall be allowed, provided the person cleans up and removes any debris accumulated or deposited in connection with the work done by such person or persons assisting in such work upon the right-of-way or upon the property of others adjacent thereto. Such cleanup shall include the removal of any pools of liquid so that the surface from which the liquid is removed is not slippery so as to pose a danger to persons, and so that the surface is not damaged by liquid. The term "debris" includes, but is not limited to, oil, grease, transmission fluid, antifreeze, paper, cans, plastic or any other material, manmade or natural. The failure to clean up debris as required in this section is a violation of this article.

Secs. 28-35—28-60. Reserved.

ARTICLE III. EXCAVATIONS OR CUTS**DIVISION 1. GENERALLY****Sec. 28-61. Barricades, warning signs, lights and fences required.**

(a) Before closing roads, rights-of-way or pedestrian accessways in connection with any construction for which a street cut permit is required by this article, the person doing the construction shall furnish and erect standard barricades and signs to protect the public, including detour signs when necessary, all of which signs shall be of the type and shall be

placed and maintained in accordance with the state highway specifications, two copies of which are on file in the office of the clerk-treasurer of the town and open for inspection as provided by state law.

(b) In addition to the provisions of subsection (a) of this section, all trenches, for which a street cut permit is required by this article, that are left open overnight, shall be protected with barricades, warning signs and lights, and shall be encircled with a 42-inch-high braced fence so as to protect the public. It shall be the obligation and responsibility of the person doing the construction to place and maintain such barricades, warning signs, lights and fences.

Sec. 28-62. Trench backfill specifications.

(a) All excavated trenches under street and traffic areas shall be backfilled with a granular material of acceptable quality, free from large or frozen lumps, wood, pavement or other extraneous matter, and shall comply with section 211, Special Fill and Backfill ("B" Borrow), of the state highway standard specifications. The excavated material may be used for backfilling the trenches, provided the material meets the provisions of such specification, and provided that prior approval is obtained by the contractor from the town engineer. The granular backfill shall be deposited in horizontal layers not exceeding 12 inches thick, thoroughly compacted to maximum density utilizing suitable mechanical tamping devices and be continued to a point 16 inches below the existing pavement surface. The next 12 inches of the trench shall be backfilled with a special backfill, no. 53 type O mix, crushed limestone aggregate, as specified in section 303, Compacted Aggregate Base, Surface or Shoulders, of the state highway standard specifications, and compacted to 100 percent of the maximum dry density. The next three inches shall consist of hot asphalt concrete base material, with no. 5 limestone aggregate and five percent minimum asphalt content. The top one inch shall be no. B hot asphalt surface, with crushed limestone aggregate and six percent minimum asphalt content. Material mix, transportation and placement shall be in accordance with the latest edition of the state department of transportation standard specifications.

(b) The following alternative backfill and pavement specification shall be acceptable for excavated trenches under street and traffic areas:

- (1) Granular backfill material shall be installed as specified in subsection (a) of this section to within 7½ inches of the finished surface.
- (2) Six inches of Portland cement concrete shall be installed over such backfill. Such concrete shall obtain a compressive strength of 3,000 pounds per square inch (psi) in 28 days and shall contain an air entrainment mixture to ensure an air content of seven percent by volume of the final concrete mix.
- (3) After proper curing, the surface of the concrete may be opened to traffic as a temporary pavement surface.
- (4) The final wearing surface, consisting of 1½ inches of hot asphalt concrete, type H, with no. 11 limestone aggregate, shall be applied over the concrete.

(c) To facilitate reopening the traffic areas as soon as possible, the following method may be applied:

- (1) The no. 53 compacted aggregate base material shall be continued to the surface of the trench and compacted with a roller or other suitable equipment.
- (2) Traffic shall be allowed to travel across the temporary surface until the final pavement surface can be restored.
- (3) The contractor shall be responsible for ensuring that the level of the aggregate base material is constantly maintained level with or slightly above the original paved surface at all times.
- (4) The contractor shall inspect such surfaces on a daily basis and shall make immediate repairs, as necessary, by refilling, grading and compacting the trench backfill material.
- (5) The contractor shall apply, as a dust preventative, calcium chloride over the surface of the compacted aggregate base in amounts and at times as necessary to avoid or eliminate dust complaints from nearby residences.
- (6) In the event of any question regarding the existence or nonexistence of a dust nuisance, the town engineer's decision on the matter will be final.

(d) Within a reasonable time after the closing of a street cut, not to exceed three days, the surface shall be restored either with a temporary surface or final surface as provided in this section. Within a reasonable time after the closing of a street cut, not to exceed 30 days, the surface shall be restored with a final surface as is provided in this section. Notwithstanding the foregoing time limitations, upon good cause shown in writing, the street superintendent may extend the time limitations set forth in this subsection, but for such extension to be effective, it must be in writing.

(e) Backfill in unimproved areas may be as provided in this section or may be of such other backfill and/or methodology approved in writing by the town street superintendent. Surface restoration of unimproved areas may be as set forth in this section or may be of such other restoration so as to at least restore the surface to its condition prior to excavation; provided, however, that the type and manner of resurfacing, other than that as required for improved areas, must be authorized in writing by the town street superintendent.

(f) Special provisions for island streets or other streets employing geotextiles of reinforcement geogrid are as follows:

- (1) The utility trench shall be excavated to the elevation of the geotextile or geogrid with an excavation three feet wider than required for the utility line to be installed or repaired.
- (2) The geotextile and/or geogrid shall be cut 18 inches from the sides of the trench and removed.
- (3) Trench excavation shall be continued three feet narrower than the initial cut (the sides of trench are to be at the edge of the geotextile and/or geogrid), to required grade.

- (4) The utility line shall then be placed or repaired.
- (5) The utility shall be bedded with proper pipe bedding around and to the top of utility line.
- (6) The trench shall be backfilled and compacted with state department of transportation ("B" borrow) to the elevation of the geotextile and/or geogrid.
- (7) New geotextile and/or geogrid shall be placed, matching the existing full width of the trench, and overlapping the existing geotextile or geogrid a minimum of 18 inches on both sides.
- (8) The backfill and pavement shall be placed above the geotextile and/or geogrid as specified in subsection (a) or (b) of this section.

(g) The contractor shall be responsible for maintaining any pavement surface installed over a trench excavation for a period of 12 months. This shall include adding additional hot asphalt concrete to any areas which may be settled or have otherwise been damaged due to the trench backfill work or the improper application or improper timing of the application of the final surface.

Sec. 28-63. Violations.

Any person who violates any of the provisions of this article shall, within ten days of written notice of the violation by the town marshal or town building commissioner, be guilty of an offense. In addition, the town shall have the right, but shall not be obligated, to repair any damage caused as a result of the violation of this article and to restore the surface, backfill, and place signs and barricades as is provided in this article, in which event, the owner for whom the construction was being done shall pay to the town its actual and reasonable costs incurred for such repair, within 15 days of mailing, by certified mail, to the last known address of the owner, the clerk-treasurer's certified statement of costs for such repair.

State law reference—Admission of violations and payment of civil penalty to violations clerk, IC 33-36-3-1 et seq.

Secs. 28-64—28-80. Reserved.

DIVISION 2. PERMIT

Sec. 28-81. Required.

(a) It shall be unlawful for any person to cut into any street, alley or sidewalk within the town without first having obtained a street cut permit from the street superintendent of the town, or from such other person as the town council may designate from time to time.

(b) Whenever conduits are constructed under or through traveled roadways, streets, alleys or other improved surfaces within the town, including rights-of-way with respect to such roadways, streets, alleys or other improved surfaces, a street cut permit shall be obtained prior to the beginning of any such construction, and it shall be unlawful for any person to commence any such construction without first having obtained a street cut permit.

Sec. 28-82. Application.

(a) Any person desiring a street cut permit shall submit to the street superintendent of the town a written application, which shall contain the following information:

- (1) Name of the applicant.
- (2) Name, address and telephone number of the person who will be doing the construction work.
- (3) Name, address and telephone number of the person for whom the construction is to be performed.
- (4) Names, addresses and telephone numbers of the individuals who will be supervising the work, together with a statement indicating that, if any other person will be supervising the construction, the applicant will promptly notify the street superintendent of the town.
- (5) Total length of time the street, sidewalk, alley, improved surface or right-of-way shall be closed for the construction.
- (6) Total length of time between the surface removal and replacement of the final pavement surface, or, in the case of a right-of-way, the replacement of the right-of-way.
- (7) A statement indicating whether an improvement location permit is required.
- (8) A statement indicating that a sketch is attached to the permit, showing the:
 - a. Location of the proposed construction and street cut.
 - b. Reason for the construction and street cut.
 - c. Total width, length and depth of the surface and undersurface to be removed and replaced.
 - d. Method of backfill to be used.
 - e. Method and type of surface restoration to be used.

(b) The person for whom the construction is to be done, or any person proposing to do the construction, may submit the application for a street cut permit.

Sec. 28-83. Street cut permit fee.

The street cut permit fee shall be \$1,000.00 of which \$900.00 shall be refunded after the town street superintendent has inspected the completed project and deems it satisfactory, unless the requested permit involves a geotextile or geogrid, in which the permit shall be \$1,500.00 of which \$1,400.00 shall be refunded after the town street superintendent has

inspected the completed project and deems it satisfactory. The applicant and his assets shall be responsible for all costs needed, required or incurred to restore the surface to the condition satisfactory to the town.

Sec. 28-84. Penalty.

Any person, firm, or corporation who violates any of the provisions of this division shall, within ten days of written notice of the violation by the town marshal or town building commissioner, pay a penalty of \$250.00 for each violation to the clerk-treasurer. Each day that a violation continues shall constitute a separate violation. In addition to the foregoing, the town shall have the right, but shall not be obligated, to repair any damages caused as a result of the violation of the division and to restore surface, backfill and place signs and barricades as is provided in this division, in which event the owner for whom the construction was being done shall pay to the town its actual and reasonable costs incurred therefor, within 15 days of the mailing by certified mail to the last know address of the owner, of the clerk-treasurer's certified statement of costs therefor.

State law reference—Admission of violations and payment of civil penalty to violations clerk, IC 33-36-3-1 et seq.

Secs. 28-85—28-110. Reserved.

ARTICLE IV. PARADES AND SPECIAL EVENTS*

DIVISION 1. GENERALLY

Sec. 28-111. Definitions.

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

Event means a happening or occurrence that takes place in the town's boundaries, such as a parade, 5-K run, etc.

Parade means any parade, march, ceremony, show, exhibition, pageant or procession of any kind, or any similar display, in or upon any street or other public place.

Sec. 28-112. Exemptions.

This article shall not apply to:

- (1) Funeral processions;
- (2) Students going to and from school classes or participating in educational activities, provided such conduct is under the immediate direction and supervision of the proper school authorities;

***State law references**—Funeral processions, IC 9-21-13-1 et seq.; marching bands, IC 9-21-14-1 et seq.

- (3) A governmental agency acting within the scope of its functions.

Secs. 28-113—28-130. Reserved.

DIVISION 2. PERMIT

Sec. 28-131. Required.

No person shall engage in, participate in, aid, form or start any parade without a parade permit issued by the town marshal.

Sec. 28-132. Application.

(a) A person desiring a parade permit shall file an application with the town marshal on forms provided by such officer. Such application shall be filed not less than seven days, nor more than 60 days before the date on which it is proposed to conduct the parade.

(b) The application for a parade permit shall set forth the following information:

- (1) Name, address and telephone number of the person seeking to conduct such parade;
- (2) If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization;
- (3) Name, address and telephone number of the person who will be the parade chairman and who will be responsible for its conduct;
- (4) Date when the parade is to be conducted;
- (5) Route to be traveled, the starting point and the termination point;
- (6) Approximate number of persons who, and animals and vehicles which, will constitute such parade, the type of animals and a description of the vehicles;
- (7) Hours when such parade will start and terminate;
- (8) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed;
- (9) Location, by streets, of any assembly areas for such parade;
- (10) Time at which units of the parade will begin to assemble at any such assembly area;
- (11) Interval of space to be maintained between units of such parade;
- (12) If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, a communication in writing from the person proposing to hold the parade, authorizing the applicant to apply for the permit on his behalf;
- (13) Any additional information which the town marshal shall find reasonably necessary to a fair determination as to whether a permit should be issued.

(c) The town marshal, where good cause is shown therefor, shall have the authority to consider any application under this section which is filed less than seven days before the date such parade is proposed to be conducted.

Sec. 28-133. Issuance standards.

The town marshal shall issue a parade permit when, from a consideration of the application and such other information as may otherwise be obtained, he finds that the:

- (1) Conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route;
- (2) Conduct of the parade will not require the diversion of so great a number of police officers to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection;
- (3) Conduct of the parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the town, other than that to be occupied by the proposed line of march and areas contiguous thereto;
- (4) Concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas;
- (5) Conduct of the parade will not interfere with the movement of firefighting equipment en route to a fire;
- (6) Conduct of the parade is not reasonably likely to cause injury to persons or property, provoke disorderly conduct or create a disturbance;
- (7) Parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route;
- (8) Parade is not to be held for the sole purpose of advertising any product, cause, goods or events and is not designed to be held purely for private profit.

Sec. 28-134. Notice of denial.

If the town marshal disapproves the application for a parade permit, he shall mail to the applicant, within three days after the date upon which the application was filed, a notice of his action.

Sec. 28-135. Alternative permit.

The town marshal, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date at a time or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within five days after notice of the action of the town marshal, file a written notice of acceptance with the town marshal. An alternate parade permit shall conform to the requirements, and shall have the effect, of a parade permit under this division.

Sec. 28-136. Contents.

Each parade permit shall state the following information:

- (1) Starting time of the parade;
- (2) Minimum speed of the parade;
- (3) Maximum speed of the parade;
- (4) Maximum interval of space to be maintained between the units of the parade;
- (5) Portions of the streets to be traversed that may be occupied by the parade;
- (6) Maximum length of the parade, in miles;
- (7) Such other information as the town marshal shall find necessary to the enforcement of this article.

Sec. 28-137. Fees.

(a) The license fee for an event permit is \$25.00 for each license, all payable to the clerk-treasurer of the town.

(b) Each license shall be valid for one event. Each event may extend to a concurring 72-hour period.

Sec. 28-138. Revocation.

The town marshal shall have the authority, after a hearing affording due process, to revoke a parade permit upon application of the standards for issuance of such permit as set forth in this division.

Sec. 28-139. Compliance with laws and regulations.

A person holding a parade permit shall comply with all permit directions and conditions, and all applicable laws and ordinances.

Chapter 29

RESERVED

Chapter 30

SUBDIVISIONS*

Sec. 30-1. Streets; asphalt pavement.

***State law reference**—Subdivision control, IC 36-7-4-700 et seq.

Sec. 30-1. Streets; asphalt pavement.

Section 81.07(5)(b) of the Area Subdivision Control Code, as it applies to the town shall be supplemented as follows:

(b) Hot asphalt pavement.

Base: 12 inches of stone, compacted in four-inch lifts.

Binder: Five inches of asphalt.

Surface: One inch of asphalt.

(Ord. No. 2003-05, 4-10-2003)

Chapter 31

RESERVED

Chapter 32

TRAFFIC AND VEHICLES*

Article I. In General

- Sec. 32-1. Definitions.
- Sec. 32-2. Penalties.
- Sec. 32-3. Restrictions on trucks.
- Secs. 32-4—32-30. Reserved.

Article II. Parking

- Sec. 32-31. Towing authorized.
- Sec. 32-32. Parallel and angle parking.
- Sec. 32-33. Parking on right side required; exception.
- Sec. 32-34. Interfering and impeding normal flow of traffic.
- Sec. 32-35. Sidewalks and pedestrian crossings.
- Sec. 32-36. Fire hydrants.
- Sec. 32-37. Blocking fire lanes and entrances.
- Sec. 32-38. Handicapped parking.
- Sec. 32-39. Maximum parking time.
- Sec. 32-40. Buses, recreational vehicles, semi-tractors and semi-tractor trailers.
- Sec. 32-41. Boats and boat trailer parking restrictions.
- Sec. 32-42. Trailer parking restrictions.
- Secs. 32-43—32-70. Reserved.

Article III. Traffic Schedules

- Sec. 32-71. Speed limits.
- Sec. 32-72. One-way streets designated.
- Sec. 32-73. Stop intersections.
- Sec. 32-74. Yield intersections.
- Sec. 32-75. No parking areas designated.
- Sec. 32-76. No parking zones for snow removal.
- Sec. 32-77. Weight limits for island streets and bridges.

***State law references**—Traffic generally, IC 9-21-1-1 et seq.; powers of local authorities, IC 9-21-1-1 et seq.

ARTICLE I. IN GENERAL**Sec. 32-1. Definitions.**

The definitions in IC 9-13-2 apply to this chapter.

Sec. 32-2. Penalties.

(a) The owner of a vehicle in violation of the provisions of article II of this chapter, or any other ordinance of the town governing nonmoving violations, shall pay a fine of \$3.00 for such violation to the clerk-treasurer of the town within 15 days thereof, but, if not, then an additional fine of \$1.00 per day until paid. When a vehicle is parked in violation of the maximum time limits of an ordinance of the town, including this chapter, then, if the maximum time limit violated is two hours or less, the maximum time that the vehicle may remain in its parking location shall be that same amount of time prescribed in the ordinance violated, and if the vehicle remains parked in excess of such additional maximum time, it shall constitute a separate violation of this chapter. For the violation of all other parking ordinances of the town, regardless of whether the violation is one concerning maximum time, each two hours after the original violation that the vehicle remains in violation of the ordinance shall constitute a separate violation of the ordinance.

(b) For the violation of any speed limit ordinance of the town, which by state law may be enforced by the town, the operator of the vehicle shall pay a fine of \$25.00, plus court costs, to the clerk of the county court.

(c) Any person violating any of the provisions of this chapter for which another penalty is not specified in this chapter shall be subject to a fine of \$25.00, plus costs, for each violation.

State law reference—Admission of violations and payment of civil penalty to violations clerk, IC 33-36-3-1 et seq.

Sec. 32-3. Restrictions on trucks.

(a) In this section, the term:

- (1) *Local traffic* means traffic the destination of which is a location within the town.
- (2) *Truck* means a truck-tractor, truck-tractor-semitrailer, truck-tractor-semitrailer-semitrailer, tractor-mobile home rig or a special tractor-mobile home rig.

(b) Any truck shall be:

- (1) Prohibited to operate on certain streets or highways for purposes of operating through the town only.
- (2) Limited to local traffic only.
- (3) Limited to the loading or unloading of cargo or the proper storage, garaging or repairing of such vehicles.
- (4) Prohibited to be left parked or standing by the operator of such truck upon any street or highway in the town in which off-street or highway parking is reasonably obtained

for the purpose of loading or unloading. However, any truck unable to reasonably obtain off-street parking shall not cause such truck to be left standing or parked upon any street or highway upon the conclusion of loading or unloading.

(c) This section shall be effective when signs giving notice of local traffic regulations are posted upon or at the entrances to the street or highway, or part of the street or highway, that is affected. The sign shall read "No Through Trucks," which shall have the same meaning as no through trucks, and the term "trucks" shall have the meaning set forth in subsection (a) of this section.

(d) The town marshal and his deputies shall enforce this section.

(e) A person who violates any provision of this section shall be subject to a fine of \$100.00, plus the reasonable attorney's fees, if any, for each violation; provided, however, that the fine and attorney's fees shall not exceed \$2,500.00. The town marshal or his deputies may elect to furnish a person who violates this section with an ordinance violation citation allowing such person 14 days to pay the fine to the clerk-treasurer of the town. The fine is to be deposited in the general fund of the town.

State law references—Authority to restrict trucks, IC 9-20-1-3; admission of violations and payment of civil penalty to violations clerk, IC 33-36-3-1 et seq.

Secs. 32-4—32-30. Reserved.

ARTICLE II. PARKING*

Sec. 32-31. Towing authorized.

Any vehicle parked in violation of the provisions of section 32-34, 32-35, 32-36 or 32-37 may be removed at the direction of the town marshal or any of his deputies at the owner's expense, and any person removing a vehicle at the direction of the town marshal or any of his deputies shall have a right to a lien upon the vehicle so removed for the costs of removal and storage, which lien may be collected from the owner thereof, and, in addition to the removal or the possibility of the removal of such vehicle, the owner of the vehicle shall also be subject to a fine of \$5.00 for the violation, which fine, if not paid within seven days of the infraction, shall increase by \$1.00 per day thereafter until the fine and accumulations are paid.

Sec. 32-32. Parallel and angle parking.

(a) Except where angle parking is permitted, each vehicle parked within the town shall be parallel parked, with the two wheels on the side of the vehicle closest to the curb or the edge of the roadway within 12 inches of the curb or the edge of the roadway.

***State law references**—Parking generally, IC 9-21-16-1 et seq.; authority to regulate vehicle parking, IC 9-21-1-3(a)(1).

(b) Where angle parking is permitted, the right front wheel of the vehicle shall be within 12 inches of the edge of the roadway.

State law reference—Parallel parking, IC 9-21-16-7.

Sec. 32-33. Parking on right side required; exception.

Except on one-way streets where parking is permitted on the left side of the roadway, all vehicles, unless otherwise prohibited, shall be parked on the right side of the roadway in a manner that the vehicle is not facing into oncoming traffic.

Sec. 32-34. Interfering and impeding normal flow of traffic.

Each vehicle parked within the town shall be parked so as not to interfere with or impede the normal flow of traffic upon the traveled portion of the roadway.

Sec. 32-35. Sidewalks and pedestrian crossings.

Vehicles parked within the town shall not be upon or over any part of any sidewalk or other pedestrian crossing.

State law reference—Similar provisions, IC 9-21-16-5(1).

Sec. 32-36. Fire hydrants.

Each vehicle parked within the town shall be parked at least 15 feet from all fire hydrants.

State law reference—Similar provisions, IC 9-21-16-5(4).

Sec. 32-37. Blocking fire lanes and entrances.

Each vehicle parked within the town shall be parked in such a manner that the vehicle does not block:

- (1) A fire lane; or
- (2) The entrance to any private or public driveway, unless the owner of such private driveway has authorized such parking.

State law reference—Similar provisions, IC 9-21-16-5(2), (10), 9-21-16-5.5.

Sec. 32-38. Handicapped parking.

(a) Only a vehicle of which the operator or a passenger therein is physically handicapped at the time of parking in or leaving from a parking area reserved for the handicapped, may park in an area designated as handicapped parking. The failure of a vehicle to display a handicapped identification marker or license plate shall be prima facie evidence that there is not an operator or passenger therein who is physically handicapped.

(b) Upon yearly application by March 1, with the necessary qualifications, the town will provide parking placards for residents with physical disabilities for a designated handicap parking space.

(c) Any person parking a motor vehicle in a designated handicap parking space who is not physically handicapped shall be subject to a fine of \$25.00, except that if during a calendar year the person commits a second violation more than seven days after a prior violation of this section, the fine shall then be \$35.00, and if a third violation within the same calendar year occurs more than seven days after the second violation, then the fine shall be \$50.00. In addition to the fine provided in this subsection, the person violating this section shall pay the reasonable attorney's fees, which shall not exceed \$2,500.00 for each violation.

State law references—Handicapped parking, IC 5-16-9-1 et seq.; admission of violations and payment of civil penalty to violations clerk, IC 33-36-3-1 et seq.

Sec. 32-39. Maximum parking time.

Unless a shorter time is designated for any particular parking area, three days is the maximum length of time that a vehicle may be parked upon any public highway, street, alley or other parking area within the town, and at such other places in the town where a shorter time is designated, the maximum parking time shall be as is designated therein, and no vehicle shall park in excess of such maximum time designated therein or by any other ordinance of the town.

Sec. 32-40. Buses, recreational vehicles, semi-tractors and semi-tractor trailers.

(a) In this section, the term "recreational vehicle" means a vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less, when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel or seasonal use.

(b) No bus, recreational vehicle, semi-tractor and/or semi-tractor trailer shall be parked upon any street, road or alleyway within the town at any time, except in the necessary act of loading or unloading during such loading or unloading, not to exceed eight hours after such event. Any vehicle, trailer or object, by the mere width, length or height thereof, sitting or parked upon any street, road or alleyway, that interferes, impedes or interrupts the normal flow of traffic, shall be prohibited.

Sec. 32-41. Boats and boat trailer parking restrictions.

(a) It shall be unlawful for the owner of any boat or boat trailer and for any person who has custody, possession or control of a boat or boat trailer to permit or allow such boat or boat trailer to be parked upon any street, road or alley within the town, except as is reasonably necessary to load or unload the boat, including a period of time not to exceed one hour following the unloading or loading of the boat in order to allow the parking of the boat in the water or upon private property, if permitted, or the securing of the boat to the trailer.

(b) Each person violating the terms of this section shall be subject to a penalty of \$50.00 plus the reasonable attorney fees of the town incurred in the enforcement of this section; provided; however; that the penalty and the attorney fees shall not exceed \$2,500.00 for each violation.

(c) Each one hour that a boat or trailer remains parked in violation of the terms of this section shall be considered a separate violation of this section.

Sec. 32-42. Trailer parking restrictions.

(a) It shall be unlawful for the owner of any unattached construction trailer, recreational vehicle trailer, business and/or utility trailer and for any person who has custody, possession or control of an unattached construction trailer, recreational vehicle trailer, business and/or utility trailer to permit or allow such trailer to be parked upon any street, road or alley within the town, except from 6:00 a.m. to 10:00 p.m. each day. Each and every evening the trailer shall be removed from the streets of the town.

(b) Each person violating the terms of this section shall be subject to a fine of \$50.00 plus the reasonable attorney fees of the town incurred in the enforcement of this section; provided however, that the fine together with the attorney fees shall not exceed \$2,500.00 for each violation.

Secs. 32-43—32-70. Reserved.

ARTICLE III. TRAFFIC SCHEDULES

Sec. 32-71. Speed limits.

Based upon a traffic and engineering study, it is declared and determined the maximum speed limits upon all of the streets and highways within the town shall be 20 miles per hour.

State law reference—Alteration of speed limits by local authorities, IC 9-21-5-6.

Sec. 32-72. One-way streets designated.

Based upon a traffic and engineering study, South Street from Washington Street to High Street is designated as a one-way street.

State law reference—Authority to designate one-way streets, IC 9-21-1-3(a)(4).

Sec. 32-73. Stop intersections.

(a) Based upon a traffic and engineering study, it is hereby determined and declared that all vehicles shall be required to stop at the following places, and stop signs shall be erected at such places:

- (1) One-way, East First North and Monroe Street (First North Stops).
- (2) Four-way, 2nd North and Main.
- (3) One-way, 3rd North and North Washington (on one-way street 3rd North stops).

- (4) Four-way, 2nd North and Washington Street.
- (5) One-way, 2nd North and North Adams (2nd North stops).
- (6) One way, on one-way street from North Washington to North Adams.
- (7) Four-way, North Adams and Street First North Street.
- (8) Two-way, North Main Street and First North Street (First North stops).
- (9) Two-way, North Washington Street and First North Street (First North stops).
- (10) Three-way, North High Street and West First North Street (First North stops on one side and High stops on two sides).
- (11) One-way, North Monroe Street and 2nd North Street (Monroe stops).
- (12) Four-way, Monroe Street and East Tyson Street.
- (13) Two-way, North Main and East Tyson.
- (14) Three-way, Washington and Tyson.
- (15) Four-way, Adams Street and Tyson Street.
- (16) One-way, High Street and Tyson (Tyson stops).
- (17) Two-way, High Street and Water Street (Water stops).
- (18) Four-way, South Adams and Water Street.
- (19) Four-way, Water Street and Washington Street.
- (20) Four-way, Water and South Main Street.
- (21) Four-way, Water and Monroe Street.
- (22) One-way, Water Plant Street and East Perry (Water Plant stops).
- (23) One-way, Willis Street and East Perry Street (Willis stops).
- (24) One-way, East Street and East Perry (East stops).
- (25) Four-way, Perry and Monroe.
- (26) Four-way, Perry and Main.
- (27) Four-way, Perry and Washington.
- (28) One-way, at Austin Street and U.S. 50 (Austin stops).
- (29) Two-way, Main Street and U.S. 50 (Main stops on both sides of U.S. 50).
- (30) One-way, South Street and U.S. 50 (South Street stops).
- (31) One-way, Washington Street and U.S. 50 (Washington stops).
- (32) Four-way, Adams Street and U.S. 50 (stop light).
- (33) Two-way, High Street and U.S. 50 (High stops on both sides of U.S. 50).
- (34) One-way, John Paul Street and U.S. 50 (John Paul stops).

- (35) Two-way, Gaslight Drive and U.S. 50 (Gaslight stops on both sides of U.S. 50).
- (36) One-way, David Lane and U.S. 50 (David stops).
- (37) Four-way, South Street and High Street.
- (38) One-way, Fulton Street and South Adams (U.S. 421) (Fulton stops).
- (39) One-way, Fulton Street and South High Street (Fulton stops).
- (40) One-way, West Street and South Adams Street (U.S. 421) (West Street stops).
- (41) One-way, Horton Lane and West Street (Horton stops).
- (42) One-way, R.W. Evans Street and Horton Lane (R.W. Evans stops).
- (43) One-way, R.W. Evans and West Street (R.W. Evans stops).
- (44) One-way, West Street and Tanglewood Road (West stops).
- (45) One-way, Horton Lane and Tanglewood Road (Horton stops).
- (46) Three-way, Clearview Lane and Tanglewood Road.
- (47) One-way, Cori Lane and Clearview Lane (Cori stops).
- (48) One-way, Clearview Lane and South Adams Street (U.S. 421) (Clearview stops).
- (49) One-way, Jarvis and South Adams (U.S. 421) (Jarvis stops).
- (50) One-way, Jarvis and Main Street (Jarvis stops).
- (51) One-way, Abdon and South Adams Street (Abdon stops).
- (52) Three-way, Abdon and Main Street.
- (53) One-way, Main and State Road 129.
- (54) Three-way, Fern and Tanglewood.
- (55) One-way, Douglas and Tanglewood (Douglas stops).
- (56) Two-way, Colvin and Fern (Colvin stops).
- (57) One-way, Colvin and Tanglewood Road (Colvin stops).
- (58) Three-way, Tanglewood Road and County Road 50 West.
- (59) Two-way, Michael Street and Ashwood Court.
- (60) One-way, Cori Lane and Michael Street (Cori stops).
- (61) One-way, Chad Lane and Cori Lane (Chad stops).
- (62) One-way, Michael Street and Cori Lane (Michael stops).
- (63) One-way, Wood Lane and Clearview Lane (Wood stops).
- (64) One-way, North Ridge and South Adams (U.S. 421) (North Ridge stops).
- (65) One-way, South Ridge and South Ridge.
- (66) One-way, Harvest Court and South Ridge (Harvest Court stops).

(67) One-way South Ripley Estates Drive and State Road 129 (South Ripley Estates stops).

(68) One-way, Summerset Lane and South Ripley Estates Drive (Summerset stops).

(69) One-way Spencer Lane and Sunset Strip (Spencer stops).

(b) Whenever traffic at an intersection is required to stop as set forth in this section, any other section of this chapter or any other ordinance of the town so that traffic in more than two directions upon more than one street is required to stop, the intersection may be designated as the number of stops involved, such as a three-way stop, four-way stop or five-way stop. Further, whenever a stop sign is required to be placed at a certain location upon a street at which traffic is to stop, the street superintendent is hereby authorized, at his discretion, to locate an additional sign on the other side of the street.

(c) Any person violating any terms or provisions of this section shall be subject to a fine of \$25.00, plus attorney's fees up to \$2,500.00 for each violation.

State law reference—Authority to designate stop intersections, IC 9-21-1-3(a)(7).

Sec. 32-74. Yield intersections.

Based upon a traffic and engineering study, it is hereby determined and declared that, at the following places, traffic shall yield as required by law, and yield signs shall be placed at the following places and upon the following streets:

(1) One yield, West Street and High Street (West Street yields).

(2) One yield, Fern and Colvin (Fern yields).

(3) One yield, Floyd and Fern (Floyd yields).

State law reference—Conduct at yield signs, IC 9-21-8-33.

Sec. 32-75. No parking areas designated.

(a) The following areas are hereby designated as no parking areas:

(Reserved for future use)

(b) Any person violating any terms or provisions of this section shall be subject to a fine of \$25.00, plus the reasonable attorneys' fees of the town for each violation, not to exceed \$2,500.00.

State law reference—Authority to regulate parking, IC 9-21-1-3(a)(1).

Sec. 32-76. No parking zones for snow removal.

(a) When there is a snowfall of two inches or more, the following sides of streets shall be no parking zones on the following days:

(1) The side of the street of residences with even-numbered addresses should be no parking zones on even-numbered days; and

(2) The side of the street of residences with odd-numbered addresses should be no parking zones on odd-numbered days; and

(3) When the snow event occurs on an even-numbered day, then the subsequent odd-numbered day shall be considered a snow event to which this section applies.

(b) It shall be unlawful for any person at any time to shovel or move snow from private or business property onto the streets in the town.

(c) Any person violating the terms or provisions of this section shall be subject to a fine of \$25.00. Furthermore, any vehicle parked in violation of this section shall be towed from its location, and the owner thereof and the person causing the violation thereof shall jointly and severally be obligated for the towing costs for the towing of such vehicle. Each person violating this section and the owner of the vehicle in violation of this section shall be collectively subject to a fine of \$25.00. In the enforcement of this section, the persons responsible for the payment of fine and towing cost shall also be responsible to pay the costs of the attorney's fees incurred by the town in the enforcement of this section, provided that said attorney's fees, fine and costs of towing do not exceed \$2,500.00.

State law reference—Admission of violations and payment of civil penalty to violations clerk, IC 33-36-3-1 et seq.

Sec. 32-77. Weight limits for island streets and bridges.

To protect and prolong the life of the street pavement, no vehicle or other object with a gross weight in excess of 50,000 pounds or 10,000 pounds per axle, or a gross weight of 300 pounds per inch of wheel width shall be placed or permitted or travel upon any street, alley or other improved public surface on the island, and it shall be unlawful for any person to place, permit or drive a vehicle or other object upon any street, alley or other improved public surface on the island or the bridge to the island that exceeds the weight limits set forth in this section. Notice of the weight limits set forth in this section shall be posted on signs at the east side of both bridges between the bridges and Park Avenue.

State law reference—Weight limits authorized, IC 9-20-1-3.

Chapter 33

RESERVED

Chapter 34

UTILITIES*

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***State law reference**—Utility service authorized, IC 36-9-2-15.

ARTICLE I. IN GENERAL**Sec. 34-1. Water and sewer billing and collection.**

(a) Water and sewer bills and notices relating to the conduct of the business of the town will be mailed to the customer at the address listed on the sewer permit unless a change of address has been filed, in writing, at the business office of the town, and the town shall not otherwise be responsible for delivery of any bill or notice, nor will the customer be excused from nonpayment of a bill or from any performance required in said notice.

(b) Bills for water and sewer service are due and payable at the business office of the town or to any designated agent on their date of issue. The past due date shall be the 15th day of the month after the period of service. Bills will be dated and mailed each month.

(c) All bills not paid on or before the past due date shall be termed delinquent and the town shall serve on the customer a written final notice of said delinquency. If a delinquent bill is not paid within 30 days after date due, the water and sewer service to the user will be subject to discontinuance or other measures as state law will allow.

(d) Where the water and sewer service supplied to a customer has been disconnected for nonpayment of a delinquent bill, the town reserves the right to request a nominal sum be placed on deposit with the town for the purpose of establishing or maintaining any customer's credit. The reconnection will not be made until after all delinquent bills and other charges, if any, owed by the customer to the town have been paid.

(e) The town shall make all reasonable efforts to eliminate interruption of service, and when such interruption occurs will endeavor to reestablish service with the shortest possible delay. Whenever the service is interrupted for the purpose of working on the collection system or the treatment equipment, all customers affected by such interruption will be notified in advance whenever it is possible to do so.

(Ord. No. 4-1988, art. III, 8-8-1988)

State law reference—Collection of sewer fees, IC 36-9-23-31 et seq.

Secs. 34-2—34-20. Reserved.**ARTICLE II. WATER SYSTEM*****Sec. 34-21. Schedule of rates and charges.**

Charges to be paid to the town for use of the town water system shall be as follows:

- (1) *Metered rates.* Metered rates per month and rate per 1,000 gallons, each user shall pay a metered rate per month as follows:

***State law reference**—Municipal waterworks, IC 36-9-2-14.

| <i>Metered Rates per Month</i> | <i>Rates per 1,000 Gallons</i> |
|-----------------------------------|--------------------------------|
| First 5,000 gallons | \$7.25 |
| Next 10,000 gallons | 6.63 |
| Next 20,000 gallons | 5.67 |
| Next 40,000 gallons | 4.76 |
| Over 75,000 gallons | 3.81 |
| Bulk sales | 9.46 |
| Cost rate to other municipalities | 2.17 |

- (2) *Minimum charge per month.* Each user shall pay a minimum service charge in accordance with the size of meter installed as follows:

| <i>Meter size</i> | <i>Gallons</i> | <i>Amount</i> |
|------------------------------------|----------------|---------------|
| $\frac{5}{8}$ x $\frac{3}{4}$ inch | 2,500 | \$18.92 |
| $\frac{3}{8}$ inch or less | 4,000 | 39.17 |
| 1 inch | 6,250 | 59.68 |
| 1 $\frac{1}{4}$ inches | 10,000 | 91.86 |
| 1 $\frac{1}{2}$ inches | 14,500 | 130.50 |
| 2 inches | 25,000 | 208.40 |
| 3 inches | 57,500 | 420.95 |
| 4 inches | 102,500 | 663.71 |

- (3) *Reconnection fee:* \$75.00

- (4) *Tap fees:*

| | |
|--|------------|
| $\frac{5}{8}$ x $\frac{3}{4}$ inch without road bore | \$1,000.00 |
| $\frac{5}{8}$ x $\frac{3}{4}$ inch with road bore, greater of cost or | 1,000.00 |
| Larger than $\frac{5}{8}$ x $\frac{3}{4}$ inch, greater of cost or | 1,000.00 |

- (5) *Fire service per annum:* \$27,500.00

- (6) *Deposit:*

- a. Residential, owner-occupied, \$100.00.
- b. Residential, rental, \$250.00.
- c. Commercial, \$250.00.

(Ord. No. 2010-07, § 1, 1-13-2011)

Secs. 34-22—34-45. Reserved.

ARTICLE III. SEWERS AND SEWAGE DISPOSAL*

DIVISION 1. GENERALLY

Sec. 34-46. Definitions.

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

Biochemical oxygen demand (BOD) means the quantity of oxygen expressed in mg/l utilized in the biochemical oxidation of organic matter under standard laboratory procedures with nitrification inhibition in five days at 20 degrees centigrade.

Building drain means that 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.

Building drain, sanitary, means a building drain which conveys sanitary or industrial sewage only.

Building drain, storm, means a building drain which conveys stormwater or other clearwater drainage, but no wastewater.

Building sewer means the extension from the building drain to the public sewer or other place of disposal. (Also called "house connection.")

Building sewer, sanitary, means a building sewer which conveys sanitary or industrial sewage only.

Building sewer, storm, means a building sewer which conveys storm-waste or other clearwater drainage, but no sanitary or industrial sewage.

Combined sewer means a sewer intended to receive both wastewater and stormwater or surface water.

Compatible pollutant means biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the NPDES permit if the treatment works were designed to treat such pollutants, and in fact does remove such pollutants to a substantial degree. The term "substantial degree" is not subject to precise definition, but generally contemplates removals in the order of 80 percent or greater. Minor incidental removals in the order of ten to 30 percent 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;
- (4) Nitrogen and nitrogen compound; and

***State law reference**—Sewage disposal, IC 36-9-23-1 et seq.

- (5) Fats, oils, and greases of animal or vegetable origin (except as prohibited where these materials would interfere with the operation of the treatment works).

Easement means an acquired legal right for the specific use of land owned by others.

Fecal coliform means any of a number of organisms common to the intestinal tract of man and animals, whose presence in sanitary sewage is an indicator of pollution.

Flo-stable oil means 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 means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

Incompatible pollutant means any pollutant that is not defined as a compatible pollutant, including nonbiodegradable dissolved solids.

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

Infiltration means the water entering a sewer system, building drains and sewers, from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections, or manhole walls. (The term "infiltration" does not include and is distinguished from inflow.)

Infiltration/inflow means the total quantity of water from both infiltration and inflow without distinguishing the source.

Inflow means 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, catchbasins, stormwaters, surface run-off, street wash waters or drainage. The term "inflow" does not include, and is distinguished from, infiltration.

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

Major contributing industry means an industry that:

- (1) Has a flow of 50,000 gallons or more per average workday;
- (2) Has a flow greater than five percent of the flow carried by the municipal system receiving the waste;
- (3) Has in its waste a toxic pollutant in toxic amounts as defined in standards issued under section 307(a) of PL 92-500; or
- (4) Has a significant impact, either singly or in combination with other contributing industries, on a treatment works or on the quality of effluent from that treatment works.

Natural outlet means any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.

Normal domestic sewage means sewage such as discharged by residential users with a BOD concentration not in excess of 250 milligrams per liter and a suspended solids concentration not in excess of 200 milligrams per liter.

NPDES permit means a permit issued under the National Pollutant Discharge Elimination System for discharge of wastewaters to the navigable waters of the United States pursuant to section 402 of PL 92-500.

P or *Phosphorus* means the chemical element phosphorus.

pH means 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 means the treatment of industrial sewage from privately owned industrial sources prior to introduction into a public treatment works.

Private sewer means a sewer which is not owned by a public authority.

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

Public sewer means a sewer which is owned and controlled by the public authority and will consist of the following increments:

- (1) *Collector sewer* means a sewer whose primary purpose is to collect wastewaters from individual point source discharges.
- (2) *Interceptor sewer* means a sewer whose primary purpose is to transport wastewater from collector sewers to a treatment facility.
- (3) *Force main* means a pipe in which wastewater is carried under pressure.
- (4) *Pumping station* means a station positioned in the public sewer system at which wastewater is pumped to a higher level.

Sanitary sewer means a sewer which carries sanitary and industrial wastes, and to which stormwater, surface water, and groundwater are not intentionally admitted.

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

- (1) *Sanitary sewage*, the combination of liquid and water-carried wastes discharged from toilet and other sanitary plumbing facilities.

- (2) *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).
- (3) *Combined sewage*, wastes including sanitary sewage, industrial sewage, stormwater, infiltration and inflow carried to the wastewater treatment facilities by a combined sewer.

Sewage works means the structures, equipment and processes to collect, transport and treat domestic and industrial wastes and dispose of the effluent and accumulated residual solids.

Sewer means a pipe or conduit for carrying sewage.

Slug means 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-hour concentration of flows during normal operation and shall adversely affect the collection system.

Standard methods means 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 means a sewer for conveying water, groundwater or unpolluted water from any source and to which sanitary and/or industrial wastes are not intentionally admitted.

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

Suspended solids means solids that either float on the surface of, or are in suspension in, water, sewage, or other liquids and which are removable by laboratory filtering under standard laboratory procedure.

Total solids means the sum of suspended and dissolved solids.

Toxic amount means 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 PL 92-500.

Unpolluted water is water of quality 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 classes means the divisions of sewage treatment customers by source, function, waste characteristics and process or discharge similarities as follows:

- (1) *Residential user* means a user who introduces only normal domestic sewage from a single-family dwelling into the sewage system and where the quantity of water usage is measured by a single meter or whose water usage is not metered in such a manner that adequate measurement is not available to the sewer utility.

- (2) *Multiple user* means a user who introduces only normal domestic sewage from multiple-family dwellings, such as duplexes, apartment houses or condominiums where the quantity of water is measured by a single meter.
- (3) *Commercial user* means a transient lodging, retail and wholesale establishments or places engaged in providing merchandise for personal, household, or industrial consumption, and/or rendering services to others.
- (4) *Industrial user* means any user who discharges industrial waste.
- (5) *Government user* means a user engaged in legislative, judicial or administrative activities of federal, state and local governments such as, courthouses, police and fire stations, town halls and similar governmental users.
- (6) *Institutional user* means a publicly or privately owned school, hospital, nursing home, prison or other similar institution, whose wastes are segregated domestic waste.

Volatile organic matter means the material in the sewage solids transformed to gases or vapors when heated at 55 degrees centigrade for 1.5 to 20 minutes.

Watercourse means a natural or artificial channel for the passage of water either continuously or intermittently.

(Ord. No. 4-1988, art. I(107), (122), 8-8-1988; Ord. No. 2005-03, § 1, 10-13-2005)

Sec. 34-47. Penalty.

Except as otherwise provided, violations of this chapter are punishable as provided in section 1-7.

Sec. 34-48. Rules and regulations.

Rules and regulations promulgated by the town after approved by the town council shall, among other things, provide for an appeal procedure whereby a user shall have the right to appeal a decision of the administrator of the sewage system to the town council and that any decision concerning sewage system of the town council may be appealed to a court of competent jurisdiction under the appeal procedures provided by law.

(Ord. No. 2005-03, § 18, 10-13-2005)

Sec. 34-49. Compliance with state and federal requirements.

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

(Ord. No. 2005-03, § 14, 10-13-2005)

Sec. 34-50. Inspections.

(a) The superintendent, inspector and other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the

provisions of this article. The superintendent or his representative shall have no authority to inquire into any processes included in 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 in subsection (a) of this section, 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 such may be caused by negligence or failure of the company to maintain safe conditions as required in section 34-84(e).

(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 purpose of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Ord. No. 2005-03, § 16, 10-13-2005)

Sec. 34-51. Tampering or injuring sewer system.

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.

(Ord. No. 2005-03, § 15, 10-13-2005)

State law reference—Criminal mischief, IC 35-43-1-2.

Sec. 34-52. Use of public sewers required.

(a) 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 said town any human or animal excrement, garbage, or other objectionable waste.

(b) No person shall discharge or cause to be discharged to any sanitary sewer, either directly or indirectly, stormwater, surface water, groundwater, 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.

(c) Stormwater, surface water, groundwater, 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 such

sewers, however, without the specific permission of the town. No new connection shall be made to any sanitary 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.

(d) 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 provisions of this article and the NPDES permit.

(e) No person shall discharge or cause to be discharged to any natural outlet any wastewater or other polluted waters except where suitable treatment has been provided in accordance with provisions of this article and the NPDES permit.

(f) 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.

(g) 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 sewer of the town is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article within 60 days after date of official notice to do so, provided that said public sewer is within 300 feet of the property line.

(Ord. No. 2005-03, § 2, 10-13-2005)

State law reference—Authority to require sewer connections, IC 36-9-23-29, 36-9-23-30.

Sec. 34-53. Private sewage disposal.

(a) Where a public sanitary sewer is not available under the provisions of section 34-52(g), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

(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 \$15.00 shall be paid to the town at the time the application is filed.

(c) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent. 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. 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 such time as a public sewer becomes available to a property served by a private sewage disposal system as provided in subsection (d) of this section, a direct connection shall be made to the public sewer in compliance with this article, 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 said sewer within 60 days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

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

(Ord. No. 2005-03, § 3, 10-13-2005)

Sec. 34-54. Connections to public sewers.

(a) 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.

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

(1) For residential and commercial service; and

(2) For service to establishments producing industrial wastes.

In either case, the owner or his agent shall make application on a special form furnished by the said town. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the inspector. A permit and inspection fee of \$15.00 for residential or commercial building sewer permit and \$25.00 for an industrial building sewer permit shall be paid to the clerk-treasurer at the time the application is filed.

(c) All costs and expense incident 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.

(d) A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, 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.

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

(f) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, pointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing codes 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 ASTM and YPC Manual of Practice No. FD-S shall apply.

(g) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(h) 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.

(i) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the town or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice in No. FD-5. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installations.

(j) The applicant for the building sewer permit shall notify the said inspector when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the said inspector or his representative. The applicant shall provide access to all structures (and areas of structures) to the inspector for the purpose of establishing compliance with subsection (h) of this section.

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

(Ord. No. 2005-03, § 4, 10-13-2005)

State law reference—Authority to require sewer connections, IC 36-9-23-29, 36-9-23-30.

Sec. 34-55. Rates and charges.

(a) *User fees.* For the use and the service rendered by the town sewage utility, 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 sanitary sewer system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly unto the sanitary sewage 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:

| <i>Metered Rates Per Month</i> | <i>Rates Per 1,000 Gallons</i> |
|--------------------------------|--------------------------------|
| First 5,000 gallons | \$6.24 |
| All over 5,000 gallons | 4.25 |

Metered Rates Per Month

Rates Per 1,000 Gallons

Minimum Charge Per Month:

| | |
|--------------------------------|-------|
| One-inch water meter or less | 15.60 |
| More than one-inch water meter | 31.60 |
| Nonmetered usage | 5.80 |

(b) *Tap fees.* Tap fees shall be the greater of \$1,500.00, or the actual cost to the town for one single-family residence. Tap fees for multifamily, commercial and industrial connections shall be the greater of \$2,500.00 or the actual cost to the town. The town shall include its man-hours plus 30 percent thereof for its labor and actual costs for materials, machine hire and nonemployee labor.

(c) *Other rates and charges.* All other rates and charges are ratified and confirmed. (Ord. No. 3-1988, art. III, § 103, 8-8-1988; Ord. No. 2001-09, §§ 1, 2, 6-14-2001)

State law reference—Sewage rates, IC 36-9-23-24 et seq.

Secs. 34-56—34-83. Reserved.

DIVISION 2. DISCHARGE PROHIBITIONS AND RESTRICTIONS; PRETREATMENT

Sec. 34-84. Prohibited discharges.

(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 (as described in section 307A of the Clean Water Act) or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction 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 5.5, 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.
- (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, paper, dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

- (5) Any waters or wastes containing phenols or other taste or odor producing substances, in such 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 such discharge to the receiving waters.
- (6) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.
- (7) Any waters or wastes having a pH in excess of 9.5.
- (8) Materials which exert or cause:
 - a. Unusual concentrations of inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - c. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - d. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
- (9) Waters or wastes containing substances which are not amendable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(b) 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 subsection (a) of this section, 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 any industries to submit information on wastewater quantities and 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 such 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 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 such wastes.

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 subject to the requirements of all applicable codes, ordinances and laws.

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

(d) 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 such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly 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 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.

(e) All measurements, test, and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole, except for applications for NPDES permits and report thereof which shall be conducted in accordance with rules and regulations adopted by the USEPA (40 CFR 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 to life, limb, and property. The particular analyses involved will determine whether a 24-hour composite of all outfalls of the premises is appropriate or whether a grab sample or samples should be taken.

(f) No statements contained in this article 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 such rates as are compatible with the rate ordinance.

(Ord. No. 2005-03, § 5, 10-13-2005)

Sec. 34-85. Pretreatment required.

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 (USEPA) (40 CFR 403), and Guidelines

Establishing Test Procedures for Analysis of Pollutants (40 CFR 136), in addition to any more stringent requirements established by the town and any subsequent state or federal guidelines and rules and regulations.

(Ord. No. 2005-03, § 6, 10-13-2005)

Sec. 34-86. Pretreatment plans.

Plans, specifications, and any other pertinent information relating to pretreatment or control facilities shall be submitted for approval of the town and no construction of such facilities shall be commenced until approval in writing is granted. Where such facilities are provided, they shall be maintained continuously in satisfactory and effective operating order by the owner at his expense and shall be subject to periodic inspection by the town to determine that such 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. No. 2005-03, § 7, 10-13-2005)

Sec. 34-87. Unpolluted discharges.

Unpolluted water from air conditioners, cooling, condensing systems or swimming pools, shall be discharged to a storm sewer, where it is available, or to a combined sewer approved by the town. Where a storm sewer is not available, discharge may be to a natural outlet approved by the town and by the state.

(Ord. No. 2005-03, § 8, 10-13-2005)

Sec. 34-88. Industrial cooling water.

Industrial cooling water, which may be polluted with insoluble oils or grease or suspended solids, shall be pre-treated for removal of pollutants and the resultant clear water shall be discharged in accordance with section 34-87.

(Ord. No. 2005-03, § 9, 10-13-2005)

Sec. 34-89. Data.

The town may require users of the treatment works, other than residential users, to supply pertinent information on wastewater flows and characteristics. Such 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.

(Ord. No. 2005-03, § 10, 10-13-2005)

Sec. 34-90. Strength of discharge.

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

and the town. 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. No. 2005-03, § 11, 10-13-2005)

Sec. 34-91. Grease traps.

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 wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients, except that such 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 temperatures and shall be of substantial construction, be gastight, watertight, and equipped with easily removable covers. Where installed, all grease, oil and sand interceptors or traps shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

(Ord. No. 2005-03, § 12, 10-13-2005)

Sec. 34-92. Accidental discharge.

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. No. 2005-03, § 13, 10-13-2005)

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