

TOWN OF CLAYTON, INDIANA

CODE OF ORDINANCES

2022 S-3 Supplement contains:

Local legislation current through Ord. 2021-18, passed 12-9-2021; and

State legislation current through Indiana Legislative Service,

2021 Acts, Pamphlet No. 4

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ADOPTING ORDINANCES

ORDINANCE 2016-5

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

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2016 supplement to the Code of Ordinances of the Political Subdivision, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of this Political Subdivision; and

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

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

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

NOW, THEREFORE, BE IT ORDAINED BY THE CLAYTON TOWN COUNCIL OF THE POLITICAL SUBDIVISION OF the Town of Clayton, Indiana;

Section 1. That the 2016 supplement to the Code of Ordinances of the Political Subdivision as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as is set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the Town Council and the Clerk of the Political Subdivision is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

Section 3. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality, and shall take effect at the earliest date provided by law.

PASSED AND ADOPTED by the Clayton Town Council of the political subdivision on this 10th day of March 2016.

Debbe Lance /s/

John Culley /s/

Debbe Lance, President

John Culley, Vice President

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL CODE CONSTRUCTION; GENERAL PENALTY

CHAPTER 10: GENERAL CODE CONSTRUCTION; GENERAL PENALTY

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§ 10.01 TITLE OF CODE.

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

§ 10.02 INTERPRETATION.

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

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

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

§ 10.04 CONSTRUCTION OF CODE.

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

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

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

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

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

(F) (1) The numerical designations and descriptive headings assigned to the various titles,

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

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

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

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

§ 10.05 RULES OF INTERPRETATION; DEFINITIONS.

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

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

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

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

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

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

CLERK-TREASURER. The Clerk-Treasurer of the Town Council.

COUNCIL. The Town Council.

COUNTY. Hendricks County.

HIGHWAY. Includes bridges, roads and streets, unless otherwise expressly provided.

MONTH. One calendar month.

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

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

TOWNSHIP. The township or townships in which the town is located.

WRITTEN and **IN WRITING**. Include printing, lithographing or other modes of representing words and letters. Where the **WRITTEN SIGNATURE** of a person is required, the terms mean the proper handwriting of the person, or the person's mark.

YEAR. One calendar year, unless otherwise expressly provided.

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

§ 10.06 SEVERABILITY.

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

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

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

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

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

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

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

§ 10.07 REFERENCE TO OTHER SECTIONS.

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

§ 10.08 REFERENCE TO OFFICES; NAME DESIGNATIONS.

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

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

(I.C. 1-1-6-1)

§ 10.09 ERRORS AND OMISSIONS.

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

§ 10.10 REASONABLE TIME.

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

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

§ 10.11 REPEAL OR MODIFICATION OF CODE SECTION.

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

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

§ 10.12 LIMITATION PERIODS.

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

Statutory reference:

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

§ 10.13 ORDINANCES UNAFFECTED.

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

§ 10.14 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

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

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

§ 10.15 SECTION HISTORIES; STATUTORY REFERENCES.

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

(Ord. 10, passed 5-13-1960; Ord. 15, passed 1-1-1970; Ord. 20, passed 1-1-1980; Ord. 25, passed 1-1-1985)

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

(I.C. 36-5-2-2)

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

§ 39.01 PUBLIC RECORDS AVAILABLE.

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

Statutory reference:

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

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

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred or proceedings begun prior to the effective date of this code. The liabilities, proceedings and rights are continued; punishments, penalties or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway rights-of-way, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

§ 10.99 GENERAL PENALTY.

(A) Any person, firm or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to the following:

(1) A fine not exceeding \$2,500 for the first violation; and

(2) A fine not exceeding \$7,500 for second and subsequent violations, except for violations of ordinances regulating traffic and parking.

(B) A separate violation shall be deemed committed upon each day during which a violation occurs or continues.

Statutory reference:

Authority, see I.C. 36-1-3-8(a)(10)

TITLE III: ADMINISTRATION

Chapter

- 30. GENERAL PROVISIONS
- 31. TOWN COUNCIL
- 32. TOWN OFFICIALS
- 33. FINANCE
- 34. ORDINANCE VIOLATIONS BUREAU
- 35. TOWN POLICIES
- 36. FUNDS AND FEES

CHAPTER 30: GENERAL PROVISIONS

Section

30.01 Procedure for fixing salaries

§ 30.01 PROCEDURE FOR FIXING SALARIES.

The amount of salary and fund source or sources from which each officer's or employee's salary is to be paid shall be fixed by ordinance for each fiscal year. The ordinance applicable to each fiscal year shall be adopted at or before the regular meeting of the Town Council in July of the preceding fiscal year. The ordinance may be amended subsequently, but may not be amended with respect to the total amount of salary fixed for any elected officer after the ordinance has taken effect.

(Ord. 1C-1984, passed - -1984)

CHAPTER 31: TOWN COUNCIL

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General Provisions

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- 31.002 Residency required
- 31.003 Powers and duties
- 31.004 President
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GENERAL PROVISIONS

§ 31.001 TERM OF OFFICE.

Except as otherwise provided in I.C. 36-5-2-3(b), (c), (d), (e), (f) or (g), the term of office of a member of the Town Council is four years, beginning at 12:00 p.m. January 1 after the member's election and continuing until the member's successor is elected and qualified.

(I.C. 36-5-2-3(a))

§ 31.002 RESIDENCY REQUIRED.

(A) A member of the Town Council must reside within:

- (1) The town as provided in Indiana Constitution, Article 6, § 6; and
- (2) The district from which the member was elected, if applicable.

(B) A member of the Town Council who is elected by the voters of a district forfeits office if the member ceases to be a resident of the district.

(C) A member of the Town Council who is elected by the voters of the entire town, but is elected or selected as a candidate from a district, forfeits office if the member ceases to be a resident of the district.

(D) An at-large member of the Town Council forfeits office if the member ceases to be a resident of the town.

(I.C. 36-5-2-6)

§ 31.003 POWERS AND DUTIES.

The Town Council may:

- (A) Adopt ordinances and resolutions for the performance of functions of the town;
- (B) Purchase, hold and convey any interest in property for the use of the town; and

(C) Adopt and use a common seal.

(I.C. 36-5-2-9)

§ 31.004 PRESIDENT.

The Town Council shall select one of its members to be its President for a definite term, which may not exceed the member's term of office as a member of the Town Council.

(I.C. 36-5-2-7)

§ 31.005 ABOLISHMENT OF LEGISLATIVE BODY DISTRICTS.

The Town Council of the Town of Clayton, Indiana, pursuant to I.C. 36-5-2 *et seq.* is eligible to adopt a section abolishing legislative body districts within the Town of Clayton.

(A) The Town of Clayton has a population of less than 3,500.

(B) There are not any scheduled municipal elections in 2017 for the Town of Clayton.

(C) The Town of Clayton abolishes all municipal legislative body districts. All Town Council positions shall be at large beginning on January 1, 2020 and the election for said positions shall be held beginning in 2019.

(Ord. 2017-01, passed 4-13-2017)

MEETINGS; GENERAL PROVISIONS

§ 31.020 OPEN MEETINGS.

All meetings of the Town Council shall be held in accordance with state law regarding open meetings, being I.C. 5-14-1.5.

§ 31.021 EXECUTIVE SESSIONS.

(A) As used in this section, **PUBLIC OFFICIAL** means a person:

- (1) Who is a member of a governing body of a public agency; or
- (2) Whose tenure and compensation are fixed by law and who executes an oath.

(B) Executive sessions may be held only in the following instances:

- (1) Where authorized by federal or state statute;
- (2) For discussion of strategy with respect to any of the following:

(a) Collective bargaining;

(b) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing. As used in this section, "litigation" includes any judicial action or administrative law proceeding under federal or state law;

(c) The implementation of security systems; or

(d) A real property transaction including: (i) a purchase; (ii) a lease as lessor; (iii) a lease as lessee; (iv) a transfer; (v) an exchange; or (vi) a sale by the Town Council up to the time a contract

or option is executed by the parties. This clause does not affect a political subdivision's duty to comply with any other statute that governs the conduct of the real property transaction, including I.C. 36-1-10 or I.C. 36-1-11; or

(e) School consolidation.

(3) For discussion of the assessment, design and implementation of school safety and security measures, plans and systems;

(4) Interviews and negotiations with industrial or commercial prospects or agents of industrial or commercial prospects by the State Economic Development Corporation, the Office of Tourism Development (before July 1, 2020) or the Indiana Destination Development Corporation (after June 30, 2020), the State Finance Authority, the ports of the state, an Economic Development Commission, the State Department of Agriculture, the Indiana White River State Park Development Commission, a local economic development organization (as defined in I.C. 5-28-11-2(3)) or a governing body of a political subdivision;

(5) To receive information about and interview prospective employees;

(6) With respect to any individual over whom the Town Council has jurisdiction:

(a) To receive information concerning the individual's alleged misconduct; and

(b) To discuss, before a determination, the individual's status as an employee, a student or an independent contractor who is a physician or a school bus driver.

(7) For discussion of records classified as confidential by state or federal statute;

(8) To discuss before a placement decision an individual student's abilities, past performance, behavior and needs;

(9) To discuss a job performance evaluation of individual employees. This division does not apply to a discussion of the salary, compensation or benefits of employees during a budget process;

(10) When considering the appointment of a public official, to do the following:

(a) Develop a list of prospective appointees;

(b) Consider applications;

(c) Make one initial exclusion of prospective appointees from further consideration; and

(d) Notwithstanding I.C. 5-14-3-4(b)(12), the Town Council may release and shall make available for inspection and copying in accordance with I.C. 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration. An initial exclusion of prospective appointees from further consideration may not reduce the number of prospective appointees to fewer than three, unless there are fewer than three prospective appointees. Interviews of prospective appointees must be conducted at a meeting that is open to the public.

(11) To train School Board members with an outside consultant about the performance of the role of its members as public officials;

(12) To prepare or score examinations used in issuing licenses, certificates, permits or registrations under I.C. 25;

(13) To discuss information and intelligence intended to prevent, mitigate or respond to the threat of terrorism;

(14) To train members of a board of aviation commissioners appointed under I.C. 8-22-2 or members of an airport authority board appointed under I.C. 8-22-3 with an outside consultant about the performance of the role of the members as public officials. A board may hold not more than one executive session per calendar year under this division;

(15) For discussion by the governing body of a state educational institution of the assessment of or negotiation with another entity concerning the establishment of a collaborative relationship or venture to advance the research, engagement, or education mission of the state educational institution. However, this division does not apply to any discussions regarding research that is prohibited under I.C. 16-34.5-1-2 or under any other law.

(C) A final action must be taken at a meeting open to the public.

(D) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under division (B) of this section.

(1) The requirements stated in § 31.024 for memoranda and minutes being made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given.

(2) The Town Council shall certify by a statement in the memoranda and minutes of the Town Council that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

(E) The Town Council may not conduct an executive session during a meeting, except as otherwise permitted by applicable statute. A meeting may not be recessed and reconvened with the intent of circumventing this division.

(I.C. 5-14-1.5-6.1)

§ 31.022 NOTICE OF MEETINGS.

(A) Regular meetings of the Town Council shall be held at a time and place established by the Town Council.

(B) Public notice of the date, time and place of any meetings, executive sessions or of any rescheduled or reconvened meeting shall be given by the Town Council by posting a copy of the notice at the principal office of the Town Council, or if no such office exists, at the building where the meeting is to be held.

§ 31.023 AGENDA.

(A) The Town Council, when utilizing an agenda, shall post a copy of the agenda at the entrance to the location of the meeting prior to the meeting. A rule, regulation, ordinance or other final action adopted by reference to agenda number or item alone is void.

(I.C. 5-14-1.5-4(a))

(B) The Town Council shall designate a person who shall prepare the agenda for each meeting.

§ 31.024 RECORD OF MEETINGS.

(A) As the meeting progresses, the following memoranda shall be kept:

- (1) The date, time and place of the meeting;
- (2) The members of the Town Council recorded as either present or absent;
- (3) The general substance of all matters proposed, discussed or decided;
- (4) A record of all votes taken, by individual members if there is a roll call; and

(5) Any additional information required under I.C. 5-14-1.5-3.5 or 5-14-1.5-3.6 or any other statute that authorizes a governing body to conduct a meeting using an electronic means of communication.

(B) The memoranda are to be available within a reasonable period of time after the meeting for the purpose of informing the public of the Town Council's proceedings. The minutes, if any, are to be open for public inspection and copying.

(I.C. 5-14-1.5-4(b) and (c))

§ 31.025 QUORUM.

A majority of all the elected members of the Town Council constitutes a quorum.

(I.C. 36-5-2-9.2)

§ 31.026 CLERK OF COUNCIL; TIE-BREAKING VOTE.

(A) The Town Clerk-Treasurer is the Clerk of the Town Council.

(B) The Clerk-Treasurer is an ex-officio member for the purpose of casting the deciding vote to break a tie.

(I.C. 36-5-2-8)

§ 31.027 SPECIAL MEETINGS.

(A) The President of the Town Council may convene a special meeting of the Town Council in an emergency, or whenever in his or her opinion there exists pressing or important business, which would best be conducted at a formal meeting of the Council, but which cannot conveniently await the next regular meeting. However, the business to be conducted at a special meeting need not be limited to the purpose for which the meeting is called, and any other business proper to the Council may also be conducted, unless:

(1) A statute requires that a particular item of business may only be conducted at a regular meeting;

(2) The Town Council has adopted a by-law or standing rule which stipulates that only business relating to the announced purpose of a special meeting may be conducted; but if so stipulated as a standing rule, the Council may also provide for its suspension as circumstances may warrant;

(3) The nature of the proposed additional business is such that a statute or town ordinance requires that published notice or other special notice be given in advance of any meeting at which

the business is conducted, and the notice has not been given; or

(4) The special meeting is to be conducted as a confidential executive session, closed to the public, and is thereby limited to the purposes permitted by I.C. 5-14-1.5-6.

(B) The President shall give written or personal notice of the time and place of a special meeting to all other Council members and to the Clerk-Treasurer at least 48 hours in advance, unless the existence of an emergency prevents such an amount of advance notice. If the meeting is required to be held pursuant to statute, ordinance or regulation, the Clerk-Treasurer shall post or mail copies of the notice, as provided by I.C. 5-14-1.5-5(b).

(Ord. 1C-1984, passed - -1984)

MEETINGS; RULES OF PROCEDURE

§ 31.040 PRESIDING OFFICER.

The Council President shall take the chair at the hour appointed, or to which the Council shall have adjourned, and shall immediately call the members to order; whereupon, the Clerk of Council shall proceed to call the roll of members. If a quorum is present, the Clerk of Council shall so announce and the Council shall proceed with the order of business.

Cross-reference:

Election of Council President, see § 31.004

Town Clerk-Treasurer serves as Clerk of Council, see § 31.026

§ 31.041 QUORUM FOR CONDUCTING BUSINESS.

(A) A quorum shall consist of a majority of the entire Council, including the Council President. A quorum shall be necessary to transact the business of the Town Council.

(B) If no quorum is present, the Council shall not thereby stand adjourned, but the members present shall adjourn or recess the Council by a majority vote.

§ 31.042 ABSENCE OF PRESIDENT.

(A) At any meeting of the Council where a majority shall be assembled, and if the President is temporarily absent but within or near the community, the Clerk of Council shall preside and call the roll, whereupon the Council shall elect a Temporary Chairperson from its membership.

(B) In the event that the absence of the President shall be of a more permanent nature, a President Pro Tem shall be elected.

§ 31.043 DUTIES OF THE PRESIDENT.

(A) The President shall serve as the Chair, shall preserve order and decorum and may speak to points of order in preference to other members, and shall decide all questions of order subject to appeal.

(B) If the President refuses to allow the Council members to exercise their right to appeal a decision of the Chair, the Council members may consider and pass upon the matter in spite of the Chair's failure to grant them appeal.

(C) The President shall have the power to require the Council room to be cleared, or to have any disorderly person or persons ejected, in case of any disturbances or disorderly conduct which prevent the meeting from being continued in an orderly manner.

(D) Nothing in this code shall preclude the President from making or seconding a motion, or from voting on any matters coming before the Council.

§ 31.044 DUTIES OF COUNCIL MEMBERS.

(A) While the President is stating the motion, or deciding a point of order, the members shall be seated and no member shall leave the Council room during the session without permission from the presiding officer.

(B) Every member, prior to his or her speaking, making a motion or seconding the same, shall address the presiding officer and shall not proceed with his or her remarks until recognized and named by the Chair.

(C) A member so recognized by the Chair shall confine himself or herself to the question under debate.

(D) No member shall speak more than once on the same question, except by permission of the Chair, and then not until every other member desiring to speak shall have had an opportunity to do so.

(E) No member shall speak longer than five minutes at any one time, except by consent of the Chair.

(F) While a member is speaking, no member shall hold any private discussion, nor pass between the speaker and the Chair.

(G) A member, when called to order by the Chair, shall thereupon discontinue speaking. The order or ruling of the Chair shall be binding and conclusive, subject only to the right to appeal.

(H) Any member may appeal to the Council from a ruling of the Chair and, if the appeal is seconded, the member making the appeal may briefly state his or her reason for the same, and the Chair may briefly explain his or her ruling; but there shall be no debate on the appeal and no other member shall participate in the discussion. The Chair shall then put the question, "Shall the decision of the Chair be overruled?" Otherwise, it shall be sustained.

(I) The right of a member to address the Council on a question of personal privilege shall be limited to cases in which his or her integrity, character or motives are assailed, questioned or impugned.

§ 31.045 SECONDING OF MOTIONS REQUIRED.

(A) No motion shall be put or debated in the Council or in committee unless it be seconded.

(B) When a motion is seconded, it shall be stated by the presiding officer before debate.

§ 31.046 WITHDRAWAL OF MOTIONS.

After a resolution or a motion is stated by the President, it shall be deemed to be in the possession of the Council, but it may be withdrawn by the maker thereof with or without the consent of the Council member seconding the motion prior to the call for the vote by the President.

§ 31.047 DIVISION OF QUESTIONS.

If any question under consideration contains several distinct propositions, the Council, by a majority vote of the members present, may divide the questions.

§ 31.048 RECORD OF MOTIONS.

In all cases where a resolution or motion is entered in the journal, the names of the members moving and seconding the same shall be entered.

§ 31.049 VOTE.

(A) (1) The ayes and nays shall be taken upon the passage of all ordinances and on all propositions to create any liability against the town, or for the expenditure or appropriation of its money, and upon any question and in all other cases at the request of any member of the Council.

(2) When the Clerk of Council has commenced to call the roll of the Council for the taking of a vote by "Ayes" and "Nays", all debate on the question before the Council shall be deemed concluded, and during the taking of the vote a member shall be permitted to briefly explain his or her vote and shall respond to the calling of his or her name by the Clerk of Council by answering "Aye" or "Nay", as the case may be.

(B) The names of each member of the Council shall be listed on the official copy of every ordinance passed indicating specifically the names of those voting "Aye" and those voting "Nay".

(C) An abstention is neither an affirmative vote nor a negative vote. Regardless of the number of abstentions, and except as otherwise provided by law, an affirmative vote of the majority of the Council members is required to pass a motion, ordinance, resolution or other action of the Town Council.

(D) The President shall announce the result of the Council's vote and the votes shall be entered in the journal of the proceedings.

Cross-reference:

Two-thirds vote; when required, see § 31.081

§ 31.050 PRECEDENCE OF MOTION.

When a question is before the Council, no motion shall be received, except as specified in this section, and which shall have precedence in the following order:

- (A) To fix the time to which to adjourn;
- (B) To adjourn;
- (C) To take a recess;
- (D) To raise a question of privilege;
- (E) To call for the orders of the day;
- (F) To lay on the table;
- (G) To call for the previous question;

- (H) To postpone to a certain time;
- (I) To refer to committee;
- (J) To amend;
- (K) To postpone indefinitely; and
- (L) To the main motion.

§ 31.051 UNDEBATABLE MOTIONS AND EXCEPTIONS TO ORDER.

The motion to adjourn or to lay on the table shall be decided without debate, and the motion to fix the time to which to adjourn and the motion to adjourn shall always be in order, except:

- (A) When a member is in possession of the floor;
- (B) When the roll call votes are being called;
- (C) While the members are voting;
- (D) When adjournment was the last preceding motion; or
- (E) When it has been decided that the previous question shall be taken.

§ 31.052 MOTION TO ADJOURN.

A motion to adjourn cannot be amended; but a motion to adjourn to a given day or time shall be open to amendment and debate.

§ 31.053 MOTION TO POSTPONE INDEFINITELY.

When a question is postponed indefinitely, it shall not be taken up again before the next regular meeting.

§ 31.054 MOTION TO AMEND.

A motion to amend an amendment shall be in order, but a motion to amend an amendment to an amendment shall not be entertained.

§ 31.055 AMENDMENTS.

Only one amendment at a time may be offered to any question before the Council. The vote shall first be taken on the amendment and, if the amendment passes, then further amendments may be proposed. Finally, a vote shall be taken on the principal motion as finally amended.

§ 31.056 RECONSIDERATION.

(A) A vote or question may be reconsidered at any time during the same meeting, or at the first regular meeting held thereafter.

(1) A motion for reconsideration, once having been made and decided in the negative, shall not be renewed.

(2) A matter once having been decided and a motion to reconsider the matter having been defeated, it may nonetheless come before the Council at a future time by way of a motion to

rescind or as a new motion.

(3) If the Chair determines that new facts are to be presented to the Council, or that there is a likelihood that the Council will reverse its previous decision, the Chair shall rule the motion in order.

(4) If a motion is continuously brought before the Council and rejected, the Chair may rule its reintroduction under a motion to rescind or as a new motion to be out of order.

(B) No motion to reconsider the approval or denial of the recommendation of an advisory body required to hold public hearings shall be entertained except at the same meeting at which the original action was taken or after the matter has been referred to the advisory body for a further hearing and recommendation.

(C) A motion to reconsider must be made and seconded by members who voted on the prevailing side of the question to be reconsidered, unless otherwise provided by law; provided, however, that where a motion has received a majority vote in the affirmative, but is declared lost solely on the ground that a greater number of affirmative votes is required by statute for the passage or adoption of the motion, then in that case a motion to reconsider may be made and seconded only by those who voted in the affirmative on the question to be reconsidered, so long as the issue presented is the same, no new information is forthcoming, and the rights of third parties have not intervened.

§ 31.057 VISITORS AND PETITIONERS.

Except during the time allotted for public discussion and comments, no person other than a member of the Council shall address that body, except with the consent of a majority of the members present.

§ 31.058 REPORTS, COMMUNICATIONS, PETITIONS AND THE LIKE.

(A) All communications, reports, petitions or any other papers addressed to the Council shall be made available to the Clerk of Council prior to the meeting.

(B) The Clerk of Council shall endeavor to distribute copies or read the material to the members of the Council.

§ 31.059 ADOPTION OF ROBERT'S RULES OF ORDER, REVISED.

The rules of parliamentary practice comprised in the latest published edition of *Robert's Rules of Order*, revised, shall govern the Council in all cases to which they are applicable and in which they are not inconsistent with the ordinances of the town, including these rules, or the statutes of the state.

§ 31.060 TEMPORARY SUSPENSION OF RULES; AMENDMENT OF RULES.

The rules of the Council may be temporarily suspended, altered or amended, by concurrence of a majority vote of all the Council members then in office.

ORDINANCES AND RESOLUTIONS

§ 31.080 MAJORITY VOTE; WHEN REQUIRED.

(A) A requirement that an ordinance, resolution or other action of the Town Council be passed by a majority vote means at least a majority vote of all the elected members.

(I.C. 36-5-2-9.4(a))

(B) A majority vote of the Town Council is required to pass an ordinance unless a greater vote is required by statute.

(I.C. 36-5-2-9.6)

Cross-reference:

Effect of abstentions, see § 31.049

§ 31.081 TWO-THIRDS VOTE; WHEN REQUIRED.

(A) A requirement that an ordinance, resolution or other action of the Town Council be passed by a two-thirds vote means at least a two-thirds vote of all the elected members.

(I.C. 36-5-2-9.4(b))

(B) A two-thirds vote of all the elected members, after unanimous consent of the members present to consider the ordinance, is required to pass an ordinance of the Town Council on the same day or at the same meeting at which it is introduced.

(C) Division (B) above does not apply to the following:

- (1) A zoning ordinance or an amendment to a zoning ordinance adopted under I.C. 36-7; or
- (2) An ordinance to increase the number of Town Council members adopted under I.C. 36-5-2-4.2, unless the ordinance also establishes new legislative body districts.

(I.C. 36-5-2-9.8)

§ 31.082 DATE OF ADOPTION; PUBLICATION.

(A) An ordinance, order or resolution passed by the Town Council is considered adopted when it is signed by the President of Council. If required by statute, an adopted ordinance, order or resolution must be promulgated or published before it takes effect.

(B) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published in the manner prescribed by I.C. 5-3-1 unless:

- (1) It is published under division (C); or
- (2) It declares an emergency requiring its immediate effectiveness and is posted in:
 - (a) One public place in each district in the town; or
 - (b) A number of public places in the town equal to the number of Town Council members, if the town has abolished legislative body districts under I.C. 36-5-2-4.1.

(C) Except as provided in division (E), if a town publishes any of its ordinances in book or pamphlet form, no other publication is required. If an ordinance prescribing a penalty or forfeiture for a violation is published under this division, it takes effect two weeks after the publication of the book or pamphlet. Public under this division, if authorized by the legislative body, constitutes presumptive evidence:

- (1) Of the ordinances in the book or pamphlet;

(2) Of the date of adoption of the ordinances; and

(3) That the ordinances have been properly signed, attested, recorded, and approved.

(D) This section (other than division (F)) does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under I.C. 36-7.

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

(1) Be published one time in accordance with I.C. 5-3-1, and not later than 30 days after the ordinance is adopted by the Town Council in accordance with I.C. 5-3-1; and

(2) Delay the implementation of the fee increase for 90 days after the date the ordinance is published under division (D)(1) of this section.

(F) Subject to division (J), the legislative body shall:

(1) Subject to division (G) below, give written notice to the Department of Environmental Management not later than 60 days before amendment or repeal of an environmental restrictive ordinance; and

(2) Give written notice to the Department of Environmental Management not later than 30 days after passage, amendment or repeal of an environmental restrictive ordinance.

(G) Upon written request by the legislative body, the Department of Environmental Management may waive the notice requirement of division (F)(1) above.

(H) An environmental restrictive ordinance passed or amended after 2009 by the legislative body must state the notice requirements of division (F) above.

(I) The failure of an environmental restrictive ordinance to comply with division (H) does not void the ordinance.

(J) The notice requirement of division (F) apply only if the municipal corporation received under I.C. 13-25-5-8.5(f) written notice that the department is relying on the environmental restrictive ordinance referred to in division (F) as part of a risk based remediation proposal:

(1) Approved by the department; and

(2) Conducted under I.C. 13-22, I.C. 13-23, I.C. 13-24, I.C. 13-25-4; or I.C. 13-25- 5.

(I.C. 36-5-2-10)

§ 31.083 RECORD OF ORDINANCES.

(A) Within a reasonable time after an ordinance of the Town Council is adopted, the Clerk-Treasurer shall record it in a book kept for that purpose. The record must include:

(1) The signature of the President of Council;

(2) The attestation of the Clerk-Treasurer; and

(3) The date of each recorded item.

(B) The record or a certified copy of it constitutes presumptive evidence of the adoption of the ordinance.

CHAPTER 32: TOWN OFFICIALS

Section

Clerk-Treasurer

- 32.01 Residency requirement
- 32.02 Election; term of office
- 32.03 Powers and duties
- 32.04 Deputies and employees
- 32.05 Office space
- 32.06 Authority to invest monies

Town Marshal

- 32.20 Appointment; compensation
- 32.21 Removal from office; discipline
- 32.22 Powers and duties
- 32.23 Service as Street Commissioner and Fire Chief
- 32.24 Deputy marshals; Humane Officer
- 32.25 Body armor

Cross-reference:

Clerk-Treasurer as Ordinance Violations Clerk, see § 34.02

CLERK-TREASURER

§ 32.01 RESIDENCY REQUIREMENT.

(A) The Clerk-Treasurer must reside within the town as provided in the State Constitution, Article 6, § 6.

(B) The Clerk-Treasurer forfeits office if the Clerk-Treasurer ceases to be a resident of the town.

(I.C. 36-5-6-3(a))

§ 32.02 ELECTION; TERM OF OFFICE.

(A) *Election.* The Clerk-Treasurer shall be elected under I.C. 3-10-6 or 3-10-7 by the voters of the whole town.

(I.C. 36-5-6-4)

(B) *Term of office.* Except as provided in I.C. 36-5-6-3(c), (d), (e), or (f), the term of office of the Clerk-Treasurer is four years, beginning at 12:00 p.m. on January 1 after election, and continuing until a successor is elected and qualified.

(I.C. 36-5-6-3(b))

§ 32.03 POWERS AND DUTIES.

(A) The Clerk-Treasurer is both the Town Clerk and the Town Fiscal Officer.

(I.C. 36-5-6-2)

(B) The Clerk-Treasurer may administer oaths, take depositions and take acknowledgments of instruments required by statute to be acknowledged.

(I.C. 36-5-6-5)

(C) The Clerk-Treasurer shall do the following:

(1) Receive and care for all town money and pay the money out only on order of the Town Council;

(2) Keep accounts showing when and from what sources the Clerk-Treasurer has received town money, and when and to whom the Clerk-Treasurer has paid out town money;

(3) Prescribe payroll and account forms for all town offices;

(4) Prescribe the manner in which creditors, officers and employees shall be paid;

(5) Manage the finances and accounts of the town and make investments of town money;

(6) Prepare for the Town Council the budget estimates of miscellaneous revenue, financial statements and the proposed tax rate;

(7) Maintain custody of the town seal and the records of the Town Council;

(8) Issue all licenses authorized by statute and collect the fees fixed by ordinance;

(9) Serve as Clerk of the Town Council by attending its meetings and recording its proceedings;

(10) Administer oaths, take depositions and take acknowledgment of instruments that are required by statute to be acknowledged, without charging a fee;

(11) Serve as clerk of the town court under I.C. 33-35-3-2, if the judge of the court does not serve as clerk of the court or appoint a clerk of the court under I.C. 33-35-3-1; and

(12) Perform all other duties prescribed by statute.

(I.C. 36-5-6-6)

§ 32.04 DEPUTIES AND EMPLOYEES.

(A) The Clerk-Treasurer shall appoint the number of deputies and employees needed for the effective operation of the office, with the approval of the Town Council. The Clerk-Treasurer's deputies and employees serve at the Clerk-Treasurer's pleasure.

(B) If the town owns a utility and the Clerk-Treasurer is directly responsible for the billing and collection of that utility's rates and charges, the Clerk-Treasurer shall appoint those employees who are also responsible for that billing and collection. These employees serve at the Clerk-Treasurer's pleasure.

(I.C. 36-5-6-7)

(C) (1) The Clerk-Treasurer may hire or contract with competent attorneys or legal research assistants on terms the Clerk-Treasurer considers appropriate.

(2) Appropriations for the salaries of attorneys and legal research assistants employed under this division (C) shall be approved in the annual budget and must be allocated to the Clerk-Treasurer for the payment of attorneys' and legal research assistants' salaries.

(I.C. 36-5-6-8)

§ 32.05 OFFICE SPACE.

If office space exists in a building owned or leased by the town, the Town Council shall provide suitable office space for the Clerk-Treasurer and staff and records of the Clerk-Treasurer.

(I.C. 36-5-6-5.1)

§ 32.06 AUTHORITY TO INVEST MONIES.

(A) The Clerk-Treasurer may invest surplus monies of, or on deposit with, the town, and not required for immediate expenditure. Investments may be made in any security or investment instrument authorized by I.C. 5-13-1, but subject to any public depository distribution requirements, as provided by I.C. 5-12-1-17(c), if applicable to the investment.

(B) Investment shall be made in instruments having sufficient liquidity to permit the town to meet its expenditure requirements in a timely manner, and shall not be made in any security maturing in more than one year from the date of the investment, unless the Clerk-Treasurer determines on a reasonable basis that all monies so invested are not likely to be required for a longer period of time.

(C) The Clerk-Treasurer may sell or otherwise liquidate an investment if the investment monies should prove to be needed to pay the expenses of the town, in order to make a more advantageous investment, or to forestall principal devaluation.

(D) Unless otherwise provided by law, applicable state or federal administrative regulations, or town ordinance, investments shall be made from total monies on deposit, rather than by specific fund, and all earnings or amounts of capital gain realized from the investment shall accrue to the General Fund, and only the amount of original principal shall be returned to the fund of origin.

(E) To the extent not inconsistent with the foregoing requirements of this section, monies from different funds may be combined and put in a single investment, if a financial advantage to the town would result.

(F) When any investment is made in accordance with this section and applicable laws, the Clerk-Treasurer shall not be held personally liable for any loss of principal which may incidentally result from the making or necessary sale or liquidation of the investment.

(Ord. 1C-1984, passed - -1984)

TOWN MARSHAL

§ 32.20 APPOINTMENT; COMPENSATION.

The Town Council shall appoint the Town Marshal and shall fix the Town Marshal's compensation.

(I.C. 36-5-7-2)

§ 32.21 REMOVAL FROM OFFICE; DISCIPLINE.

(A) The Town Marshal serves at the pleasure of the Town Council.

(B) However, before terminating or suspending a Town Marshal who has been employed by the town for more than six months after completing the minimum basic training requirements adopted by the Law Enforcement Training Board under I.C. 5-2-1-9, the Town Council must conduct the disciplinary removal and appeals procedures prescribed by I.C. 36-8 for municipal fire and police departments.

(I.C. 36-5-7-3)

§ 32.22 POWERS AND DUTIES.

(A) The Town Marshal is the chief police officer of the town, and has the powers of other law enforcement officers in executing the orders of the Town Council and enforcing laws.

(B) The Town Marshal or the Marshal's deputy:

(1) Shall serve all process directed to the Marshal or deputy by the Town Court or Town Council;

(2) Shall arrest without process all persons who commit an offense within the Marshal's or deputy's view, take them before a court having jurisdiction, and detain them in custody until the cause of the arrest has been investigated;

(3) Shall suppress breaches of the peace;

(4) May, if necessary, call the power of the town to the Marshal's or deputy's aid;

(5) May execute search warrants and arrest warrants; and

(6) May pursue and jail persons who commit an offense.

(I.C. 36-5-7-4)

§ 32.23 SERVICE AS STREET COMMISSIONER AND FIRE CHIEF.

The Town Council may require the Town Marshal to serve as the Street Commissioner, Chief of the Fire Department, or both.

(I.C. 36-5-7-5)

§ 32.24 DEPUTY MARSHALS; HUMANE OFFICER.

(A) The Town Council shall by ordinance fix the number of deputy marshals. The Town Council may by ordinance authorize the Town Marshal to appoint deputy marshals. Deputy marshals have the powers and liabilities of the Town Marshal in executing the orders of the Town Council or enforcing laws.

(B) One deputy marshal may be designated as the Town Humane Officer. The designated deputy has the duties prescribed by I.C. 36-8 for municipal humane officers.

(C) The Town Council shall fix the amount of bond, compensation and term of service of deputy marshals. The Town Marshal may dismiss a deputy marshal at any time. However, a deputy marshal who has been employed by the town for more than six months after completing the minimum basic training requirements adopted by the Law Enforcement Training Board under I.C. 5-2-1-9 may be dismissed only if the procedure prescribed by § 32.21 is followed.

(I.C. 36-5-7-6)

§ 32.25 BODY ARMOR.

(A) As used in this section, **BODY ARMOR** has the meaning set forth in I.C. 35-47-5-13(a).

(B) After December 31, 2010, a town shall provide the Town Marshal and active deputy marshals of the town with body armor for the torso. The town shall replace the body armor for the torso according to the replacement period recommended by the manufacturer of the body armor for the torso.

(C) The Town Marshal and active deputy marshals of the town may not be required to pay for maintenance of the body armor for the torso furnished under this section.

(D) Body armor for the torso provided by a town under this section remains the property of the town. The town may sell the property when it becomes unfit for use, and all money received shall be paid into the General Fund of the town.

(I.C. 36-5-7-7)

CHAPTER 33: FINANCE

Section

Disbursement of Funds

- 33.01 Appropriation required
- 33.02 Issue of warrants
- 33.03 Allowance of claims
- 33.04 Warrants for payment of claims
- 33.05 Payment of compensation to officer or employee prior to vacation leave
- 33.06 Claim payments in advance of allowance
- 33.07 Transfer of funds

Budgets

- 33.30 Preparation of annual budget estimates

33.31 Preparation and approval of ordinance fixing tax rate; making annual appropriations

33.32 Increase or decrease of appropriations after approval of ordinance

Uncollectible Account

33.50 General

Internal Control Standards

33.60 General

DISBURSEMENT OF FUNDS

§ 33.01 APPROPRIATION REQUIRED.

Unless a statute provides otherwise, town monies may be disbursed only after an appropriation made by ordinance of the Town Council and recorded in a book kept for that purpose by the Town Council. Each appropriation must be made from the fund against which the expenses arose.

(I.C. 36-5-4-2)

§ 33.02 ISSUE OF WARRANTS.

(A) The Town Council or a board of the town may order the issuance of warrants for payment of money by the town only at a meeting of the Town Council or board.

(B) A town officer who violates this section forfeits the town officer's office.

(I.C. 36-5-4-3)

§ 33.03 ALLOWANCE OF CLAIMS.

(A) Except as provided in § 33.06, the Town Council or a board of the town may allow a claim:

(1) Only at a meeting of the Town Council or board; and

(2) Only if the claim was filed in the manner prescribed by I.C. 5-11-10-2 at least five days before the meeting.

(B) A town officer who violates this section forfeits the town officer's office.

(I.C. 36-5-4-4)

§ 33.04 WARRANTS FOR PAYMENT OF CLAIMS.

(A) As used in this section, ***CLAIM*** means a bill or an invoice submitted for goods or services.

(B) Except as provided in § 33.06, a warrant for payment of a claim against a town may be issued only if the claim is:

(1) Supported by a fully itemized invoice or bill under I.C. 5-11-10-1.6;

(2) Filed with the Town Fiscal Officer;

(3) Certified by the Fiscal Officer before payment that each invoice is true and correct; and

(4) Allowed by the Town Council or by the board of the town having jurisdiction over allowance of the payment of the claim.

(C) The certification by the Fiscal Officer under division (B)(3) of this section must be on a form prescribed by the State Board of Accounts.

(I.C. 36-5-4-6)

§ 33.05 PAYMENT OF COMPENSATION TO OFFICER OR EMPLOYEE PRIOR TO VACATION LEAVE.

One to three days before the vacation leave period of a town officer or employee begins, the town may pay the officer or employee the amount of compensation the officer or employee will earn while on vacation leave.

(I.C. 36-5-4-7)

§ 33.06 CLAIM PAYMENTS IN ADVANCE OF ALLOWANCE.

(A) The Clerk-Treasurer is authorized to make claim payments in advance of Town Council allowance for the following types of expenses:

(1) Property or services purchased or leased from the federal government or an agency or a political subdivision of the federal government;

(2) License fees or permit fees;

(3) Insurance premiums;

(4) Utility payments or utility connection charges;

(5) Federal grant programs, if advance funding is not prohibited and the contracting party provides sufficient security for the amount advanced;

(6) Grants of state funds authorized by statute;

(7) Maintenance agreements or service agreements;

(8) Lease agreements or rental agreements;

(9) Principal and interest payments on bonds;

(10) Payroll;

(11) State, federal or county taxes;

(12) Expenses that must be paid because of emergency circumstances;

(13) Expenses described in an ordinance; and

(14) Any bill, invoice, or charge that would otherwise incur a penalty or late fee if payment were delayed until the regularly-scheduled Town Council meeting.

(B) Any payment made under this section must be supported by a fully itemized invoice or bill (or other proof that a late fee would otherwise be incurred if not timely paid), and certification by the Clerk-Treasurer.

(C) The Town Council shall review the claim at the Town Council's next regular or special meeting following the preapproved payment of the expense.

(Ord. 2021-03, passed 4-8-2021)

Statutory update:

Similar state provisions, see I.C. 36-5-4-12

§ 33.07 TRANSFER OF FUNDS.

Notwithstanding I.C. 8-14-1 and 8-14-2, the town may transfer money distributed to the town from the motor vehicle highway account under I.C. 8-14-1; the local road and street account under I.C. 8-14-2; or the motor vehicle highway account under I.C. 8-14-1 and the local road and street account under I.C. 8-14-2 to any other town fund after the passage of an ordinance or a resolution by the Town Council that specifies the amount of the transfer, the funds involved, the date of the transfer and the general purpose of the transfer. However, the total amount of all money transferred by the town under this section may not exceed \$40,000.

(I.C. 36-5-4-13(b))

BUDGETS

§ 33.30 PREPARATION OF ANNUAL BUDGET ESTIMATES.

Before the publication of notice of budget estimates required by I.C. 6-1.1-17-3, the town shall formulate a budget estimate for the ensuing budget year in the following manner, unless the town provides by ordinance for a different manner:

(A) Each department head shall prepare for his or her department an estimate of the amount of money required for the ensuing budget year, stating in detail each category and item of expenditure he or she anticipates;

(B) The Town Fiscal Officer shall prepare an itemized estimate of revenues available for the ensuing budget year, and shall prepare an itemized estimate of expenditures for other purposes above the money proposed to be used by the departments;

(C) The President of Council shall meet with the department heads and the Fiscal Officer to review and revise their various estimates; and

(D) After the President's review and revision, the Fiscal Officer shall prepare for the President a report of the estimated department budgets, miscellaneous expenses and revenues necessary or available to finance the estimates.

(I.C. 36-5-3-3)

Cross-reference:

Compensation of officials and employees, see § 30.01

§ 33.31 PREPARATION AND APPROVAL OF ORDINANCE FIXING TAX RATE; MAKING ANNUAL APPROPRIATIONS.

The Town Fiscal Officer shall present the report of budget estimates to the Town Council under I.C. 6-1.1-17. After reviewing the report, the Town Council shall prepare an ordinance fixing the rate

of taxation for the ensuing budget year and an ordinance making appropriations for the estimated department budgets and other town purposes during the ensuing budget year. The Town Council, in the appropriation ordinance, may change any estimated item from the figure submitted in the report of the Fiscal Officer. The Town Council shall promptly act on the appropriation ordinance.

(I.C. 36-5-3-4)

§ 33.32 INCREASE OR DECREASE OF APPROPRIATIONS AFTER APPROVAL OF ORDINANCE.

After the passage of the appropriation ordinance, the Town Council may make further or additional appropriations by ordinance, unless their result is to increase the tax levy set under I.C. 6-1.1-17. The Town Council may, by ordinance, decrease any appropriation set by ordinance.

(I.C. 36-5-3-5)

UNCOLLECTIBLE ACCOUNT

§ 33.50 GENERAL.

(A) In the event that accounts receivable under this subchapter, as amended from time to time, are not paid within the time fixed by the town (hereafter "the Town"), the same shall be deemed delinquent. A penalty of 10% of the amount of the account receivable may be attached as delinquent fees.

(B) As used herein, the term **UNCOLLECTIBLE ACCOUNT** shall have the following meaning: A delinquent account receivable for which the town or has reasonably and diligently attempted collection, but in which such collection remains unsuccessful, which shall include, but not be limited to when a debtor cannot be located, the town has insufficient documentation to pursue collection efforts, the debt is discharged in bankruptcy, and the debtor has died and there is no known estate or guarantor.

(C) The town shall prepare on at least an annual basis, a schedule of uncollectible accounts. The schedule shall consist of accounts the town or has determined to be uncollectible.

(D) The town shall generate a statement setting forth the efforts that have been made to collect the account and a statement that such efforts have been unsuccessful.

(E) The town shall produce a statement of the uncollectible accounts the town believes are not economically feasible to pursue collection efforts.

(F) A schedule of uncollectible accounts shall be submitted to the Town Council for action by the Town Council to declare said accounts listed as collectible or uncollectible and may authorize the town to cease further collection procedures and expense the amounts outstanding on the accounts declared uncollectible as bad debts.

(G) The town may attempt to recover the amount of the bad debt in a civil action against the debtor.

(H) Accounts in which state and/or federal law mandates an amount is to be written off shall be written off as bad debts upon the approval of the Clerk-Treasurer of the town.

(Ord. 2016-8, passed 4-14-2016)

INTERNAL CONTROL STANDARDS

§ 33.60 GENERAL.

The town adopts as policy the internal control standard as set forth by the Indiana State Board of Accounts Uniform Internal Control Standards for Indiana Political Subdivisions manual as expressly written and published by the Indiana State Board of Accounts in September 2015, as amended from time to time. All officers, elected officials and employees are required to comply with the policy. Employees who fail to comply with this policy are subject to discipline, including but not limited to termination of their employment.

(Ord. 2016-9, passed 4-14-2016)

CHAPTER 34: ORDINANCE VIOLATIONS BUREAU

Section

- 34.01 Establishment
- 34.02 Violations Clerk designated
- 34.03 Duties of Clerk
- 34.04 Schedule of fines
- 34.05 Right to trial
- 34.06 Denial; exercise of the right to trial
- 34.07 Failure to appear or to satisfy assessed civil penalty; report; prosecution
- 34.08 Court costs fee; admitted violations
- 34.09 Disposition of civil penalties and costs collected

§ 34.01 ESTABLISHMENT.

The Town Council may establish, by ordinance or code, an Ordinance Violations Bureau.

(I.C. 33-36-2-1)

§ 34.02 VIOLATIONS CLERK DESIGNATED.

(A) Upon the creation of a bureau, the Town Council shall provide for the appointment of a Violations Clerk, who may be the Clerk or Clerk-Treasurer of the municipality, to be the administrator of the Bureau.

(I.C. 33-36-2-1)

(B) If the Town Council does not establish an Ordinance Violations Bureau under § 34.01, the Clerk or Clerk-Treasurer of the town is designated the Violations Clerk for purposes of this chapter.

(I.C. 33-36-2-2)

§ 34.03 DUTIES OF CLERK.

In ordinance violation cases, subject to the schedule prescribed under I.C. 33-36-3 by the Town Council, the Violations Clerk may accept the following:

(A) Written appearances;

(B) Waivers of trial;

(C) Admissions of violations; and

(D) Payment of civil penalties up to a specific dollar amount set forth in an ordinance adopted by the legislative body, but not more than \$250.

(I.C. 33-36-2-3)

§ 34.04 SCHEDULE OF FINES.

(A) Upon the appointment or designation of the Violations Clerk as provided by § 34.01, the Town Council shall designate, by ordinance or code, a schedule of ordinance and code provisions that are subject to admission of violation before the Violations Clerk and the amount of civil penalty to be assessed to a violator who elects to admit a violation under this chapter.

(B) Civil penalties shall be paid to, receipted by and accounted for by the Clerk under procedures provided for by the State Board of Accounts. Payment of civil penalties under this chapter may be made in person, by mail, or to an agent or agents designated by the Town Council.

(I.C. 33-36-3-1)

§ 34.05 RIGHT TO TRIAL.

A person charged with an ordinance or a code violation is entitled to a trial before a court as provided by law, unless the person waives the right to trial and enters an admission of the violation with the Violations Clerk. Upon an admission, the Clerk shall assess and receive from the violator the amount prescribed by the schedule of civil penalties established under § 34.04.

(I.C. 33-36-3-2)

§ 34.06 DENIAL; EXERCISE OF THE RIGHT TO TRIAL.

If a person charged with a violation wants to exercise the right to trial, the person shall appear before the Violations Clerk and deny the violation or enter a written denial with the Clerk.

(I.C. 33-36-3-3)

§ 34.07 FAILURE TO APPEAR OR TO SATISFY ASSESSED CIVIL PENALTY; REPORT; PROSECUTION.

(A) If a person does any of the following, then the Violations Clerk shall report this fact to the official having the responsibility to prosecute ordinance violation cases for the town:

(1) Denies an ordinance or code violation under this chapter;

(2) Fails to satisfy a civil penalty assessed by the Violations Clerk after having entered an admission of violation; or

(3) Fails to deny or admit the violation under this chapter.

(B) Proceedings in court against the person shall then be initiated for the alleged ordinance violation.

(I.C. 33-36-3-5)

§ 34.08 COURT COSTS FEE; ADMITTED VIOLATIONS.

(A) An ordinance violation admitted under this chapter does not constitute a judgment for the purposes of I.C. 33-37. An ordinance violation costs fee may not be collected from the defendant under I.C. 33-37-4.

(B) An ordinance violation processed under this chapter may not be considered for the purposes of I.C. 33-37-7-5 or I.C. 33-37-7-6 when determining the percentage of ordinance violations prosecuted in certain courts.

(I.C. 33-36-3-6)

§ 34.09 DISPOSITION OF CIVIL PENALTIES AND COSTS COLLECTED.

(A) Except as provided in division (B), all sums collected by the Violations Clerk as civil penalties for ordinance violations shall be accounted for and paid to the town as provided by law.

(B) If a city or town that has not established a court under I.C. 33-35-1 or an Ordinance Violations Bureau under I.C. 33-36-2 has entered into an interlocal agreement described in I.C. 33-36-2-4 with a municipal corporation, the sums collected by the Violations Clerk that involve the city or town that has not established a court or an ordinance violations bureau shall be accounted for and paid as provided in the interlocal agreement.

(I.C. 33-36-3-7)

CHAPTER 35: TOWN POLICIES

Section

Tort Claims Against Town

35.01 Clerk-Treasurer to receive notice

35.02 Form and service of notice

TORT CLAIMS AGAINST TOWN

§ 35.01 CLERK-TREASURER TO RECEIVE NOTICE.

The Town Clerk-Treasurer is hereby designated as the town official to receive notice of a tort claim under I.C. 34-13-3-1 et seq.

§ 35.02 FORM AND SERVICE OF NOTICE.

(A) The notice of a tort claim against the town must be in writing and must be delivered in person or by registered or certified mail.

(34-13-3-12)

(B) The notice must comply with the provisions of I.C. 34-13-3-1 et seq.

CHAPTER 36: FUNDS AND FEES

Section

36.01 Police Report Fund and fee

36.02 Levy Excess Fund

36.03 Fee schedule

36.04 LOIT Special Distribution Fund

36.05 Local Road and Bridge Matching Grant Fund

§ 36.01 POLICE REPORT FUND AND FEE.

There is hereby established a Police Report Fund, with the monies therein receipted to be spent only on appropriation by the Town Council for the purposes hereinafter provided. There shall be established within the Police Report Fund two separate accounts, one to be known as the "Accident Report Account", and the other to be known as the "Police Report General Account". Monies for each account shall be receipted and expended as follows.

(A) It is hereby established that there will be a rate of \$5 charged for each motor vehicle accident report copy given to persons asking for the copies. The receipts from this fee shall be credited to the Accident Report Account, and may be budgeted, appropriated and expended for any purpose which, in the determination of the Town Marshal, is reasonably related to the keeping of accident reports or the prevention of traffic accidents.

(B) For copies of other disclosable police reports, including, but not limited to those required to be disclosed pursuant to I.C. 5-14-3-5, a charge shall be collected, which is as nearly as possible equal to the actual cost of making each copy page, including an allowance for personnel time expended, if the actual cost can be established with reasonable accuracy and fixed by the Town Marshal; however, if it is found that it is not possible to establish an accurate actual cost, a fee \$0.10 per copy page shall be collected. The receipts from this fee shall be credited to the Police Report General Account, and may be budgeted and appropriated for police equipment, or to subsidize the general operating budget of the Town Marshal's office.

(Ord. 1C-1984, passed - -1984)

§ 36.02 LEVY EXCESS FUND.

(A) In accordance with I.C. 6-1.1-18.5-7, there is hereby created a "Levy Excess Fund" into which there shall be receipted any portion of the town's annual ad valorem property tax distribution which exceeds 102% of the total ad valorem property tax levy, as provided in the approved and certified town budget for any budget year.

(B) Monies in the Levy Excess Fund may only be used for purposes authorized by the State Board of Tax Commissioners.

(Ord. 1C-1984, passed - -1984)

§ 36.03 FEE SCHEDULE.

<i>Town Fee Schedule</i>	
<i>Town Fee Schedule</i>	
Abandoned vehicles	
Letter of notice	72 hours to respond
Tag vehicle	72 hours to respond
Dogs	\$25
Parking violations	
Handicap	\$15
Fire lanes	\$15
Blocking alleyways	\$15
Sidewalk violations	\$15
Sign violations	
Running stop sign	\$40
Speeding	
1-10 miles per hour over limit	\$60
11-20 miles per hour over limit	\$80
21-25 miles per hour over limit	\$100
If fine is not paid within 14 days, it will not be reported to the state. The tickets will be paid to the town.	
Trash debris on porches and in yards	\$100 for first notice; \$125 for second notice
Weeds and vegetation	\$75 for first notice; \$100 for second notice

(Ord. passed 7-14-2011)

§ 36.04 LOIT SPECIAL DISTRIBUTION FUND.

(A) The need now exists for the establishment of a LOIT Special Distribution Fund.

(B) The sources of funding for the newly established fund are a special distribution of local option income tax pursuant to Senate Enrolled Act 67 and any other landing source not specifically prohibited by law.

(C) Expenditures from this fund are restricted to allowable purposes per I.C. 6-3.6-9-17(h)(1)(A) as follows:

(1) Engineering, land acquisition, construction, resurfacing, maintenance restoration, or rehabilitation of both local and arterial road and street systems;

- (2) The payment of principal and interest on bonds sold primarily to finance road, street, or thoroughfare projects;
- (3) Any local costs required to undertake a recreational or reservoir road project under I.C. 8-23-30;
- (4) The purchase, rental, or repair of highway equipment;
- (5) Providing a match for a grant from the Local Road and Bridge Matching Grant Fund under I.C. 8-23-30; and
- (6) Capital projects for aviation related property or facilities, including capital projects of a Board of Aviation Commissioners established under I.C. 8-22-2 or an airport authority established under I.C. 8-22-3-1.

(D) The fund shall be subject to the same appropriation process as other municipal funds.
(Ord. 2016-11, passed 6-9-2016)

§ 36.05 LOCAL ROAD AND BRIDGE MATCHING GRANT FUND.

(A) There is hereby established a new non-reverting fund to be known as the Local Road and Bridge Matching Grant Fund, which is to be given number 258 for money received from the Local Road and Bridge Matching Grant Fund through the Indiana Department of Transportation (INDOT) as well as local match funds.

(B) The Clerk Treasurer is hereby authorized to establish such fund for the purposes set forth herein in accordance with Indiana law and the policies and procedures of the Indiana State Board of Accounts.

(Ord. 2018-05, passed 3-8-2018)

TITLE V: PUBLIC WORKS

Chapter

50. GENERAL PROVISIONS

51. SEWER/WASTEWATER PROVISIONS

52. STORM WATER RATES AND CHARGES

CHAPTER 50: GENERAL PROVISIONS

Section

50.01 Disconnection for late payment

§ 50.01 DISCONNECTION FOR LATE PAYMENT.

(A) It is the policy of the town to discontinue utility service to customers by reason of

nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The town's form for application for utility service and all bills shall contain, in addition to the title, address, room number and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:

- (1) That all bills are due and payable on or before the date set forth on the bill;
 - (2) That if any bill is not paid by or before that date, a second bill will be mailed containing a cutoff notice that if the bill is not paid within ten days of the mailing of the second bill, and is 30 days or more delinquent, service will be discontinued for nonpayment; and
 - (3) That any customer disputing the correctness of his or her bill shall have a right to a hearing, at which time he or she may be represented in person and by counsel or any other person of his or her choosing and may present orally or in writing his or her complaint and contentions to the town official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.
- (B) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been due and unpaid for at least 30 days.

Statutory reference:

Similar state law, see I.C. 8-1.5-3-4(d)

CHAPTER 51: SEWER/WASTEWATER PROVISIONS

Section

- 51.01 Rates and charges
- 51.02 General provisions
- 51.03 Connection surcharge
- 51.04 Service to those outside corporate limits
- 51.05 Definitions
- 51.06 Administration
- 51.07 Enforcement
- 51.08 Prohibited dumping
- 51.09 Damages/charges for unlawful dumping
- 51.10 Studies
- 51.11 Billing; collection
- 51.12 Billing and contracting procedures for properties

§ 51.01 RATES AND CHARGES.

(A) For the use of and service rendered by the sewage treatment works system, rates and charges shall be collected from the owner of each and every lot and parcel of real estate or building that is connected to the town's sewage treatment works system, or which otherwise discharges sewage, either directly or indirectly into the sewage treatment works system of the town, which rates and charges are payable as follows.

(B) The sewage rates and charges shall be made on the basis of each sewer connection, except as otherwise provided in this chapter.

(1) *Residential sewage service rate.*

(a) The residential sewage service rate shall apply to each building or part of a building or trailer occupied as a residence.

(b) The residential sewage service charge shall cease to apply to any building or part of a building which becomes regularly used for commercial or school purposes. When and if a portion of a customer's premises becomes regularly used for commercial or school purposes, a customer shall be charged for sewage service at the rate applicable to commercial or school sewage services. For each sewer connection and/or sewer customer, the residential sewage service rate shall be the rate as set by ordinance of the Town Council, as may be amended from time to time.

(2) *Commercial sewage service rate.*

(a) The commercial sewage service rate is to apply to any lot, parcel of real estate, or building used for commercial activities. Sewage service to the property used in an income producing activity shall be billed to the customer at the commercial sewage service rate, unless the service is classified as a residential service as previously set forth or as a school. Charges for commercial sewage service for each sewer connection or customer shall be made as set by ordinance of the Town Council, as may be amended from time to time.

(b) For the purpose of computing the number of employees for sewage service charges set forth, the number of employees shall be the average number of employees during the month (computed by adding the number of employees at the beginning of the monthly billing to the number of employees at the end of the monthly billing and dividing by two).

(3) *School sewage service rate.* The school rate is to apply to any lot, parcel of real estate, or building used for school activities, unless the service is classified as a residential or commercial service as previously set forth. Charges for school sewage service for each sewer connection or customer shall be made as set by ordinance of the Town Council, as may be amended from time to time.

(Ord. 2-1986, passed 10-9-1986; Ord. 2019-2, passed 4-11-2019)

§ 51.02 GENERAL PROVISIONS.

(A) In order that rates and charges may be justly and equitably adjusted to the service rendered to any user, including commercial, industrial and public or private schools, the town shall base its charges not only on the volume, but also on the strength and character of the sewage and waste which the sewer system is required to treat and dispose of. The town shall require the owner or user to determine the volume, the strength and content of all sewage and waste discharged, either directly or indirectly, into the sanitary sewer system, in a manner and by a manner and by a method as the town may deem practical in light of the conditions and attending circumstances of the case,

in order to determine the proper charge. All users, owners or other industrial users shall furnish a central sampling point available to the town at all times.

(B) The town may require any owner or occupant of a lot, parcel of real estate or building discharging sewage into the town's sewage system, either directly or indirectly, to measure by water meter the amount of water used in order to ascertain the rate or charge provided in this chapter and the owner or other interested party shall, at his or her own expense, install and maintain a meter or meters acceptable to the town for that purpose.

(C) Normal domestic waste strength should not exceed a biochemical oxygen demand of 200 parts per million, or suspended solids in excess of 200 parts per million. Any and all commercial and industrial installations shall be so controlled and/or treated as to the sewage strength that their affluent discharged to the town's sewer treatment works shall not exceed the normal domestic waste strength. In the event of unusual circumstances which prevent adequate pretreatment of industrial waste, additional charges for treating stronger than normal strength domestic wastes shall be as follows:

(1) *Special use rate based upon BOD.* There shall be an additional charge of \$0.25 per pound of biochemical oxygen demand in excess of 200 PPM; and

(2) *Special use rate based upon suspended solids.* There shall be an additional charge of \$0.25 per pound of suspended solids in excess of 200 PPM.

(Ord. 2-1986, passed 10-9-1986)

§ 51.03 CONNECTION SURCHARGE.

(A) As to any sewer connection which is made from a lot, parcel of real estate or building to one of the lateral sewers, trunk sewers, interceptors or outfall sewers or extensions thereof, there shall be a connection surcharge levied against the lot, parcel of real estate or building as hereinafter set forth.

(B) The connection surcharge set out hereinafter shall be over and above any and all costs and charges for making the physical connection to the town's sanitary sewage works.

(C) The charge shall be due and payable to the Clerk-Treasurer at the time the connection is made to the town's sanitary sewage works system. In the event the sewer connection charge is not paid as herein required, service to the customers may be terminated, and the connection fee shall be collectable in a manner as provided by statute.

(D) The connection surcharges are as follows, to-wit:

(1) For the purpose of this chapter, a single-family residential dwelling is defined as a detached building designated for or occupied by one family exclusively, and for each user connecting to the town's sanitary sewage works system, there shall be a tap-on fee of \$2,500;

(2) For the purposes of this chapter, a two-family dwelling is designed for or occupied by two families, and for each dwelling connecting to the town's sanitary sewage works system, there shall be a tap-on fee of \$5,000; and

(3) In multiple-family housing (other than single-family or two-family dwelling) each user connecting to the town's sanitary sewer works shall pay a tap-on fee of \$2,500 for the first unit and an additional tap-on fee of \$1,250 for each additional housing unit contained therein.

(E) The permit fee and/or application and inspection fee shall stay at \$25 per application.

(Ord. 2-1986, passed 10-9-1986; Ord. 2-1997, passed 3-13-1997)

§ 51.04 SERVICE TO THOSE OUTSIDE CORPORATE LIMITS.

(A) The rates and charges fixed herein shall apply to lots, parcels of real estate and/or buildings located within the limits of the town, and to those lots, parcels of real estate or buildings served by the sanitary treatment works outside the corporate limits of the town.

(B) For the service rendered by the town's sewage treatment works system to lots, parcels of real estate or buildings located outside the corporate limits of the town, the rates and charges, including the minimum charge, shall be 125% of those rates and charges established herein, and all other provisions herein set forth shall be applicable to the users outside the corporate limits of the town.

(Ord. 2-1986, passed 10-9-1986)

§ 51.05 DEFINITIONS.

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

DWELLING UNITS or **FAMILY UNITS.** A room or rooms or other living space or spaces in which cooking facilities are provided, and is occupied by not more than one family.

INDUSTRIAL WASTE. Liquid waste from the industrial and manufacturing processes, trade or businesses as distinct from sanitary sewage.

SEWAGE. A combination of water-carried waste from residences, business buildings, institutions, industrial establishments, together with the ground service and storm waters as may be present.

(Ord. 2-1986, passed 10-9-1986)

§ 51.06 ADMINISTRATION.

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

(B) The owners of the property served shall be billed in accordance therewith.

(C) All rates and charges shall be billed for each month and shall be due and payable on or before the first day of the succeeding month.

(D) Delinquent sewer service rates and charges, 10% penalty, recording fees, and service charges may be made a lien upon the property when the delinquent party is the property owner and may be collected in accordance with the provisions of I.C. 36-9-23. In addition, the town may recover the amount of the charges for services, 10% penalty, and reasonable attorney's fees in a civil action, and may foreclose liens established by this chapter in accordance with I.C. 36-9-23.

(Ord. 2-1986, passed 10-9-1986; Ord. 2019-2, passed 4-11-2019)

§ 51.07 ENFORCEMENT.

The Town Council shall make and enforce the by-laws and regulations as may be necessary for the safe, economical and efficient management of the town's sewage treatment works system, and for the regulation, collection, rebating and refunding of any sewer rate charges.

(Ord. 2-1986, passed 10-9-1986)

§ 51.08 PROHIBITED DUMPING.

The Town Council is hereby authorized to prohibit dumping of sanitary sewage and industrial waste into the town's sanitary sewage works system, which in its discretion is deemed harmful to the operation of the sewage treatment works system of the town, or it shall have the power to require effective pre-treatment methods of the waste to reduce the characteristics of the waste passing through the sewage treatment works of the town which pre-treatment is satisfactory to the Town Council.

(Ord. 2-1986, passed 10-9-1986)

§ 51.09 DAMAGES/CHARGES FOR UNLAWFUL DUMPING.

(A) In the event an owner or other user of the town's sewage treatment works system shall permit the dumping of waste and/or sewage in the town's sewage works, which is harmful to the operation of the system, then the owner or user shall be required to pay for the damages plus a penalty of not less than \$250 per day for each day in which the dumping occurs.

(B) The damages shall be not less than the actual cost to the town of locating the source of dumping and repairing any damage to the sewage treatment works, caused by the dumping.

(Ord. 2-1986, passed 10-9-1986)

§ 51.10 STUDIES.

(A) In order that the rates and charges for sewage services may remain fair and equitable and be in proportion to the cost of providing services to the various user or user classes, the town shall cause studies to be made from time to time.

(B) These studies shall include, but not be limited to, an analysis of the costs associated with the treatment of excessive strength effluent from users; the volume and the delivery flow rate characteristics attributed to the various users or user classes; the financial position of the sewage works and the adequacy of its revenue to provide reasonable funds for operation, maintenance, replacements, debt service requirements and capital improvement to the waste treatment system.

(Ord. 2-1986, passed 10-9-1986)

§ 51.11 BILLING; COLLECTION.

(A) The rates and charges currently being charged and collected for the customers being serviced by the town sewage works system shall be continued and collected by the Clerk-Treasurer of the town, until a time as the amended rates and charges as herein specified shall officially become effective, which date shall be January 1, 1987.

(B) At that time as the rates and charges as herein specified shall become effective, the same shall be billed and collected after the first billing period when the rates and charges become effective.

(Ord. 2-1986, passed 10-9-1986)

§ 51.12 BILLING AND CONTRACTING PROCEDURES FOR PROPERTIES.

(A) Effective August 1, 2013, all new contracts for municipal utility users shall be made between the Municipal Utility and the property owner. All costs related to providing sewer service to such properties shall be the responsibility of the property owner.

(B) In the event a municipal utility user fails to timely make a payment for their municipal sewer service, after August 1, 2013, the user shall provide proof to the Clerk-Treasurer that they are the real property owner of the property. In the event that a municipal utility user fails to timely make a payment on the municipal sewer service and they are not the real property owner of the parcel, it shall be the responsibility of the real property owner to enter into a contract with the Town of Clayton to provide wastewater treatment, including any necessary security deposits.

(C) For the purposes of providing proof of ownership of real property, it shall be deemed acceptable to provide a copy of a recorded real estate deed showing ownership or by online review of the Hendricks County Assessor's online database of real property, located on the Hendricks County Government's website.

(Ord. 2013-09, passed 7-11-2013)

CHAPTER 52: STORM WATER RATES AND CHARGES

Section

52.01 Recitals

52.02 Definitions

52.03 Schedule of user fees and charges

52.04 Billing and payment

§ 52.01 RECITALS.

The recitals set forth in Ord. 2019-01 are incorporated by reference into this section as if fully set forth herein.

(Ord. 2019-1, passed 4-11-2019)

§ 52.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply, in addition to the definitions set forth in § 10.05(B), unless the context clearly indicates or requires a different meaning.

CUSTOMER or **USER.** A property owner within the municipal boundaries of the town.

PROPERTY OWNER. The individual(s) or legal entity holding the deed or record title to the property with the Hendricks County Recorder's Office. A contract purchaser or tenant is not considered the property owner.

STORM WATER. Water resulting from rain, melting snow, hail, or sleet.

STORM WATER FUND. The fund established by the town under Ord. 2015-05.

TOWN. The Town of Clayton, Indiana.

(Ord. 2019-1, passed 4-11-2019)

§ 52.03 SCHEDULE OF USER FEES AND CHARGES.

(A) A storm water service charge shall be imposed on each and every lot and parcel of land within the incorporated limits of the town, as amended from time to time, which charge shall be assessed against the property owner thereof, who shall be considered the user for the purposes of this chapter. The charge is made regardless of whether the property is used for residential, commercial, or school purposes. This charge is deemed reasonable and is necessary to pay for all expenses incidental to the operation of the works, including: legal expenses; maintenance costs; operating charges; repairs; lease rentals; interest charges on bonds or other obligations; to provide a sinking fund required by I.C. 36-9-23-21; to provide adequate money to be used as working capital; and to provide adequate money for improving and replacing the works.

(B) The storm water service charge shall be the amount set forth in the schedule of user fees that is set by ordinance of the Town Council, as may be amended from time to time. The storm water service charge shall be charged monthly and any amounts collected shall be deposited into the Storm Water Fund.

(C) *Basis of charge.* The storm water fee is a flat charge designed to recover the cost of rendering storm water service to the users of the storm water drainage system, and shall be the basis for assessment of the storm water service charge.

(D) *Classification of property.* All properties within the town municipal boundaries will be assigned an Equivalent Residential Unit (ERU), or a multiple thereof, based on the costs, including capital expenditures, of furnishing services to each property, with all properties having a rate assignment as follows:

(1) *All property except schools.* A monthly flat rate charge for storm water service rendered to residential improved or non-residential improved properties, other than schools, in the amount of one ERU equating to a rate of \$3 per month, as amended from time to time.

(2) *School.* The monthly user fee for schools will be determined using an ERU multiplier, which will be calculated by dividing the total impervious surface within the property by the base of 3,000 and then multiplying by \$3 per ERU per month, as amended from time to time.

(E) *Exceptions/exemptions.* Except for public rights-of-way, town-owned properties, railroad lines, and paths that are eight feet wide or less, there shall be no exceptions or exemptions from the assignment of storm water service charges for any property.

(Ord. 2019-1, passed 4-11-2019)

§ 52.04 BILLING AND PAYMENT.

(A) *Billings.* All storm water bills shall be tendered on a monthly basis to the property in connection with any sewer billing, but the storm water bill shall be in addition to any sewage service rate that is charged.

(B) *Terms of payment.* The storm water fee prescribed in § 52.03 shall be due on the payment date set out on the bill. It shall be a violation of this chapter to fail to pay a storm water fee when due. All bills for storm water fees not paid on or before the due date, which due date shall be approximately 30 days after the bill is rendered, shall be subject to a collection or deferred payment charge of 10% on the outstanding balance.

(C) *Collection*. Delinquent charges for storm water fees, 10% penalty, recording fees, and service charges may be made a lien upon the property when the delinquent party is the property owner and may be collected in accordance with the provisions of I.C. 36-9-23. In addition, the town may recover the amount of the charges for services, 10% penalty, and reasonable attorney's fees in a civil action, and may foreclose liens established by this chapter in accordance with I.C. 36-9-23.

(Ord. 2019-1, passed 4-11-2019)

TITLE VII: TRAFFIC CODE

Chapter

- 70. GENERAL PROVISIONS**
- 71. TRAFFIC REGULATIONS**
- 72. PARKING REGULATIONS**
- 73. TRAFFIC SCHEDULES**
- 74. PARKING SCHEDULES**
- 75. GOLF CARTS**

CHAPTER 70: GENERAL PROVISIONS

Section

General Provisions

- 70.01 Definitions
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GENERAL PROVISIONS

§ 70.01 DEFINITIONS.

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

AUTHORIZED EMERGENCY VEHICLE. The following vehicles:

- (1) Fire Department vehicles;
- (2) Police Department vehicles;
- (3) Ambulances;
- (4) Emergency vehicles operated by or for hospitals or health and hospital corporations under I.C. 16-22-8;
- (5) Vehicles designated as emergency vehicles by the State Department of Transportation under I.C. 9-21-20-1;
- (6) Motor vehicles that, subject to I.C. 9-21-20-2, are approved by the State Emergency Medical Services Commission, that are:
 - (a) Ambulances that are owned by persons, firms, limited liability companies or corporations other than hospitals; or
 - (b) Not ambulances and that provide emergency medical services, including extrication and rescue services (as defined in I.C. 16-18-2-110).
- (7) Vehicles of the Department of Correction that, subject to I.C. 9-21-20-3, are:
 - (a) Designated by the Department of Correction as emergency vehicles; and
 - (b) Responding to an emergency.

(I.C. 9-13-2-6)

DRIVER. A person who drives or is in actual physical control of a vehicle.

(I.C. 9-13-2-47)

ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE. A self-balancing, two nontandem-wheeled device that is designed to transport only one person and that has the following:

- (1) An electric propulsion system with average power of 750 watts or one horsepower; and
- (2) A maximum speed of less than 20 mph when operated on a paved level surface, when powered solely by the propulsion system referred to in division (1) of this definition, and when operated by an operator weighing 170 pounds.

(I.C. 9-13-2-49.3)

HIGHWAY or STREET. The entire width between the boundary lines of every publicly maintained way when any part of the way is open to the use of the public for purposes of vehicular travel. The term includes an alley.

(I.C. 9-13-2-73)

INTERSECTION.

- (1) The area embraced within:

(a) The prolongation or connection of the lateral curb lines, or if none, then the lateral boundary lines of the roadways of two highways that join at or approximately at right angles; or

(b) The area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(2) Where a highway includes two roadways at least 30 feet apart, every crossing of each roadway of the divided highway by an intersecting highway is regarded as a separate intersection. If the intersecting highway also includes two roadways at least 30 feet apart, every crossing of two roadways of the intersecting highway is regarded as a separate intersection.

(I.C. 9-13-2-84)

MOTOR VEHICLE.

(1) Except as otherwise provided in this definition, a vehicle that is self-propelled. The term does not include a farm tractor, an implement of agriculture designed to be operated primarily in a farm field or on farm premises, an electric bicycle, an electric foot scooter, or an electric personal assistive mobility device as those terms are defined in I.C. 9-13-2-56, 9-13-2-77 and this section.

(2) ***MOTOR VEHICLE*** for purposes of I.C. 9-21 means:

(a) A vehicle that is self-propelled; or

(b) A vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(c) The term does not include an electric foot scooter.

(I.C. 9-13-2-105(a) and (b))

MOTORCYCLE. A motor vehicle with motive power that has a seat or saddle for the use of the rider; is designed to travel on not more than three wheels in contact with the ground; and satisfies the operational and equipment specification described in 49 C.F.R. 571 and I.C. 9-19. The term includes an autocycle, but does not include a farm tractor, an electric bicycle, or a motor driven cycle.

(I.C. 9-13-2-108)

OPERATOR.

(1) Except as provided in division (2), an individual who operates a vehicle, watercraft, off-road vehicle, or snowmobile.

(2) For purposes of I.C. 9-18.1-14.5, has the meaning set forth in 33 CFR 174.3.

(I.C. 9-13-2-118)

OWNER. Except as otherwise provided in I.C. 9-13-2-121(b), means a person, other than a lien holder, that:

(1) Holds the property in or title to, as applicable, a vehicle, manufactured home, mobile home, off-road vehicle, snowmobile, or watercraft; or

(2) Is entitled to the use or possession of, as applicable, a vehicle, manufactured home, off-road vehicle, snowmobile, or watercraft, through a lease or other agreement intended to operate as a security.

(I.C. 9-13-2-121(a))

RIGHT-OF-WAY. The privilege of the immediate use of a highway.

(I.C. 9-13-2-155)

ROADWAY. The part of a highway improved, designed or ordinarily used for vehicular travel.

(I.C. 9-13-2-157)

STREET. See **HIGHWAY**.

THROUGH HIGHWAY. A highway or portion of a highway at the entrance to which vehicular traffic from intersecting highways is required by law to yield right-of-way to vehicles on the through highway, in obedience to either a stop sign or a yield sign.

(I.C. 9-13-2-178)

VEHICLE. A device in, upon or by which a person or property is or may be transported or drawn upon a highway. The term does not include the following:

- (1) A device moved by human power;
- (2) A device that runs only on rails or tracks;
- (3) A wheelchair; and
- (4) An electric foot scooter

(I.C. 9-13-2-196(a))

§ 70.02 SCHOOL CROSSING GUARDS.

(A) School crossing guards are permitted to direct the flow of traffic entering or departing from school property onto a public thoroughfare in the town.

(B) It is a violation for failure of the driver of a motor vehicle entering or departing from school property onto a public thoroughfare in the town to obey the direction of a school crossing guard.

(Ord. 2-1995, passed 12-14-1995) Penalty, see § 70.99

TRAFFIC CONTROL DEVICES

§ 70.20 ESTABLISHMENT AND MAINTENANCE OF TRAFFIC CONTROL DEVICES.

(A) The town may establish and maintain official traffic control devices necessary within the town.

(B) All traffic control devices, including signs, shall be employed to indicate one particular warning or regulation, shall be uniform, and as far as possible shall be placed uniformly.

(C) All traffic control devices and signs shall conform to required state specifications.

§ 70.21 OBEDIENCE TO SIGNALS.

(A) It shall be unlawful for the driver of any vehicle to disobey the signal of any official traffic control device placed in accordance with the provisions of this traffic code or of a traffic barrier or

sign erected by any of the public departments or public utilities of the town, or any electric signal, gate or watchman at railroad crossings, unless otherwise directed by a police officer. However, the type and the right to or necessity for the barrier or sign must be approved by the town.

(B) The sign, signal, marking or barrier shall have the same authority as the personal direction of a police officer.

Penalty, see § 70.99

§ 70.22 INTERFERENCE WITH SIGNALS.

It shall be unlawful for any person without authority to attempt to or in fact alter, deface, injure, knock down or remove any official control device or any railroad sign or signal, or any inscription, shield or insignia thereon, or any part thereof.

Penalty see § 70.99

§ 70.23 UNAUTHORIZED SIGNALS OR MARKINGS.

(A) It shall be unlawful for any person to place, maintain or display on or in view of any street any unauthorized sign, signal, marking or device which purports to be, is an imitation of, or resembles an official traffic device, railroad sign or signal which attempts or purports to direct the movement of traffic, or which conceals or hides from view or interferes with the effectiveness of any official control device or any railroad sign or signal. No person shall place or maintain, nor shall any public authority permit on any street, any traffic sign or signal containing any commercial advertising. Nothing in this section shall be construed as restricting any public department or public utility of the town in any emergency or temporarily from marking or erecting any traffic barrier or sign whose placing has been approved by the town.

(B) Every prohibited sign, signal or marking is declared to be a public nuisance and the town is empowered forthwith to remove it or cause it to be removed.

Penalty, see § 70.99

§ 70.99 PENALTY.

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

CHAPTER 71: TRAFFIC REGULATIONS

Section

General Provisions

71.01 Trucks prohibited on certain streets

71.02 Stop intersections

71.03 One-way streets

71.04 Modifying and adjusting established speed limits within the town

Cruising

71.50 Definitions

71.51 Cruising prohibited

71.52 Posting of signs

Cross-reference:

Abandoned vehicles, see Ch. 90

Statutory reference:

Authority to enact local traffic regulations, see I.C. 9-21-1-3

Authority to lower local speed limits, see I.C. 9-21-5-6

GENERAL PROVISIONS

§ 71.01 TRUCKS PROHIBITED ON CERTAIN STREETS.

No trucks, other than pickup trucks and passenger trucks and vans, shall be allowed to operate on any posted town streets unless they must use the particular street in question for the purpose of local pickup or delivery. Posted streets are those which have signs on them indicating that their use by through trucks is prohibited.

Penalty, see § 70.99

§ 71.02 STOP INTERSECTIONS.

(A) The town may designate intersections as stop intersections and require all vehicles to stop at one or more entrances to the intersections.

(B) The town shall post signs at designated intersections, giving notice of the designation as a stop intersection.

(C) It shall be unlawful for any person to fail to obey the markings or signs posted under this section.

Penalty, see § 70.99

§ 71.03 ONE-WAY STREETS.

(A) The town may designate streets or highways as one-way streets or highways, and may require that all vehicles operated on the street or highway be moved in one specific direction.

(B) The town shall post signs at the entrance to the street or part of the street that is affected, giving notice of the designation as a one-way street.

(C) It shall be unlawful for any person to fail to obey the markings or signs posted under this section.

Penalty, see § 70.99

§ 71.04 MODIFYING AND ADJUSTING ESTABLISHED SPEED LIMITS WITHIN THE TOWN.

(A) Unless otherwise posted, it shall be unlawful for any person or persons to drive or propel any motor or other vehicle over or upon any road or street of the town at a speed greater than 25 miles per hour.

(B) Unless otherwise posted, it shall be unlawful for any person or persons to drive or propel any motor or other vehicle over or upon any alley of the town at a speed greater than 15 miles per hour.

(C) Notwithstanding divisions (A) and (B) hereof, it shall be unlawful for any person or persons to drive or propel any motor or other vehicle over or upon any alley, road, street, or highway within the town at a speed in excess of the posted speed limits.

(D) Notwithstanding the provisions hereof, the speed limits on Indiana Highway 39 within the boundaries of the town shall remain as established and posted by Indiana Department of Transportation.

(E) Persons violating this section shall be subject to civil fines and penalties under § 70.99 of the Clayton Traffic Code.

(Ord. 2013-07, passed 7-11-2013) Penalty, see § 70.99

Cross-reference:

Speed limits, see Ch. 73, Sch. II

CRUISING

§ 71.50 DEFINITIONS.

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

CONGESTED TRAFFIC.

(1) Traffic on any public street, alley or highway which is delaying to the point that:

(a) Motor vehicles cannot move through a 100-yard approach corridor to an intersection controlled by a traffic light within two complete green-light cycles, where the delay in forward movement is due to the position of other motor vehicles;

(b) Motor vehicles cannot move through a 100-yard approach corridor to an intersection controlled by a traffic light, stop sign or yield sign within a five-minute period of time, where the delay in forward movement is due to the position of other motor vehicles; or

(c) Motor vehicles cannot readily move forward on portions of public streets, alleys or highways between intersections because traffic speed is slowed to less than five miles per hour, and the delay in movement is due to the position of other motor vehicles.

(2) The determination that a street, alley or highway is congested shall be made by the Town Marshal or ranking peace officer on duty within the affected area.

CRUISING. The repetitive driving of any motor vehicle past a traffic control point in traffic which is congested at or near the traffic control point.

GREEN LIGHT CYCLE. The period commencing upon the switching of a traffic light from a red

light to a green light through to the return of a red light.

PEACE OFFICER. The Town Marshal, his or her designee, any member of the Town Police Department, or other town, county or state official designated to enforce this subchapter.

PROPERTY IN THE PROXIMITY OF ANY POSTED NO-CRUIISING ZONE. Any property which is both visible from and located within 300 feet of any portion of a street, alley or highway which is posted as a no-cruising zone pursuant to this subchapter.

TRAFFIC CONTROL POINT. A location along a public street, alley or highway utilized by the Town Marshal or a peace officer on duty within the affected area as an observation point in order to monitor traffic conditions for potential violations of this title.

§ 71.51 CRUISING PROHIBITED.

(A) *Conduct prohibited.* It shall be unlawful to engage in the activity known as cruising as defined in this subchapter on the public streets, alleys or highways of the town in any area which has been posted as a no-cruising zone.

(B) *First violation.* Any person who violates division (A) of this section may be given a written warning stating that any subsequent passage past that traffic control point within the next succeeding four hours will be a violation of this subchapter.

(C) *Subsequent violations.* Any person who, after having received a written warning under division (B) of this section, subsequently drives past or is a passenger in a vehicle passing the same traffic control point within the next succeeding four hours shall be in violation of this subchapter.

Penalty, see § 70.99

§ 71.52 POSTING OF SIGNS.

This subchapter may be enforced in any area which has been posted as a no-cruising zone. "No Cruising" signs shall be posted at the beginning and the end of any public street, alley or highway, or portion thereof, which is a no-cruising zone.

CHAPTER 72: PARKING REGULATIONS

Section

72.01 No parking where posted

72.02 Limited parking

72.03 Other parking restrictions

72.04 Parking for persons with physical disability

72.05 Parking on sidewalks

72.99 Penalty

Cross-reference:

Abandoned vehicles, see Ch. 90

Statutory reference:

Authority to enact local parking regulations, see I.C. 9-21-1-3

§ 72.01 NO PARKING WHERE POSTED.

No person shall stop, stand or park a vehicle upon the public streets of the town at any place where official signs or where appropriate devices, marks or painting, either upon the surface of the street or the curb immediately adjacent thereto, prohibit those acts.

Penalty, see § 72.99

§ 72.02 LIMITED PARKING.

No person shall stop, stand or park a vehicle upon the public streets of the town where official signs are erected limiting the parking time thereon, for a period of time in excess of the time as designated by the official signs.

Penalty, see § 72.99

§ 72.03 OTHER PARKING RESTRICTIONS.

The Town Council may order the placing of signs, devices or marks, or the painting of streets or curbs prohibiting or restricting the stopping, standing or parking of vehicles on any street where, in its opinion, the stopping, standing or parking is dangerous to those using the highway, or where the stopping, standing or parking of vehicles would unduly interfere with the free movement of traffic thereon. The signs, devices, marks or painting shall be official signs, devices, marks or painting; and no person shall stop, stand or park any vehicle in violation of the restrictions thereon or as indicated thereby.

Penalty, see § 72.99

§ 72.04 PARKING FOR PERSONS WITH PHYSICAL DISABILITY.

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

PERSON WITH A PHYSICAL DISABILITY. Any person who has been issued a placard or special registration plate or decal for a motor vehicle by the State Bureau of Motor Vehicles under I.C. 9-14-5, 9-18-18, 9-18-22 or the laws of another state.

(B) *Parking prohibited.*

(1) It shall be unlawful for any person to park a motor vehicle, motorcycle, moped, bicycle or other vehicle of any nature, which does not have displayed a placard for a person with a physical disability issued under the laws of this state or the laws of another state, in a parking space reserved for a vehicle of a person with a physical disability.

(2) It shall be unlawful for any person to knowingly park in a parking space reserved for a person with a physical disability while displaying a placard to which neither the person nor the person's passenger is entitled.

- (C) *Violation.* If any vehicle is parked unlawfully in violation of any of the provisions of this section, and the identity of the driver cannot be determined, the owner or person in whose name the vehicle is registered shall be held prima facie responsible for the violation.
- (D) *Towing.* In addition to any fines which may be given as a result of violations of this section, any vehicle which is parked in a manner in violation of this section may be towed to an area designated by the town at the owner's expense. The owner shall also be required to pay any and all storage fees resulting from this action.

Penalty, see § 72.99

Statutory reference:

Similar state law, see I.C. 5-16-9

§ 72.05 PARKING ON SIDEWALKS.

- (A) The purpose of this section is to prohibit parking by automobiles, vehicles or any type of motorized unit or non-motorized units supported by axle, axles or wheels on the sidewalks of the town. The purpose is to further preserve the sidewalks of the town, and to also control the parking along the side of the street systems of the town.
- (B) The owner or operator of any vehicle or conveyance described above shall not be permitted to park the vehicle on any of the sidewalks abutting the street system of the town.
- (Ord. 1-1993, passed 4-8-1993) Penalty, see § 72.99

§ 72.99 PENALTY.

- (A) Any person, firm or corporation who violates any provision of this chapter for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding \$100. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.
- (B) Parking of any vehicles or units as described above in § 72.05 on the sidewalks abutting the streets of the town shall constitute a violation of that section, and any person violating that section shall be fined not less than \$25, or more than \$50 for each violation.
- (Ord. 1-1993, passed 4-8-1993)

CHAPTER 73: TRAFFIC SCHEDULES

Schedule

- I. Stop intersections
- II. Speed limits

SCHEDULE I. STOP INTERSECTIONS.

Street	Intersection	Direction	Ord. No.	Date
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				<i>Passed</i>
Lena Lane	Lena Lane and Martha Eunice Drive	Southerly	3-1999	8-16-1999
Martha Eunice Drive	Martha Eunice Drive and Ruth Elizabeth Drive	Easterly or westerly	3-1999	8-16-1999
Ruth Elizabeth	Ruth Elizabeth and Martha Eunice Drive	Northerly or southerly	3-1999	8-16-1999
Western Street	Western Street and York Avenue		1-1990	8-9-1990

Penalty, see § 70.99

SCHEDULE II. SPEED LIMITS.

<i>Street</i>	<i>Location</i>	<i>Speed Limit (miles per hour)</i>	<i>Ord. No.</i>	<i>Date Passed</i>
<i>Street</i>	<i>Location</i>	<i>Speed Limit (miles per hour)</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Ader Street		15	2018-19	12-13-2018
Northbound County Road 0 within the jurisdictional area of the Town of Clayton	From the southernmost jurisdictional limits until the northern edge of parcel ID 32-14-03-100-019.000-014; alternate parcel ID 15-1-03-41W 100-019	40	2018-19	12-13-2018
Northbound County Road 0 within the jurisdictional area of the Town of Clayton	From the northern edge of parcel ID 32-14-03-100-019.000-014; alternate parcel ID 15-1-03-41W 100-019 to the intersection with West County Road 500 South	30	2018-19	12-13-2018
Pennsylvania Street		15	2018-19	12-13-2018
Westbound West County Road 500 South within the jurisdictional area of the Town of Clayton	Intersection with Iowa Street to the eastern edge of parcel ID 32-11-33-461-003.000-014; alternative parcel ID 15-1-33-51W 461-003	30	2018-19	12-13-2018
Westbound West County Road 500	From the eastern edge of parcel ID 32-11-33-461-003.000-014; alternative parcel ID 15-1-33-51W	40	2018-19	12-13-

South within the jurisdictional area of the Town of Clayton	461-003 to the westernmost town corporate limits on West County Road 500 South			2018
Western Street		15	2018-19	12-13-2018
York Street		15	2018-19	12-13-2018

Penalty, see § 70.99

CHAPTER 74: PARKING SCHEDULES

Schedule

I. Length, weight, and distance from curb restrictions

SCHEDULE I. LENGTH, WEIGHT, AND DISTANCE FROM CURB RESTRICTIONS.

(A) It shall be unlawful for any commercial vehicle which itself, or with an attached trailer, has a weight of over 7,000 pounds or a length of over 20 feet, or any commercial trailer by itself, to be parked on any street in an area zoned residential.

(B) It shall be unlawful for any vehicle and/or trailer parked on any street to extend more than nine feet into any street from the closest curb or edge of the street's pavement.

(Ord. 2018-02, passed 2-8-2018; Ord. 2021-18, passed 12-9-2021) Penalty, see § 70.99

CHAPTER 75: GOLF CARTS

Section

- 75.01 Definitions
- 75.02 Unlawful operation of a golf cart
- 75.03 Requirement of driver's license
- 75.04 Requirement of financial responsibility
- 75.05 Time of operation and nighttime restrictions
- 75.06 Requirement of slow moving vehicle sign
- 75.07 Place of operation
- 75.08 Traffic laws and ordinances
- 75.09 Occupants

75.10 Revocation of permission to operate golf cart

75.11 Permit and registration

75.99 Penalty

§ 75.01 DEFINITIONS.

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

FINANCIAL RESPONSIBILITY. Shall have the meaning expressed in I.C. 9-25-4-1 et seq. (as it now reads or may be amended in the future).

GOLF CART. A four wheeled motor vehicle originally and specifically designed and intended to transport one or more individuals and golf clubs for the purpose of playing the game of golf on a golf course.

OPERATE. To exercise any control over the function or movement of a golf cart.

SLOW MOVING VEHICULAR SIGN. A triangle shaped reflective sign of the same type required under state law.

STATE HIGHWAY. Any street under the control of and maintained by the state and shall include but not be limited to State Road 39.

TOWN STREET. The entire width between the boundary lines of every way publicly maintained when any part of the way is open to the use of the public for purposes of vehicular travel within the corporate limits of the town. The term includes, but is not necessarily limited to, streets, alleys, roads, highways, or thoroughfares.

(Ord. 2013-10, passed 11-14-2013)

§ 75.02 UNLAWFUL OPERATION OF A GOLF CART.

It shall be unlawful to operate a golf cart on any town street except as specifically authorized by this chapter. Any person who operates a golf cart in violation of the regulations set forth in this chapter shall be subject to penalty as set forth in this chapter.

(Ord. 2013-10, passed 11-14-2013)

§ 75.03 REQUIREMENT OF DRIVER'S LICENSE.

The operator of a golf cart on a town street must have a valid driver's license and must have the driver's license in his or her possession while operating a golf cart.

(Ord. 2013-10, passed 11-14-2013)

§ 75.04 REQUIREMENT OF FINANCIAL RESPONSIBILITY.

No person may operate a golf cart on any town street unless financial responsibility is in effect with respect to the golf cart as provided under I.C. 9-25-4-4 (as it now reads or may be amended in the future).

(Ord. 2013-10, passed 11-14-2013)

§ 75.05 TIME OF OPERATION AND NIGHTTIME RESTRICTIONS.

No golf cart shall be operated on a town street between one-half hour after sunset and one-half hour before sunrise unless the golf cart is equipped with two headlamps, two tail lamps, front and rear turn lamps, and rear brake lamps, all of which must be visible from a distance of at least 500 feet.

(Ord. 2013-10, passed 11-14-2013)

§ 75.06 REQUIREMENT OF SLOW MOVING VEHICLE SIGN.

No golf cart shall be operated on a town street unless the golf cart is equipped with a reflective slow moving vehicle sign of the same type required under state law.

(Ord. 2013-10, passed 11-14-2013)

§ 75.07 PLACE OF OPERATION.

No golf cart shall be operated on or at any of the following:

(A) Any town street or any portion of any town street where the speed limit in effect at the place of operation is greater than 30 miles per hour.

(B) Any town street designated as a State Highway, except to cross any State Highway at intersections 90 degrees to said highway.

(C) Any sidewalk, public trail or public greenway not specifically designated for use by a motor vehicle.

(Ord. 2013-10, passed 11-14-2013)

§ 75.08 TRAFFIC LAWS AND ORDINANCES.

The operator of a golf cart on a town street shall comply with all traffic laws and rules adopted by the state and/or the town, including restrictions and prohibitions as set forth within any town ordinance.

(Ord. 2013-10, passed 11-14-2013)

§ 75.09 OCCUPANTS.

The number of occupants of a golf cart shall be limited to a maximum six persons or less as permitted by available manufactured seating. The operator and occupants shall be properly seated at all times and no part of the body of the operator or occupants shall extend outside the perimeter of the golf cart while the golf cart is in operation; provided, however, the operator shall use proper traffic hand signals when required.

(Ord. 2013-10, passed 11-14-2013)

§ 75.10 REVOCATION OF REGISTRATION AND PERMISSION TO OPERATE GOLF CART.

Any unsafe operation, multiple violations, failure to maintain financial responsibility or failure to pay fines in accordance to this chapter may result in the revocation of permission to operate a golf

cart within the town.

(Ord. 2013-10, passed 11-14-2013)

§ 75.11 PERMIT AND REGISTRATION.

(A) No golf cart shall be operated in the town unless a permit from the Clayton Town Marshal or his or her appointee has been issued to the owner of the golf carts. The permit received from the town must be with the golf cart whenever it is operated in the town. The permit is good for one calendar year within which it is issued and shall be renewed annually. The fee for the permit will be \$25 for initial inspection and permit and then the fee will be \$10 for each calendar year thereafter that the golf cart is registered. Prior to any initial or renewal permit being issued the golf cart shall be inspected by the Clayton Town Marshal or his or her appointee to make sure the golf cart complies with the requirements set forth by the town and the state.

(B) Lost or stolen permit/stickers are the responsibility of the owner. A police report must be filed in the event of a lost or stolen permit/sticker. The Town Marshal will have the discretion in determining whether a permit/sticker may be re-issued in this instance. If no record can be found of a previous application or a receipt of a permit/sticker the Town Marshal may direct the applicant to re-apply and also resubmit any and all fees necessary before a replacement permit/sticker may be issued.

(C) Any person who operates a cart in the town and fails to receive and properly display a town permit/sticker will be subject to all applicable state laws in addition to being in violation of this chapter.

(D) Golf cart owners must complete the attached registration form, waiver of liability form and provide a copy of the proof of liability insurance prior to the cart being inspected. The completed forms and proof of insurance will be maintained by the Clayton Marshal's Department in the Clerk-Treasurer's Office.

(Ord. 2013-10, passed 11-14-2013)

§ 75.99 PENALTY.

(A) Failure to comply with this chapter will result in fines and penalties as follows:

- (1) First offense: \$25 fine.
- (2) Second offense: \$50 fine.
- (3) Third offense: \$100 fine.

(B) An offense is defined as any separate violation which may occur in a single occurrence of operation.

(Ord. 2013-10, passed 11-14-2013)

TITLE IX: GENERAL REGULATIONS

Chapter

90. ABANDONED VEHICLES

- 91. ANIMALS
- 92. PUBLIC NUISANCES
- 93. STREETS AND SIDEWALKS
- 94. PARKS AND RECREATIONAL AREAS

CHAPTER 90: ABANDONED VEHICLES

Section

- 90.01 Purpose
- 90.02 Definitions
- 90.03 Exceptions
- 90.04 Responsibility of owner
- 90.05 Vehicles in possession of person other than owner
- 90.06 Private or rental property
- 90.07 Removal of abandoned vehicles
- 90.08 Disposal of abandoned vehicles
- 90.09 Towing contracts
- 90.10 Liability for loss or damage

§ 90.01 PURPOSE.

The Town Council finds that abandoned vehicles are a public nuisance and a safety and health hazard.

§ 90.02 DEFINITIONS.

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

ABANDONED VEHICLE.

- (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 a manner so as to constitute a hazard or obstruction to the movement of pedestrian or vehicle traffic on a public right-of-way;
- (4) 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;
- (5) 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;

(6) A vehicle that has been removed by a towing service or the town upon request of an officer enforcing a statute or ordinance other than this chapter, if the impounded vehicle is not claimed or redeemed by the owner or the owner's agent within 20 days of the vehicle's removal; and

(7) A vehicle that is at least three model years old, 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 division (7), a vehicle covered by a tarpaulin or other plastic, vinyl, rubber cloth or textile covering is considered to be visible.

(8) A vehicle:

(a) That was repaired or stored at the request of the owner;

(b) That has not been claimed by the owner; and

(c) For which the reasonable value of the charges associated with the repair or storage remain unpaid more than 30 days after the date on which the repair work is completed or the vehicle is first stored.

(I.C. 9-13-2-1)

AUTOMOBILE SCRAP YARD. A business organized for the purpose of scrap metal processing, automobile wrecking or operating a junkyard.

(I.C. 9-13-2-8)

BUREAU. Unless otherwise indicated, the State Bureau of Motor Vehicles.

(I.C. 9-13-2-16)

FISCAL BODY. The Town Council.

(I.C. 9-13-2-63)

OFFICER. The Town Marshal, his or her designee, or a member of the Town Police Department.

(I.C. 9-22-1-2)

OWNER. The last known record titleholder of a vehicle, according to the records of the State Bureau under I.C. 9-17.

(I.C. 9-13-2-121(c))

PARTS. All components of a vehicle that, as assembled, do not constitute a complete vehicle.

(I.C. 9-13-2-122)

PRIVATE PROPERTY. All property other than public property.

(I.C. 9-13-2-136)

PUBLIC PROPERTY. A public right-of-way, street, highway, alley, park or other state, county or municipal property.

(I.C. 9-13-2-144)

TOWING SERVICE. A person who engages in moving or removing abandoned or disabled vehicles and, once the vehicles are moved or removed, stores or impounds the vehicles.

(I.C. 9-13-2-179)

VEHICLE. For purposes of I.C. 9-30-5, I.C. 9-30-6, I.C. 9-30-8, and I.C. 9-30-9, the term means a device for transportation by land or air. The term does not include an electric personal assistive mobility device.

(I.C. 9-13-2-196(d))

§ 90.03 EXCEPTIONS.

This chapter does not apply to:

- (A) A vehicle in operable condition specifically adapted or constructed for operation on privately owned raceways;
- (B) A vehicle stored as the property of a member of the armed forces of the United States who is on active-duty assignment;
- (C) A vehicle located on a vehicle sale lot;
- (D) A vehicle located upon property licensed or zoned as an automobile scrap yard;
- (E) An antique vehicle registered and licensed under I.C. 9-18-12 (before its expiration), a historic vehicle licensed under I.C. 9-18.5-34, or a military vehicle registered under I.C. 9-18.1-8;
- (F) A golf cart; or
- (G) An off road vehicle.

(I.C. 9-22-1-1)

§ 90.04 RESPONSIBILITY OF OWNER.

(A) Except as provided in division (D) below, the owner of an abandoned vehicle or parts is responsible for the abandonment and is liable for all of the costs incidental to the removal, storage and disposal of the vehicle or the parts under this chapter.

(B) Except as provided in division (C), the costs for storage of an abandoned vehicle may not exceed \$2,000.

(C) The costs for storage of an abandoned vehicle with a length of at least 30 feet may not exceed \$2,500.

(D) If an abandoned vehicle is sold by a person who removed, towed or stored the vehicle, the person who previously owned the vehicle is not responsible for storage fees.

(E) If an abandoned vehicle is sold by a person who removed, towed or stored the vehicle, and proceeds from the sale of the vehicle covered the removal, towing, sale disposal, and storage expenses, any remaining proceeds from the sale of the vehicle shall be returned as described in I.C. 9-22-1 or I.C. 9-22-6, whichever is applicable.

(I.C. 9-22-1-4)

§ 90.05 VEHICLES IN POSSESSION OF PERSON OTHER THAN OWNER.

(A) When an officer discovers a vehicle in the possession of a person other than the owner of the vehicle, and the person cannot establish the right to the possession of the vehicle, the vehicle shall be taken to and stored in a suitable place determined by the officer.

(I.C. 9-22-1-5)

(B) If the owner or lienholder under I.C. 9-22-1-8 does not appear and pay all costs, or the owner of the vehicle cannot be determined by a search conducted under § 90.08, the vehicle is considered abandoned and must be disposed of in accordance with this chapter.

(I.C. 9-22-1-7)

(C) (1) Subject to division (2), if the properly identified person who owns or holds a lien on a vehicle appears at the site of storage before disposal of the vehicle or parts and pays all costs relating to a tow, the storage of the vehicle, and all allowable fees, as applicable, the vehicle or parts shall be released.

(2) A towing service or storage yard may charge an inspection fee to an owner, a lienholder, or an insurance company representative to inspect a vehicle or retrieve items from the vehicle. A fee under this division must be refunded if the costs relating to a tow, the storage of the vehicle, and all allowable fees, as applicable, are paid under division (1).

(3) A towing service or storage yard must accept payment made by any of the following means from a person seeking to release a vehicle under this section:

- (a) Cash.
- (b) Certified check.
- (c) Insurance check.
- (d) Money order.

(e) A towing service or storage facility may elect to accept payment by means of a credit card or debit card.

(4) Upon receiving payment of all costs relating to a tow, the storage of a vehicle, and all allowable fees, as applicable, a towing service or storage yard shall provide to the person making payment an itemized receipt that includes the information set forth in I.C. 24-14-5, to the extent the information is known or available.

(5) A towing service or storage yard must be open for business and accessible by telephone during regular office hours. A towing service or storage yard must provide a telephone number that is available on a 24 hour basis to receive calls and messages from callers, including calls made outside of regular office hours. All calls made to a towing service or storage yard must be returned within 24 hours from the time received. However, if adverse weather, an act of God, or an emergency situation over which the towing service or storage yard has no control prevents the towing service or storage yard from returning calls within 24 hours, the towing service or storage yard shall return all calls received as quickly as possible.

(6) A towing service or storage yard shall, if required, notify the appropriate public agency of all releases under this section. The notification must include:

(a) The name and address of:

1. The person that owns or holds a lien on the vehicle; and

2. The insurance company that insures the vehicle, if the vehicle was released to a representative of the insurance company;

- (b) The signature of the individual to whom the vehicle was released;
- (c) A description of the vehicle or parts;
- (d) Costs paid; and
- (e) The date of release.

(I.C. 9-22-1-8)

§ 90.06 PRIVATE OR RENTAL PROPERTY.

(A) A person who finds a vehicle believed to be abandoned on private property that the person owns or controls, including rental property, may:

- (1) Obtain the assistance of an officer under § 90.07(E) of this chapter to have the vehicle removed; or
- (2) Personally arrange for the removal of the vehicle by complying with divisions (B), (C) and (D) of this section.

(B) If the person wishes to personally arrange for the removal of the vehicle, the person shall attach in a prominent place a notice tag containing the following information:

- (1) The date, time, name and address of the person who owns or controls the private property, and a telephone number to contact for information;
- (2) The vehicle is considered abandoned;
- (3) The vehicle will be removed after 24 hours;
- (4) The person who owns the vehicle will be held responsible for all costs incidental to the removal, storage and disposal of the vehicle; and
- (5) The person who owns the vehicle may avoid costs by removal of the vehicle or parts within 24 hours.

(I.C. 9-22-1-15)

(C) If, after 24 hours, the person who owns a vehicle believed to be abandoned on private property has not removed the vehicle from the private property, the person who owns or controls the private property on which the vehicle is believed to be abandoned may have the vehicle towed from the private property.

(I.C. 9-22-1-16(a))

(D) Notwithstanding division (C) of this section, in an emergency situation a vehicle believed to be abandoned on private property may be removed immediately. As used in this section, **EMERGENCY SITUATION** means that the presence of the vehicle believed to be abandoned interferes physically with the conduct of normal business operations of the person who owns or controls the private property or poses a threat to the safety or security of persons or property, or both.

(I.C. 9-22-1-16(b))

(E) A towing service that tows a vehicle under divisions (C) and (D) of this section or I.C. 9-22-1-5 shall give notice to the town that the abandoned vehicle is in the possession of the towing service.

(I.C. 9-22-1-17)

§ 90.07 REMOVAL OF ABANDONED VEHICLES.

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

(1) The date, time, officer's name, Town Police Department and address and telephone number to contact for information;

(2) The vehicle or parts are considered abandoned;

(3) The vehicle or parts will be removed after:

(a) Twenty-four hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under I.C. 8-23-4; or

(b) Seventy-two hours, for any other vehicle.

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

(5) The person who owns the vehicle may avoid costs by removal of the vehicle or parts within:

(a) Twenty-four hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under I.C. 8-23-4; or

(b) Seventy-two hours, for any other vehicle.

(I.C. 9-22-1-11)

(B) If a vehicle or a part tagged under division (A) of this section is not removed within the applicable period, the officer shall prepare a written abandoned vehicle report of the vehicle or parts, including information on the condition and missing parts. Photographs may be taken to describe the condition of the vehicle or parts.

(I.C. 9-22-1-12)

(C) If the vehicle is a junk vehicle and the market value of an abandoned vehicle or parts is less than \$1,000, the towing service shall immediately transfer the vehicle to a storage yard. A copy of the abandoned vehicle report and photographs, if applicable, relating to the abandoned vehicle shall be provided to the storage yard. A towing service or storage yard may dispose of an abandoned vehicle not less than 30 days after the date on which the towing service removed the abandoned vehicle. A town that operates a storage yard under I.C. 36-9-30-3 may dispose of an abandoned vehicle to an automobile scrap yard or an automotive salvage recycler upon removal of the abandoned vehicle. The Police Department or Town Marshal or storage yard shall retain the original records and photographs for at least two years. If the vehicle is demolished, a copy of the abandoned vehicle report shall be forwarded to the bureau by the automobile scrap yard after the

vehicle has been demolished.

(I.C. 9-22-1-13)

(D) If, in the opinion of the officer, the market value of the abandoned vehicle or parts is at least \$1,000, the officer, before placing a notice tag on the vehicle or parts, shall make a reasonable effort to ascertain the person who owns the vehicle or parts or who may be in control of the vehicle or parts. After 72 hours, the officer shall require the vehicle or parts to be towed to a storage yard or towing service.

(I.C. 9-22-1-14)

(E) Upon complaint of a person who owns or controls private property that a vehicle has been left on the property for at least 48 hours without the consent of the person who owns or controls the property, an officer shall follow the procedures set forth in divisions (A) through (D) of this section.

(I.C. 9-22-1-18)

§ 90.08 DISPOSAL OF ABANDONED VEHICLES.

(A) (1) Within three business days after removal of a vehicle to a storage yard or towing service under §§ 90.06(C) or (D), 90.07(C) or (D) or I.C. 9-22-6, the Police Department, Town Marshal or towing service shall conduct a search of the National Motor Vehicle Title Information System or an equivalent and commonly available database to attempt to obtain the last state of record of the vehicle in order to attempt to ascertain the name and address of the person who owns or holds a lien on the vehicle.

(2) A public agency or towing service that obtains the name and address of the owner of or lienholder on a vehicle shall not later than three business days after obtaining the name and address, notify the person who owns or holds a lien on the vehicle of the following: the name, address, and telephone number of the public agency or towing service; that storage charges are being accrued and the vehicle is subject to sale if the vehicle is not claimed and the charges are not paid; and the earliest possible date and location of the public sale or auction. The notice must be made by certified mail or a certificate of mailing or by means of an electronic service approved by the bureau. Notwithstanding I.C. 9-22-1-4, a public agency or towing service that fails to notify the owner of or lienholder on the vehicle as set forth in this division may not collect additional storage costs incurred after the date of receipt of the name and address obtained.

(I.C. 9-22-1-19)

(B) The Bureau shall dispose of the vehicle in accordance with I.C. 9-22-1-19.

§ 90.09 TOWING CONTRACTS.

To facilitate the removal of abandoned vehicles or parts, the town may employ personnel; acquire equipment, property and facilities; and enter into towing contracts for the removal, storage and disposition of abandoned vehicles and parts.

(I.C. 9-22-1-31)

§ 90.10 LIABILITY FOR LOSS OR DAMAGE.

The following are not liable for loss or damage to a vehicle or parts occurring during the removal or storage of a vehicle or parts under this chapter:

(A) A person who owns, leases or occupies property from which an abandoned vehicle or its contents or parts are removed;

(B) The town;

(C) A towing service;

(D) An automobile scrap yard;

(E) A storage yard; and

(F) An agent or a person or entity listed in divisions (A) through (E) above.

(I.C. 9-22-1-32)

CHAPTER 91: ANIMALS

Section

Dogs

91.01 Definitions

91.02 Kennel dogs

91.03 At large prohibited

91.04 Actions of dogs constituting a nuisance

91.05 Impounding

91.06 Administration of licensing procedure

91.07 Applications and payment of costs

91.08 Licenses required

91.09 Application form and vaccination certificate

91.10 License; fees

91.11 License application, renewal, expiration

Livestock

91.25 Animals prohibited

91.26 Numbers restricted

91.99 Penalty

DOGS

§ 91.01 DEFINITIONS.

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

AT LARGE. Any licensed or unlicensed dog found off the premises of his or her owner and not under the control of a competent person, restrained within a motor vehicle, housed in a veterinary hospital or kennel, or on a leash or "at heel" beside a competent person and obedient to that person's command.

DOGS. Both male and female animals of the canine species whether spayed or neutered or not.

OWNER. Any person or persons, firm, association or corporation owning, keeping, sheltering or harboring a dog.

(Ord. passed - -)

§ 91.02 KENNEL DOGS.

Kennel dogs which are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint are subject to the provisions of this subchapter.

(Ord. passed - -)

§ 91.03 AT LARGE PROHIBITED.

No owner of any dog shall permit the dog to run at large, whether the dog be licensed or unlicensed.

(Ord. passed - -) Penalty, see § 91.99

§ 91.04 ACTIONS OF DOGS CONSTITUTING A NUISANCE.

(A) It shall be unlawful for an owner of a dog to allow or permit the dog to pass upon the premises of another thereby causing damage to or interference with the use or occupancy of the premises.

(B) It shall be unlawful for an owner of a dog to allow or permit the dog to cause serious annoyance or disturbance to any person or persons by frequent and habitual howling, yelping, barking or otherwise; or by running after or chasing persons, bicycles, automobiles or other vehicles.

(Ord. passed - -) Penalty, see § 91.99

§ 91.05 IMPOUNDING.

(A) Any unlicensed or unvaccinated dog found at large or any licensed dog found at large in violation of § 91.03 above shall be seized and impounded; and, in addition, the owner may be served a summons to appear before a proper court to answer charges made thereunder.

(B) Impounded dogs, whether licensed or not licensed, may be recovered by the owner, upon proper identification, by payment of the license fee, impounding fee and boarding costs, and the costs of vaccination if vaccination is required.

(Ord. passed - -)

§ 91.06 ADMINISTRATION OF LICENSING PROCEDURE.

The Clerk-Treasurer is authorized to adopt the forms for licenses and permits, and applications therefor, and perform the additional procedures, including the employment of the agents, respecting licenses and permits as are consistent with this subchapter and necessary or desirable in effecting an efficient and just administration of the provisions of this subchapter.

(Ord. passed - -)

§ 91.07 APPLICATIONS AND PAYMENT OF COSTS.

Each person required by this subchapter to obtain a license or permit, or to renew an existing license or permit, shall make application therefor on forms provided by the Clerk-Treasurer and shall pay the applicable fee to the Clerk-Treasurer, or his or her agent.

(Ord. passed - -)

§ 91.08 LICENSES REQUIRED.

It shall be unlawful for any person to own within the town any dog six months of age or older unless a current dog license issued by the town has been obtained for the dog by the person.

(Ord. passed - -) Penalty, see § 91.99

§ 91.09 APPLICATION FORM AND VACCINATION CERTIFICATE.

Applications for dog licenses shall state the name and address of the owner of the dog, the dog's breed, color, sex, age and name, and shall be accompanied by a certificate of rabies vaccination by a veterinarian within the immediately preceding 12 months. Provided, that if the application is the first made under this subchapter and the vaccination occurred outside the state, the certificate of a licensed veterinarian of that state shall be acceptable.

(Ord. passed - -)

§ 91.10 LICENSE; FEES.

(A) Dog licenses shall be issued upon application, compliance with this subchapter, and payment of a fee in the amount of \$5, subject to adjustment under the provisions of division (B) below.

(B) A licensee or owner of a licensed dog renewing a license more than 30 days after the expiration of the most recently expired license owned or held by him or her may obtain a license only upon compliance with division (A) above, without regard to the time remaining prior to the expiration of the license being obtained, and by paying a "late filing" penalty in the amount of \$1.50. However, if the controller or his or her designee determines there to be just cause and in the interest of the public health, safety and welfare, the "late filing" penalty may be waived.

(C) Owners of leader dogs for the blind shall comply with all license requirements contained in this subchapter, but shall be exempt from the fee requirements set out in this subchapter.

(Ord. passed - -)

§ 91.11 LICENSE APPLICATION, RENEWAL, EXPIRATION.

(A) Each owner of a dog shall apply for a license when the dog is six months of age, or within 30 days after obtaining the dog or bringing the dog into the town, whichever is later.

(B) Each owner of a dog which is licensed under this subchapter shall apply for a renewal of the license during the month in which the current license expires.

(C) (1) Each dog license shall expire in the year following the year in which the license was issued, either:

(a) On the last day of the month indicated on the licensed dog's rabies vaccination certificate which was issued in the same year as the license; or

(b) On the last day of the month in which the license was issued.

(2) Notwithstanding any other provision herein, no dog license shall expire less than one year after issuance.

(Ord. passed - -) Penalty, see § 91.99

LIVESTOCK

§ 91.25 ANIMALS PROHIBITED.

It is made illegal and unlawful for any person, partnership, corporation or association to keep or maintain within the town any of the following: horse, mule, pony, cow, bull, steer, calf, goat, sheep or pig, or any wild animal including but not limited to camels, monkeys or tigers.

(Ord. passed - -) Penalty, see § 91.99

§ 91.26 NUMBERS RESTRICTED.

It is made illegal and unlawful for any person, partnership, corporation or association to keep any of the following on any premises in the town in numbers consisting of more than two full grown creatures and their immature offspring: chickens, turkeys, ducks, rabbits, hamsters, guinea pigs or geese.

(Ord. passed - -) Penalty, see § 91.99

§ 91.99 PENALTY.

(A) Any owner violating any of the provisions of §§ 91.01 through 91.11 may be subject to a fine in an amount not to exceed \$2,500. Each day of violation shall be a separate punishable offense.

(B) Any person, partnership, association or corporation that violates the provisions of §§ 91.25 or 91.26 may be fined in an amount not to exceed \$2,500 for each offense. Each day shall constitute a separate offense.

(Ord. passed - -)

CHAPTER 92: PUBLIC NUISANCES

Section

Weeds and Rank Vegetation

92.01 Title

- 92.02 Definitions
- 92.03 Administration and enforcement
- 92.04 Enforcement discretion
- 92.05 Required action
- 92.06 Violation notice
- 92.07 Service of notice
- 92.08 Cutting and removal by town
- 92.09 Appeal
- 92.10 Collection of costs

Burning of Leaves, Trash, Debris and the Like

- 92.15 Certain outdoor burning prohibited
- 92.16 Regulation of fires permitted
- 92.17 Combustible matter

Maintaining Nuisances

- 92.25 Definitions
- 92.26 Inoperative or unlicensed motor vehicles
- 92.27 Other unsightly nuisances
- 92.28 Discharge onto other property
- 92.29 Written notice prior to citation
- 92.30 Littering
- 92.31 Compliance with state regulations

Noise

- 92.40 Definitions
- 92.41 Offense
- 92.42 Exceptions
- 92.43 Violations

- 92.99 Penalty

Statutory reference:

Removal of weeds and rank vegetation, see I.C. 36-7-10.1

WEEDS AND RANK VEGETATION

§ 92.01 TITLE.

This subchapter and all ordinances supplemental or amendatory thereto shall be known as the "Town of Clayton Weed and Rank Vegetation Control Chapter" (hereinafter this chapter).

(Ord. 2013-03, passed 5-9-2013)

§ 92.02 DEFINITIONS.

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

ADMINISTRATOR. The Town Council President and his or her duly authorized representatives.

DEPARTMENT. The Town Council or its designee.

DIRECTOR. The Town Council President and his or her duly authorized representatives.

DULY AUTHORIZED REPRESENTATIVES. All employees of the Town of Clayton holding positions identified within the budget classifications for the town of the annual budget as approved and as amended by the Town of Clayton Council from time to time.

HEARING OFFICER. The Hearing Officer as appointed by the Town Council from time to time as the person to serve as the Hearing Authority for the purposes of conducting hearings in accordance with I.C. 36-7-9-7, as amended from time to time.

RESIDENTIAL AREA. Any parcel of real estate, used or intended to be used for residential purposes, whether platted or unplatted, whether zoned residential or otherwise, which does not exceed three acres in size.

TOWN. Town of Clayton, State of Indiana.

WEEDS AND OTHER RANK VEGETATION. Any and all plant life exceeding an average height of eight inches. Landscaped areas and gardens containing trees, ornamental grasses, flowers, agricultural crops, bushes and shrubberies exceeding an average height of eight inches are not to be considered weeds and other rank vegetation unless they constitute an extreme deviation from the aesthetic appearance of the surrounding neighborhood.

(Ord. 2013-03, passed 5-9-2013)

§ 92.03 ADMINISTRATION AND ENFORCEMENT.

The Department shall be the executive department that is authorized to administer the terms and provisions of this subchapter. The Administrator shall enforce the terms and provisions of this subchapter.

(Ord. 2013-03, passed 5-9-2013)

§ 92.04 ENFORCEMENT DISCRETION.

The Department shall have all rights and authorities as are provided under I.C. 36-7-10.1 et seq. as the executive department authorized to administer and enforce this subchapter. It is hereby acknowledged, understood, and declared by the Town Council that the Administrator is required to

exercise and is vested with the authority to exercise his or her discretion and judgment in order to protect and preserve the public hearth, safety, and general welfare of the citizens of town in administering and enforcing this subchapter. The authority of the Administrator to issue or revoke, or fail or refuse to issue or revoke any notice, approval, order, or similar action under this subchapter is hereby declared to be discretionary.

(Ord. 2013-03, passed 5-9-2013)

§ 92.05 REQUIRED ACTION.

It is a violation of this subchapter to have weeds and other rank vegetation on parcels of real estate in areas of the town. All landowners of parcels of real estate in areas of the town are hereby required to cut and/or remove from such real estate all weeds and other rank vegetation growing thereon.

(Ord. 2013-03, passed 5-9-2013)

§ 92.06 VIOLATION NOTICE.

If weeds and other rank vegetation are found to be growing in violation of the provisions of this subchapter, the Administrator shall give written notice to the landowner upon whose property the weeds and other rank vegetation are growing, identifying the violation and stating that the landowner is required to cut and/or remove the weeds and other rank vegetation growing on the property. The landowner shall have 15 business days from the date of service of such notice to abate the violation on the property. The notice shall refer to this subchapter and shall also state that if the landowner does not comply with the requirements of the notice, the Department may cause the weeds and other rank vegetation to be cut and/or removed and the actual cost thereof incurred by the Department shall be paid by the landowner, and shall further state that if not paid within 15 days after the landowner has been served with a statement of the cost thereof, the amount claimed shall be placed on the tax duplicate against the property affected by the work, and the amount shall be collected as delinquent taxes are collected.

(Ord. 2013-03, passed 5-9-2013)

§ 92.07 SERVICE OF NOTICE.

The notice required to be given under § 92.06 shall be adequate if given to the landowner of the property in person or sent by first-class U.S. mail, postage prepaid, to the landowner at the address as listed on the real estate records of the Town of Clayton Clerk Treasurer. Date of service shall be the date of delivery if given in person or the date of mailing if given by U.S. mail, postage prepaid.

(Ord. 2013-03, passed 5-9-2013)

§ 92.08 CUTTING AND REMOVAL BY TOWN.

If the landowner has been notified under the provisions of §§ 92.06 and 92.07 but has failed to comply with the requirements of this subchapter within the time specified, the landowner shall be deemed to have granted permission to the Department and/or its representatives to enter upon the landowner's property for the purpose of causing such weeds and other rank vegetation to be cut and/or removed.

(Ord. 2013-03, passed 5-9-2013)

§ 92.09 APPEAL.

(A) A person receiving a notice of violation issued pursuant to this subchapter or a bill issued pursuant to this subchapter may request, in writing, a hearing before the Hearing Officer to dispute the existence of a violation on his or her real estate or dispute the accuracy of a bill issued. The request must be received by the Department within 15 business days of the date of service of the violation notice, or within 15 days of the date that the bill was served. A hearing will be held within 30 days of the Department's receipt of a timely written request for such hearing.

(B) At the hearing before the Hearing Officer, the person receiving a violation notice will be given the opportunity to appear, with or without counsel, to present such evidence to the Hearing Officer. Each person appearing shall have the opportunity to cross-examine those persons establishing the violation for the Department, and testify on their own behalf.

(C) At the hearing, the Hearing Officer shall enter a finding determining whether the party notified is the owner of the real estate; and whether the condition of the real estate is in violation of this subchapter or whether the bill issued is accurate. The Hearing Officer may affirm or modify the violation notice or the bill consistent with the Hearing Officer's findings.

(D) Any appeal from the findings and order of the Hearing Officer shall be taken in accordance with the provisions of I.C. 36-1-6-9.

(Ord. 2013-03, passed 5-9-2013)

§ 92.10 COLLECTION OF COSTS.

In the event the Department is forced to cut and/or remove weeds and other rank vegetation from property, the Director shall make a certified statement of the actual cost, including administrative costs and removal costs, incurred by the Department for the cutting and/or removal of such weeds and other rank vegetation under the provisions of § 92.08. Such statement shall be delivered to the landowner in the same manner as a violation notice under §§ 92.06 and 92.07, and the landowner shall pay such amount to the Department within 15 days after the landowner has been served with the statement. If the landowner fails to pay such amount within 15 days after being served with the statement the Department may collect the bill in any manner available at law. The Director may also certify a copy of the statement, plus any additional administrative costs incurred in the certification, to the Town of Clayton Clerk Treasurer and the Town of Clayton Clerk Treasurer shall place the total amount certified on the tax duplicate of the property affected by such work, and such amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to a special non-reverting weed and other rank vegetation control fund in Town of Clayton as provided by I.C. 36-7-10.1-5, if one has been established by the town; if such a fund has not been established, the funds collected must be deposited in the Town of Clayton General Fund.

(Ord. 2013-03, passed 5-9-2013)

BURNING OF LEAVES, TRASH, DEBRIS AND THE LIKE

§ 92.15 CERTAIN OUTDOOR BURNING PROHIBITED.

(A) No person shall kindle or maintain any bonfire or burn leaves, trash, refuse, rubbish, debris, garbage, construction materials or dangerous materials or dispose of same by open burning or shall knowingly furnish the materials for the fire or authorize any fire to be kindled or maintained on or any street, alley, road, land or public grounds. This division (A) shall not prohibit the use of an outdoor fire for cooking or for recreation purposes in a public park so long as the fire is confined in a permanent facility specifically provided for those purposes.

(B) No person shall kindle or maintain any bonfire or burn leaves, trash, refuse, rubbish, debris, garbage, construction materials or dangerous materials on any private land or dispose of same by open burning or cause, suffer, allow or permit open burning on any private land. This division (B) shall not prohibit the use of an outdoor fire for cooking or for recreation purposes so long as the fire is supervised by one or more adults at all times.

(Ord. 2-1991, passed 6-13-1991) Penalty, see § 92.99

§ 92.16 REGULATION OF FIRES PERMITTED.

(A) The following types of fires are permitted with prior approval of the Town Fire Chief:

- (1) Fires used for celebrating Twelfth Night Ceremonies;
- (2) Fires used for celebrating school pep rallies;
- (3) Fires used for celebrating scouting activities; and
- (4) Other fires approved by the Town Fire Chief.

(B) All exempted fires including fires for cooking or recreational purposes, shall be subject to the following:

- (1) Only wood products shall be burned;
- (2) Fires shall be attended at all times until completely extinguished;
- (3) If fires create an air pollution problem, a nuisance or a fire hazard, they shall be extinguished; and
- (4) No burning shall be conducted during unfavorable meteorological conditions such as temperature inversions, high winds, air stagnation and the like.

(C) Burning with prior approval of the Town Fire Chief may be authorized for the following:

- (1) Emergency burning of spilled petroleum products when all reasonable efforts to recover the spilled material have been made and failure to burn would result in an imminent fire hazard or water pollution problem;
- (2) Burning of refuse consisting of material resulting from a natural disaster;
- (3) Burning for the purpose of fire training;
- (4) Burning of natural growth derived from a clearing operation, i.e., removal of natural growth for change in use of the land;
- (5) Burning of highly explosive or other dangerous materials for which no alternative disposal method exist or where transportation of the materials is impossible; and
- (6) Operation of a municipal burn pit by the town.

(Ord. 2-1991, passed 6-13-1991)

§ 92.17 COMBUSTIBLE MATTER.

Any person who allows the accumulation or existence of combustible materials which causes or contributes to a fire shall not be excused from responsibility thereof on the basis that the fire was

set by vandals, accidental or an act of God.

(Ord. 2-1991, passed 6-13-1991)

MAINTAINING NUISANCES

§ 92.25 DEFINITIONS.

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

APPLIANCES. Washers, dryers, refrigerators, freezers, dishwashers, air conditioners, microwave ovens, stoves, cooking units, washing units, or any other apparatus that is designed to be used within the home.

ASHES. Residue from fires, whether produced by fires used for cooking, heating buildings, grills, fireplaces, trash burners or any other fires.

REFUSE. Refuse shall mean garbage, trash, debris, rubbish, litter, ashes, solid waste, or other items having little or no value.

SOLID WASTE AND/OR DEBRIS. Appliances, ashes, garbage, refuse, trash, rubbish.

TOWN. The civil Town of Clayton, Indiana.

TRASH, RUBBISH AND DEBRIS. Combustible refuse, including, but not limited to, paper cartons, boxes, barrels, wood, excelsior, tree branches, yard trimmings, wood furniture and other wood or combustible articles, bedding, plastic, noncombustible refuse, including but not limited to, metals, tin cans, dirt, contents of litter receptacles, small quantities of rocks and pieces of concrete, glass, crockery, leaves, bottles and other containers.

(Ord. 2013-02, passed 5-9-2013)

§ 92.26 INOPERATIVE OR UNLICENSED MOTOR VEHICLES.

(A) It shall be a violation of this subchapter for any person or other legal entity responsible for or in control of any private property within the town whether as owner, lessee, tenant, occupant or otherwise to allow any partially dismantled, wrecked, junked, discarded or otherwise inoperative or unlicensed motor vehicle to remain on any private property for longer than 30 days. For such vehicles located on public property or a public roadway the time period for removal by its owner shall be within ten days of written notice being placed on the motor vehicle.

(B) This subchapter shall not apply with regard to any motor vehicle in an enclosed building so as not to be visible from any public place or from any other private property. This subchapter shall further not apply to a motor vehicle in an appropriately zoned storage lot which is surrounded by a privacy fence which is no less than eight feet in height. Such privacy fence must completely obscure the entire area which it surrounds and may not leave gaps or other openings through which the storage lot is visible.

(Ord. 2013-02, passed 5-9-2013)

§ 92.27 OTHER UNSIGHTLY NUISANCES.

(A) It shall be a violation of this subchapter for any person or legal entity in charge of or in control of any private property within the town whether as owner, lessee, tenant, occupant or

otherwise to allow litter, rubbish, junk, filth, refuse, trash, garbage, waste materials, unused appliances, scrap metal, automobile parts, paper, boxes, tin cans, brush, brick, wood scraps, glass, dirt, sand, gravel, grass, leaves, ashes, solid waste or other debris which are visible from public property or surrounding private property for longer than 30 days.

(B) This subchapter shall not apply to any of the above named items which are located in an enclosed building. Further, this subchapter shall not apply to any of the above named items which are located in a appropriate storage lot which is surrounded by a privacy fence no less than eight feet in height. Such privacy fence must completely obscure the entire area which it surrounds and may not leave gaps or other openings through which the storage lot is visible.

(Ord. 2013-02, passed 5-9-2013)

§ 92.28 DISCHARGE ONTO OTHER PROPERTY.

It shall be a violation of this subchapter for any person or other legal entity in charge of or in control of any private property within the town whether as owner, lessee, tenant, occupant or otherwise to allow litter, rubbish, junk, filth, refuse, trash, garbage, waste materials, scrap metal, paper, boxes, tin cans, brush, glass, dirt, ashes, solid waste or other debris to blow from their property onto the private property of another or onto public property.

(Ord. 2013-02, passed 5-9-2013)

§ 92.29 WRITTEN NOTICE PRIOR TO CITATION.

(A) Any person or legal entity in violation of this subchapter shall first be notified in writing by the designated agent of the town. Such written notice shall give a reasonable amount of time, not to exceed 30 days, for the nuisance located on private property to be abated or for a reasonable written explanation to be given as to why the person or legal entity is not in violation. The time for abatement of any nuisance located on public property shall not exceed ten days. If the nuisance is not abated within the time prescribed by such notice, the person or other legal entity may be fined up to \$2,500 per day for each day thereafter. Each day that the nuisance continues shall constitute a separate violation of this subchapter and may result in the imposition of a separate fine for each day.

(B) This subchapter shall not prevent any private or public party from bringing any action to enjoin or otherwise abate a nuisance by any other suit in law or equity in any other court of law with appropriate jurisdiction.

(Ord. 2013-02, passed 5-9-2013)

§ 92.30 LITTERING.

(A) No person, group or other legal entity shall discard, place or permit another person to discard or place any solid waste, any inoperable vehicle, appliance or other discarded solid waste on any public property or thoroughfare in the town.

(B) In addition to any other civil or criminal penalties which may be imposed, a person, group or other legal entity littering on any public property or thoroughfare shall be responsible for the costs of cleaning up any of the nuisances listed in this subchapter, as well as all costs incurred in enforcing this provision of the subchapter.

(Ord. 2013-02, passed 5-9-2013)

§ 92.31 COMPLIANCE WITH STATE REGULATIONS.

Notwithstanding the requirements set out herein, the manner of containing, storing and disposing of any of the nuisances listed in this subchapter shall also be in compliance with all federal and Indiana statutes, and the rules and regulations of the Indiana Department of Health.

(Ord. 2013-02, passed 5-9-2013)

NOISE

§ 92.40 DEFINITIONS.

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

DEVICE. Any radio, tape recorder/player, compact disc player, stereo system, record player, television, or other electronic device capable of producing, reproducing, or amplifying any sound, noise, musical rhythm, or vocal sound.

MOTOR VEHICLE. Any vehicle, such as, but not limited to automobiles, trucks, motorcycles or any other vehicles propelled or operated by means of power.

PLAINLY AUDIBLE. Any noise, musical sound, musical rhythm, or any other sound that is electronically amplified or broadcast in any manner that can be heard by the human ear.

PUBLIC RIGHT-OF- WAY or PUBLIC PLACE. Includes, but is not limited to, any avenue, street, road, alley, easement, parkway, highway, sidewalk, park or other public place that is owned or controlled by any governmental entity.

(Ord. 2021-04, passed 4-8-2021)

§ 92.41 OFFENSE.

(A) It shall be unlawful for any person, corporation, or entity to generate or produce noise that exceeds 90 decibels as measured at least ten feet from the property line of where the device is located.

(B) It shall be unlawful within the municipal limits of the town for any device within or attached to any motor vehicle to be utilized in or at such a level so as to be plainly audible at a distance greater than 30 feet from said device.

(C) The use and operation of lawn mowers, weed blowers, garden tractors, construction and repair equipment, go-carts, generators, power tools and the like shall be limited to the following hours: between the hours of 7:00 a.m. and 10:00 p.m. May 15 to September 15, and 7:00 a.m. to 9:00 p.m. September 16 to May 14 only.

(Ord. 2021-04, passed 4-8-2021)

§ 92.42 EXCEPTIONS.

The following are exempted from the provisions of this subchapter:

(A) Sounds emitted from authorized emergency vehicles or sirens (including tornado sirens);

(B) Burglar and car alarms and other warning devices, when properly installed, provided the

cause for such alarm or warning device sound is investigated and turned off within a reasonable period of time;

(C) Town or other governmental entity sanctioned parades, festivals, carnivals, fairs, celebrations, concert performances, band, drum corps performances, artistic performances and the like, as well as any rehearsals for the same;

(D) The emission of sound for the purposes of alerting persons to the existence of an emergency or the testing of such equipment, or for the performance of emergency construction, repair, or other work;

(E) 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, county, state, and federal streets and highways;

(F) Sounds associated with the operation of aircraft or snow removal equipment;

(G) Sounds emitted by emergency generators in the event of power failure, and periodic testing and maintenance provided it is turned off within a reasonable period of time;

(H) Sounds emitted by construction work or road work approved by the town or other governmental entity;

(I) Train horns as required by law; and

(J) Sounds associated with equipment or animals lawfully used by a disabled person to accommodate the person's disability.

(Ord. 2021-04, passed 4-8-2021)

§ 92.43 VIOLATIONS.

(A) Any person who violates the provisions of this subchapter shall be guilty of an infraction, punishable by a fine of not more than the following:

(1) First offense: up to \$250;

(2) Second offense within two years: up to \$500;

(3) Third offense within two years: up to \$1,000; and

(4) Fourth and subsequent offenses within two years: up to \$2,500.

(B) A separate offense shall be deemed committed upon each day during or on which the violation occurs or continues.

(C) The payment of a penalty for the violation of any provision of this subchapter shall not excuse the violation or permit it to continue. Nor shall such payment be held to prevent the enforced correction of the prohibited conditions by the court in which any complaint based on these sections shall be filed, or by separate action as provided for herein.

(D) In addition to any penalties provided for herein, the town shall have the right to enforce compliance with the code, to enjoin the acts in violation of the code by filing the necessary actions for injunctive relief, or to collect unpaid fines. The town shall further be entitled to recover the costs of prosecuting the suit, which costs shall include attorney fees or other necessary expenses.

(E) Violations of any of the sections may be brought by the town or its authorized agent on a form complaint and summons.

(Ord. 2021-04, passed 4-8-2021)

§ 92.99 PENALTY.

(A) Violation of §§ 92.01 through 92.10.

(1) *Fines.* Any person found to be in violation of §§ 92.01 through 92.10 shall be guilty of an ordinance violation and shall be subject to a civil penalty of up to \$2,500 for each violation. Each day that a violation continues shall constitute a separate violation. Any failure to comply with any of the terms and provisions of §§ 92.01 through 92.10 shall constitute a violation. The assessment of a civil penalty shall in no way limit the operation of any other enforcement remedies provided elsewhere in §§ 92.01 through 92.10.

(2) *Expenses.* The Department may recover reasonable attorney fees, court costs, and other expenses associated with the enforcement of §§ 92.01 through 92.10 from any person found to be in violation of §§ 92.01 through 92.10.

(3) *Agreed order.* The Administrator in the name of the Department, may enter into an agreed order with the approval of the Director which order may include the payment of a civil penalty and other expenses associated with the enforcement of §§ 92.01 through 92.10 by the Department.

(4) *Suit for civil penalties.* The Administrator, in the name of the Department, may file a complaint in a court of competent jurisdiction within the town seeking a judicial determination that §§ 92.01 through 92.10 has been violated and requesting the imposition of civil penalties.

(5) *Enforcement of Agreed Order.* The Administrator, in the name of the Department, may file a complaint in a court of competent jurisdiction within the town seeking to enforce the terms of an agreed order.

(6) *Other action.* Nothing contained herein shall prevent the Department, Director, or Administrator from taking any other lawful action as is necessary to prevent or remedy any violation of §§ 92.01 through 92.10.

(B) Any person violating the provisions of §§ 92.15 through 92.17 shall be cited by the Town Police Department or Town Fire Department or other duly authorized and designated employee of the town. A fine may be imposed against the violator in a sum up to \$100. Each day the violation continues shall be considered a separate violation under §§ 92.15 through 92.17.

(C) *Violation of §§ 92.25 through 92.31.* In addition to any other sanctions set out in §§ 92.25 through 92.31, any person, group or other legal entity violating any of the terms of §§ 92.25 through 92.31 shall be subject to fines in amounts not less than \$100 nor more than \$2,500. Each day a violation continues shall constitute a separate offense. It is the intent of the town that multiple violations should be filed more severely.

(Ord. 2-1991, passed 6-13-1991; Ord. 2013-02, passed 5-9-2013; Ord. 2013-03, passed 5-9-2013)

CHAPTER 93: STREETS AND SIDEWALKS

Excavations and Construction

- 93.01 Opening permit required
- 93.02 Application and cash deposit
- 93.03 Restoration of pavement
- 93.04 Barriers around excavations
- 93.05 Warning lights
- 93.06 Sidewalk construction

Obstructions

- 93.20 Unloading on street or sidewalk
- 93.21 Street and sidewalk obstruction
- 93.22 Materials on street or sidewalk

EXCAVATIONS AND CONSTRUCTION

§ 93.01 OPENING PERMIT REQUIRED.

It shall be unlawful for any person, other than an authorized town official, to make any opening in any street, alley, sidewalk or public way of the town unless a permit to make the opening has been obtained prior to commencement of the work.

Penalty, see § 10.99

§ 93.02 APPLICATION AND CASH DEPOSIT.

Each permit for making an opening shall be confined to a single project and shall be issued by the authorized town official. Application shall be made on a form prescribed by the Town Council, giving the exact location of the proposed opening, the kind of paving, the area and depth to be excavated, and other facts as may be provided for. The permit shall be issued only after a cash deposit sufficient to cover the cost of restoration has been posted with the authorized town official, conditioned upon prompt and satisfactory refilling of excavations and restoration of all surfaces disturbed.

§ 93.03 RESTORATION OF PAVEMENT.

(A) The opening and restoration of a pavement or other surface shall be performed under the direction and to the satisfaction of the authorized town official, and in accordance with rules, regulations and specifications approved by the Town Council.

(B) Upon failure or refusal of the permittee satisfactorily to fill the excavation, restore the surface and remove all excess materials within the time specified in the permit or where not specified therein, within a reasonable time after commencement of the work, the town may proceed without notice to make the fill and restoration, and the deposit referred to in § 93.02 shall be forfeited. Thereupon the deposit shall be paid into the appropriate town fund, except the part demanded and paid to the permittee as the difference between the deposit and the charges of the town for restoration services performed by it. If the amount of the services performed by the town should

exceed the amount of the deposit, the Clerk-Treasurer, or other proper administrative officer, shall proceed to collect the remainder due from the permittee.

§ 93.04 BARRIERS AROUND EXCAVATIONS.

Any person engaged in or employing others in excavating or opening any street, sidewalk, alley or other public way shall have the excavation or opening fully barricaded at all times to prevent injury to persons or animals.

Penalty, see § 10.99

§ 93.05 WARNING LIGHTS.

Any person engaged in or employing others in excavating or otherwise in any manner obstructing a portion or all of any street, sidewalk, alley or other public way, at all times during the night season shall install and maintain at least two illuminated red lamps which shall be securely and conspicuously posted on, at or near each end of the obstruction or excavation, and if the space involved exceeds 50 feet in extent, at least one additional lamp for each added 50 feet or portion thereof excavated or obstructed.

Penalty, see § 10.99

§ 93.06 SIDEWALK CONSTRUCTION.

(A) It shall be the duty of the authorized town official to supervise construction or repair of sidewalks within the town. He or she shall cause specifications to be prepared for the construction of the various kinds of pavements and transmit the specifications to the Town Council for approval.

(B) When the specifications are approved, the Town Council shall advertise for proposals to do all the work which may be ordered by the town in construction and repair of sidewalks, and shall authorize the town executive to contract therefor, for a period not exceeding one year, with the lowest responsible bidder, who shall give bond for the faithful performance of the work. The town executive, if authorized by Town Council, may make separate contracts for the different kinds of work with different parties.

OBSTRUCTIONS

§ 93.20 UNLOADING ON STREET OR SIDEWALK.

No person shall unload any heavy material in the streets of the town by throwing or letting the material fall upon the pavement of any street, alley, sidewalk or other public way, without first placing some sufficient protection over the pavement.

Penalty, see § 10.99

§ 93.21 STREET AND SIDEWALK OBSTRUCTION.

No person shall obstruct any street, alley, sidewalk or other public way within the town by erecting thereon any fence or building, or permitting any fence or building to remain thereon. Each day that any fence or building is permitted to remain upon the public way shall constitute a separate offense.

Penalty, see § 10.99

§ 93.22 MATERIALS ON STREET OR SIDEWALK.

No person shall encumber any street or sidewalk. No owner, occupant or person having the care of any building or lot of land, bordering on any street or sidewalk, shall permit it to be encumbered with barrels, boxes, cans, articles or substances of any kind so as to interfere with the free and unobstructed use thereof.

Penalty, see § 10.99

CHAPTER 94: PARKS AND RECREATIONAL AREAS

Section

General Provisions

- 94.01 Purpose
- 94.02 Applicability
- 94.03 Construction
- 94.04 Definitions
- 94.05 Structures, plants, trees, earth, rubbish
- 94.06 Vehicles
- 94.07 Firearms, weapons, tools
- 94.08 Explosives and fireworks
- 94.09 Advertising, assemblages, entertainment
- 94.10 Merchandise; sales prohibited

Specific Provisions

- 94.25 Ignitable and combustible materials
- 94.26 Alcoholic beverages; controlled dangerous substances; alms; gambling
- 94.27 Conduct
- 94.28 Picnic areas
- 94.29 Swimming pools
- 94.30 Boating
- 94.31 Closing hours
- 94.32 Regulated activities
- 94.33 Permits
- 94.34 Enforcement

94.35 Protecting parks and parkways

94.36 Rental fees for park facilities

94.99 Penalty

Cross-reference:

Animals, see Chapter 91

General nuisances, see Chapter 92

Streets and sidewalks; regulations, see Chapter 93

Weapons, see Chapter 130

GENERAL PROVISIONS

§ 94.01 PURPOSE.

The purpose of this chapter is to provide rules and regulations for the use of and conduct in the parks and recreation areas of the town.

(Ord. passed - -)

§ 94.02 APPLICABILITY.

(A) This chapter shall apply in all parks and recreation areas under the jurisdiction of the town, unless expressly exempted.

(B) For the issuance of permits, temporary designations, authorizations, granting of approval and other actions the approving governing agency shall be the Board of Recreation Commissioners, or its designee.

(Ord. passed - -)

§ 94.03 CONSTRUCTION.

In the interpretation of this and all succeeding park and recreation area ordinances, the provisions shall be construed as follows.

(A) Any term in the singular shall include the plural.

(B) Any term in the masculine shall include the feminine and neuter.

(C) Any requirement or prohibitions of any act, shall respectively extend to and include the causing and procuring, directly or indirectly, of that act.

(D) No provision hereof shall make unlawful any act necessarily performed by any officer or employee of the Commission or town in line of duty or work as such, or by any person, his or her agent or employees, in the proper and necessary execution of the terms of any agreement with the Commission or town.

(E) Any act otherwise prohibited by law or local ordinance shall be lawful if performed, under, by virtue of, and strictly within the provisions of a permit so to do, and to the extent authorized thereby.

(Ord. passed - -)

§ 94.04 DEFINITIONS.

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

ALCOHOLIC BEVERAGE. The term as defined by I.C. 7.1-1-3-5, as that statute may be amended or supplemented from time to time.

ANIMALS. Includes cats, dogs, horses, any fowl or birds and any living creatures within the jurisdiction of the park or recreation area.

APPROVING GOVERNING AGENCY. The Board of Recreation Commissioners, or its designee.

CONTROLLED SUBSTANCE. The term as defined by I.C. 35-48-1-9, as that statute may be amended or supplemented from time to time.

CROSSING. Any crossing whether marked by a pavement or otherwise; the extension to any sidewalk space across any intersecting drive, street, highway.

CURB. Any boundary of any street, road, avenue, boulevard or drive, whether or not marked by a curb.

DAWN. Sunrise.

DIRECTOR. The Chairperson of the Board of Recreation Commissioners, unless an employee position of Recreation Director is established by the Town Council. In the absence of that employee or a vacancy in the position, the Chairperson shall serve as **DIRECTOR**.

DUSK. One hour after sunset.

PARK ATTENDANT. Any person employed by the Commission as a parks attendant to perform duties or tasks within the park and recreation areas.

PATH. Any footpath, walk or any path maintained for pedestrians.

PEDESTRIAN. A person afoot.

PERMIT. Any written license issued by or under the authority of the approving governing agency permitting a special event or activity on park facilities.

PERSON. Any natural person, corporation, company, association, joint stock association, firm or co-partnership.

SOLICITING. Persons selling goods or services by sample or taking orders for future delivery with or without accepting advance payment for the goods. Persons seeking any form of contributions.

STOPPING or STANDING. When prohibited, any cessation of movement of a vehicle occupied or not, except when necessary to avoid conflict with pedestrians or other traffic including horses and bicycles.

TRAFFIC. Pedestrians, ridden or herded animals and vehicles, either singly or together.

VEHICLE. Any conveyance (except baby carriages) including motor vehicles, trailers of all types, campers, tricycles, bicycles, motorized or not, sleds, sleighs, push carts or vehicles propelled by

other than muscular power. Also any horse or horse-drawn conveyance.

VENDING. Selling or trading any item or service.

(Ord. passed - -; Ord. 2018-03, passed 3-8-2018; Ord. 2020-07, passed 8-13-2020)

§ 94.05 STRUCTURES, PLANTS, TREES, EARTH, RUBBISH.

It shall be unlawful for any person in a public park or recreation area to:

(A) Mark, deface, disfigure, injure, tamper with or displace or remove any buildings, bridges, tables, benches, fireplaces, railings, pavings or paving materials, water lines or other public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal;

(B) Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person over the age of six years shall use the restrooms and washrooms designated for the opposite sex;

(C) Dig or remove any soil, rock, sand, stones, trees, shrubs or plants or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency;

(D) Construct or erect any building or structure of whatever kind, whether permanent or temporary, or run or string any public service utility into, upon or across the lands, except on special written permit issued hereunder;

(E) Damage, cut, carve, mark, transplant or remove any plant, or injure the bark, or pick flowers or seed of any tree or plant, dig in or otherwise disturb grass areas, or in any other way injure the natural beauty or usefulness of any area;

(F) Climb any tree or walk; climb, stand or sit upon monuments, vases, planters, fountains, railings, fences or upon any other property not designated or customarily used for that purpose;

(G) Attach any rope or cable or other contrivance to any tree, fence, railing, bridge, bench or other structure;

(H) Throw, discharge or otherwise place or cause to be placed in the waters of any fountains, pond, lake, stream or other body of water in or adjacent to any park or any tributary, stream, storm sewer or drain flowing into the water, any substance, matter or thing, liquid or solid, which will or may result in the pollution of the waters;

(I) Take into, carry through or put into any park, any rubbish, refuse, garbage or other material. The refuse and rubbish shall be deposited in receptacles so provided. Where receptacles are not provided, all the rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere;

(J) Bring any glass container into any park or recreation area;

(K) Cause or permit to run loose any animal;

(L) Tie or hitch an animal to any tree or plant;

(M) Hunt, molest, harm, frighten, kill, trap, pursue, chase, tease, shoot or throw missiles at any animal, wildlife, reptile or bird; nor shall he or she remove or have in his or her possession the young of any wild animal, or the eggs or nest, or young of any reptile or bird. Exception to the

foregoing is made in that snakes known to be deadly poisonous may be killed on sight;

(N) Walk a dog without a leash, the leash to be no longer than six feet;

(O) Ride a horse except on designated bridle trails; horses shall be thoroughly broken and properly restrained, and ridden with due care; and shall not be allowed to graze or go unattended; or

(P) Walk a domestic animal without a leash, the leash to be no longer than six feet. Further, the owner or person having custody of the domestic animal shall be responsible for removal of any animal solid waste.

(Ord. passed - -) Penalty, see § 94.99

§ 94.06 VEHICLES.

It shall be unlawful for any person in a public park or recreation area to:

(A) Drive any vehicle on any area except the paved park roads or parking areas, or areas as may on occasion be specifically designated as temporary areas;

(B) Park a vehicle anywhere except on a designated parking area;

(C) Leave a vehicle standing or parked in established parking areas or elsewhere in the park and recreation areas during hours when the park and recreation area is closed. During a snow storm and for three days thereafter established parking areas in parks and recreation areas may be utilized for parking, but not by trailers of any kind;

(D) Leave a bicycle in a place other than a bicycle rack when it is provided and there is space available;

(E) Ride a bicycle without reasonable regard to the safety of others;

(F) Leave a bicycle lying on the ground or paving or set against trees, or in any place or position where other persons may trip over or be injured by them;

(G) Wash any vehicle;

(H) Drive or operate within the parks any bus or vehicle adapted for more than 12 passengers; any hearse, truck or tractor, or vehicle used for advertising provided that taxis, buses and trucks may be used to carry visitors to the parks and recreation areas;

(I) Use the parks, park drives, parking places or parkways for the purpose of demonstrating any vehicles, or for the purpose of instructing another to drive or operate any vehicle, nor shall any person use any park area, including parking places, for the repairing or cleaning of any vehicle, except in an emergency; or

(J) Cause or permit a vehicle in tow of another vehicle to enter the parks or proceed therein, except that in case of a breakdown a disabled vehicle may be towed to the nearest exit; or operate or drive a vehicle containing any person or object projecting or hanging outside of or beyond the side or the rear thereof.

(Ord. passed - -) Penalty, see § 94.99

§ 94.07 FIREARMS, WEAPONS, TOOLS.

It shall be unlawful for any person to bring into or have in his or her possession in any park or recreation area:

(A) Any pistol or revolver or objects upon which loaded or blank cartridges may be used. Official starters, at authorized track and field events, are excepted from this restriction;

(B) Any burglar tools; or

(C) Any rifle, shotgun, BB gun, air gun, spring gun, slingshot, bow or other weapon in which the propelling force is gunpowder, a spring or air.

(Ord. passed - -) Penalty, see § 94.99

§ 94.08 EXPLOSIVES AND FIREWORKS.

It shall be unlawful for any person to have in his or her possession or set off any fireworks. Permits may be given for conducting properly supervised fireworks in designated park areas.

(Ord. passed - -) Penalty, see § 94.99

§ 94.09 ADVERTISING, ASSEMBLAGES, ENTERTAINMENT.

(A) No person shall post paint, affix, distribute, deliver, place, cast or leave about, any bill, billboard, placard, ticket, handbill, circular or advertisement.

(B) No person shall do any of the following without a permit, provided that no permit shall be required for any action or event sponsored by the town or the Board of Recreation Commissioners:

(1) Display any advertising signs or other advertising matter, provided that a sign attached to a vehicle to identify the vehicle, or a sign lawfully on a taxi or bus, is not prohibited;

(2) Operate for advertising purposes any musical instrument, soundtrack or drum;

(3) Hold public assemblages;

(4) Conduct, exhibitions; or

(5) Hold a parade.

(Ord. passed - -) Penalty, see § 94.99

§ 94.10 MERCHANDISE; SALES PROHIBITED.

No person shall expose or offer for sale any article in any park or recreation area, without a license as a concessionaire.

(Ord. passed - -) Penalty, see § 94.99

SPECIFIC PROVISIONS

§ 94.25 IGNITABLE AND COMBUSTIBLE MATERIALS.

No person shall kindle, build, maintain or use a fire, except in places provided for those purposes. Any fire shall be continuously under the care and direction of a competent person from the time it is kindled until it is extinguished. No person shall throw away or discard any lighted match, cigar, cigarette, tobacco, paper or other material within or against any building, boat or vehicle, or under

any tree or in underbrush.

(Ord. passed - -)

§ 94.26 ALCOHOLIC BEVERAGES; CONTROLLED DANGEROUS SUBSTANCES; ALMS; GAMBLING.

While in a public park or recreation area, all persons shall conduct themselves in a proper and orderly manner, and in particular, no person shall:

(A) (1) Except as provided in division (A)(2), bring alcoholic beverages or controlled dangerous substances, or drink or use the same at any time, nor shall any person be under the influence of intoxicating liquor or a controlled dangerous substance in a park or recreation area;

(2) The Town Council for the Town of Clayton, Indiana may permit the sale and consumption of alcoholic beverages in public parks or recreational areas of the town at such locations and under such conditions as the Council may approve from time to time.

(B) Solicit alms or contributions for any purpose, whether public or private;

(C) Play any game of chance or have possession of any instrument or device for gambling; or

(D) Play, engage or take part in any game or competitive sport for money, or other valuable thing, without a written permit.

(Ord. passed - -; Ord. 2020-07, passed 8-13-2020) Penalty, see § 94.99

§ 94.27 CONDUCT.

It shall be unlawful for any person in a park, or recreation area to:

(A) Camp or stay overnight anywhere except in areas designated for camping or staying overnight in vehicles or trailers;

(B) Take part in the playing of any games involving thrown or otherwise propelled objects except in those areas designated for those forms of recreation;

(C) Play football, baseball, basketball, soccer or lacrosse, except in areas designated for those games;

(D) Roller skate or use skateboards, except in those areas specifically designed for those pastimes;

(E) Enter an area posted as "closed to the public";

(F) Engage in threatening, abusive, insulting or indecent language or engage in any disorderly conduct or behavior tending to breach the public peace;

(G) Fail to produce and exhibit any permit he or she claims to have, upon request of any authorized person who shall desire to inspect the same for the purpose of enforcing compliance with any ordinance or rule;

(H) Disturb or interfere unreasonably with any person or party occupying any area or participating in any activity under the authority of a permit; or

(I) Erect or occupy any tent, stand or other structure in any park or playground, or sell or give

away from any tent, stand or other structure any food, drink or other thing, without a permit.

(Ord. passed - -) Penalty, see § 94.99

§ 94.28 PICNIC AREAS.

It shall be unlawful for any person or group of persons to hold a picnic in any park, except in areas set aside or specifically designated as picnic areas. A permit must be secured for any picnic with more than 20 participants.

(Ord. passed - -) Penalty, see § 94.99

§ 94.29 SWIMMING POOLS.

The ordinances relating to the use of public swimming pools shall govern the use of any swimming pool in any park.

(Ord. passed - -)

§ 94.30 BOATING.

Any person desiring to use any kind of a boat in parks shall abide by the ordinances relating to boating in public places.

(Ord. passed - -) Penalty, see § 94.99

§ 94.31 CLOSING HOURS.

Except for designated camping areas, no person shall be in any park during the hours the park is closed. Unless otherwise posted, all parks, including Lambert Park, are closed from dusk until dawn.

(Ord. passed - -; Ord. 2018-03, passed 3-8-2018)

§ 94.32 REGULATED ACTIVITIES.

The following activities are permitted only at times and in areas so designated for that purpose and are prohibited elsewhere within the parks:

- (A) Swimming, bathing, wading, fishing;
- (B) Ice skating, sledding, skiing;
- (C) Model airplane flying;
- (D) Boating on ponds; without motors;
- (E) Baseball;
- (F) Police pistol range;
- (G) Archery;
- (H) Horseshoe pitching;
- (I) Tennis;

- (J) Picnicking;
- (K) Camping;
- (L) Football and track;
- (M) Basketball;
- (N) Soccer;
- (O) Bicycle riding;
- (P) Throwing or propelling any objects; and
- (Q) Roller skating.

(Ord. passed - -)

§ 94.33 PERMITS.

(A) Permits for special events in parks and recreation areas shall be obtained by application to the approving Commissioners, or their designee, in accordance with the following procedure.

(1) A person seeking issuance of a permit hereunder shall file an application stating:

- (a) The name and address of the applicant;
- (b) The name and address of the person, persons, corporation or association sponsoring the activity; if any;
- (c) The day and hours for which the permit is desired;
- (d) The park or portion thereof for which the permit is desired;
- (e) Any other information reasonably necessary to a determination as to whether a permit should be issued hereunder; and
- (f) Variances required from park rules and regulations.

(2) Standards for issuance of a use permit shall include the following findings:

- (a) That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public's enjoyment of the park;
- (b) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;
- (c) That the proposed activity or uses that are reasonably anticipated will not include violence, crime or disorderly conduct;
- (d) That the proposed activity will not entail extraordinary or burdensome expense or police operation by the town; and
- (e) That the facilities desired have not been reserved for other use on the date and hour requested in the application.

(B) (1) Within ten days after the receipt of an application, the Commissioners shall tell an applicant in writing of its decision to grant or deny a permit; in the event of a denial the notification

shall include the reason for the denial. Any aggrieved person shall have the right to appeal to the Town Council by serving written notice thereof on the Town Clerk-Treasurer within five working days of the refusal.

(2) A copy of the notice shall also be served on the Recreation Commission within the same time, and the Commission shall immediately forward the application and the reasons for its refusal to the Town Council. The Town Council shall decide within ten days from the receipt of the appeal by the Town Clerk-Treasurer, or at its first meeting after the appeal, whichever is later. The decision of the Town Council shall be final.

(C) A permittee shall be bound by all park rules and regulations and all applicable ordinances fully as though the same were inserted in the permits.

(D) An applicant for a permit may be required to submit evidence of liability insurance covering injuries to members of the general public arising out of the permitted activities in amounts as may be from time to time determined prior to the commencement of any activity or issuance of any permit.

(E) The Town Council shall have the authority to revoke a permit upon a finding of violation of any rule or ordinance or upon good cause shown.

(Ord. passed - -)

§ 94.34 ENFORCEMENT.

(A) The Town Police Department, Recreation Commission and Park and Recreation Area Director and attendants shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter.

(B) The Town Police Department, Recreation Commission, Park and Recreation Area Director and any attendant shall have the authority to order any person or persons acting in violation of this chapter to leave the park or recreation area.

(Ord. passed - -)

§ 94.35 PROTECTING PARKS AND PARKWAYS.

(A) *Purpose.* To protect the parks and parkways and the appurtenances thereto from fire, abuse and desecration; to provide for the recreational use of these areas; to control and regulate traffic and maintain general order therein; and to further the safety, health, comfort, morals and welfare of all persons while within the limits of the parks and parkways.

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

PARKS and **PARKWAYS.** Includes all grounds, buildings thereon, waters therein and any other property which is now or may hereafter be under the control and jurisdiction of the Park Board.

(C) *General provision.* The Board may from time to time, subject to approval by the Town Council in any or all of the parks or parkways, publish or post closing hour and control the use of intoxicating liquors.

(1) In the case of emergency or at the discretion of the Town Council, the Superintendent of Parks may order any portion of the parks or parkways closed to the public if the public interest, so requires.

(2) It shall be unlawful for any person to interfere with or in any manner hinder any employee of the Park Board in the performance of his or her duties.

(3) It shall be unlawful for any person to use threatening, abusive, profane or indecent language or be guilty of any conduct which constitutes a breach of the peace.

(4) It shall be unlawful for any person to scatter, drop or leave any debris or other rubbish within the parks except in receptacles provided for that purpose.

(5) Auto radios, portable radios and television sets shall be set low enough in volume so as not to interfere with the enjoyment of the park by others.

(D) *Activities requiring permits.* All public meetings, entertainments, tournaments, discussions, orations, nondenominational or inter-denominational services or meetings of like kind shall be prohibited except upon written permission from the Superintendent of Parks. The permittees shall be bound by the restrictions contained in the permit and by these rules and regulations. The use of any sound-amplifying equipment shall also be prohibited except upon issuance of a permit. No person shall interfere with the activities lawfully carried on by the permittees. The Park Board, subject to approval by the Town Council, may include in the permit those regulations it may in its discretion deem advisable in the public interest.

(E) *Firearms, fireworks and missiles prohibited.* It shall be unlawful for any person to carry or discharge any gun, air gun, pistol, fireworks, bow and arrow or engage in any trapping within the confines of any park or parkway.

(F) *Park hours.* All town parks shall be closed from 11:00 p.m. to 5:00 a.m. daily.

(Ord. passed - -) Penalty, see § 94.99

§ 94.36 RENTAL FEES FOR PARK FACILITIES.

(A) Specific parties having exclusive use of the town park facilities will pay rental fees as follows:

(1) Large shelter house:

(a) Resident: \$60; and

(b) Non-resident: \$75.

(2) Gazebo:

(a) Resident: \$25; and

(b) Non-resident: \$40.

(3) Both gazebo and large shelter house:

(a) Resident: \$85; and

(b) Non-resident: \$100.

(4) A deposit of \$25 shall be required along with the rental fees listed above. Upon verification that the premises are left in satisfactory condition, the deposit will be returned.

(5) A cancellation fee of \$25 will be required if the cancellation occurs within 14 days of the rental date.

(B) The rental fees shall be collected at the Town Hall of the Town of Clayton (located at 4844 Iowa St., Clayton, IN, 46118) by the Clerk-Treasurer or its designee, prior to reserving the facility(ies). However, no reservation of any park facility shall be permitted more than 12 months before the date for which the reservation is sought. Fees will then be deposited in the EDIT Fund to be utilized as determined in the annual budget.

(C) The rentals are available only during park operating hours and a new rental fee shall be due for each day the facility is rented.

(D) The renter shall be responsible for any damage to property owned by the city by the use of the facility by the renter whether or not the renter directly caused the damage.

(E) A 501(c)(3) qualified not-for-profit corporation, with at least one of its members or attendees residing within the town, and renting the facility for the benefit of the not-for-profit corporation, shall be exempt from a park rental fee up to four times in a calendar year. The renter shall be responsible for any damage to property owned by the city by the use of the facility by the renter whether or not the renter directly caused the damage.

(F) Those renting the park facilities must provide the town with proof of residency either in the form of a driver's license or state-authorized picture identification card. The person responsible for renting the park facilities must, prior to its use, sign a park facilities rental form acknowledging the rules and procedures for rental of the park facilities, as amended from time to time.

(Ord. 2013-08, passed 7-11-2013; Ord. 2015-08, passed 8-13-2015; Ord. 2017-09, passed 11-9-2017; Ord. 2020-002, passed 3-12-2020)

§ 94.99 PENALTY.

(A) Any person, firm or corporation violating any provision of §§ 94.01 through 94.10, or §§ 94.25 through 94.34, shall be fined not less than \$5, nor more than \$500 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(B) Any person, firm or corporation violating any provision of § 94.35(E) shall be fined not less than \$25, nor more than \$500 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Ord. passed - -)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. GENERAL LICENSING PROVISIONS

111. PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

CHAPTER 110: GENERAL LICENSING PROVISIONS

Section

- 110.01 License required
- 110.02 Application for license
- 110.03 Ownership change; change in nature of business
- 110.04 License fee
- 110.05 Annual update of information
- 110.06 General business license form

- 110.99 Penalty

§ 110.01 LICENSE REQUIRED.

All new businesses, prior to opening for business, shall apply for and procure a general business license from the town.

(Ord. 2015-06, passed 5-14-2015)

§ 110.02 APPLICATION FOR LICENSE.

All existing businesses operating at the time this chapter is adopted shall have until December 31, 2015 to apply for and procure a general business license from the town.

(Ord. 2015-06, passed 5-14-2015)

§ 110.03 OWNERSHIP CHANGE; CHANGE IN NATURE OF BUSINESS.

A new license shall be required for any business that has an ownership change or change that substantially alters the nature of the business.

(Ord. 2015-06, passed 5-14-2015)

§ 110.04 LICENSE FEE.

A license fee of \$25 shall be paid for each license.

(Ord. 2015-06, passed 5-14-2015)

§ 110.05 ANNUAL UPDATE OF INFORMATION.

Each holder of a general business license shall update the information regarding the business annually. No additional fee shall be charged for the update unless § 110.03 applies.

(Ord. 2015-06, passed 5-14-2015)

§ 110.06 GENERAL BUSINESS LICENSE FORM.

The town adopts the "Town of Clayton Application for General Business License" form attached to Ordinance 2015-06, passed May 14, 2015 as Exhibit A and made a part hereof.

(Ord. 2015-06, passed 5-14-2015)

§ 110.99 PENALTY.

Any business violating this chapter shall be fined not less than \$50 nor more than \$100 for the first offense, and shall be fined not less than \$100 nor more than \$150 for each subsequent offense. A separate offense shall be deemed committed each year during which a violation occurs or continues.

(Ord. 2015-06, passed 5-14-2015)

CHAPTER 111: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

Section

- 111.01 Purpose
- 111.02 Definitions
- 111.03 License required
- 111.04 Application
- 111.05 Investigation of applicant
- 111.06 Suspension; revocation
- 111.07 Exhibition of license
- 111.08 Transferability
- 111.09 Exemptions
- 111.10 Right to appeal
- 111.11 Deposit of funds

- 111.99 Penalty

Statutory reference:

Local regulation authorized, see I.C. 25-37-1-11

§ 111.01 PURPOSE.

The purpose of this chapter is to regulate the activities of individuals who engage in door to door solicitation and/or the activities or persons referred to in this act as transient merchants to protect against criminal activity, including fraud, to minimize the unwelcome disturbance of citizens and the disruption of privacy as necessary in the interest and promotion of the public health, safety, convenience, peace, comfort, order and public welfare of the town and the citizens and inhabitants thereof.

(Ord. 2015-04, passed 3-12-2015)

§ 111.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number:

FOOD. Any raw, cooked, or processed edible substance, ice, beverage, drink or ingredient used or intended for use or for sale in whole or in part for human consumption.

LICENSE. A license which has been issued pursuant to the requirement of this chapter.

PEDDLER. Any person traveling by foot, wagon, automotive vehicle, or any other type of conveyance from place to place, from house to house, or from street to street carrying, conveying, or transporting goods, wares, merchandise, food products, offering and exposing them for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad car, or other vehicle or conveyance. However, one who solicits orders and as a separate transaction makes deliveries to purchasers as part of a scheme or design to evade the provisions of this chapter shall be deemed a peddler subject to the provisions of this chapter. The word **PEDDLER** shall include the words **HAWKER** and **HUCKSTER**.

SOLICITOR. Any person traveling from place to place, from house to house, or from street to street within the town, for the purpose of taking orders for the sale of goods, wares, merchandise, magazines, books, or personal property of any nature whatsoever for a future delivery, or for services to be furnished and performed in the future, regardless of whether the person has, carries, or exposes for sale a sample of the subject of the sale or whether he is collecting advance payments on the sales or who solicits monies door-to-door for non-profit or not-for-profit organizations.

TRANSIENT MERCHANT. Any person, whether as owner, agent, consignee, or employee, who engages in a temporary business of selling and delivering goods, wares, and merchandise within the town, and who, in furtherance of this purpose, hires, leases, uses, or occupies any building, structure, motor vehicle, tent, railroad boxcar, boat, public room in hotels, motels, lodging houses, apartments, shops or any street, alley or other place within the town, for the exhibition and sale of the goods, wares, and merchandise, either privately or at public auction. However, this definition shall not be construed to include any person who, while occupying temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only, and this definition shall not be construed to include any person who is a commercial traveler or salesman calling exclusively upon businesses, professional persons, schools, or public institutions for the purposes of taking orders or selling books, equipment, supplies, or services used professionally thereby. A person shall be a transient merchant even though he temporarily associates with a local dealer, trader, merchant, or auctioneer, or conducts the transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant, or auctioneer. The term **TRANSIENT MERCHANT** shall include the terms **ITINERANT MERCHANT** and **ITINERANT VENDOR**.

(Ord. 2015-04, passed 3-12-2015)

§ 111.03 LICENSE REQUIRED.

(A) It shall be unlawful for a transient merchant, peddler, or solicitor to engage in their respective business within the corporate limits of the town without obtaining a license in compliance with the

provisions of this chapter. The obtaining of a license by an employer or principal shall in no way relieve any employee or agent of that employer or principal of his or her legal obligation to obtain a license.

(B) Licenses issued under the provisions of this chapter shall contain the information and be in the form prescribed by the Town Council.

(C) It shall be unlawful for a transient merchant, peddler or solicitor to engage in door-to-door solicitations before 9:00 a.m. and after 6:00 p.m., and the license to be issued shall show on its face that restriction.

(Ord. 2015-04, passed 3-12-2015)

§ 111.04 APPLICATION.

Applicants for any license under this chapter, whether a natural person, firm, corporation or other entity, shall file a written sworn application signed by the applicant, if an individual, by a partner if a partnership, and by an officer or duly authorized agent if a corporation, with the Clayton Clerk-Treasurer showing the following information:

(A) The names and description of the applicant and, if other than a natural person, the names of the persons having the management or supervision or the applicant's business during the time that it is proposed that it will be carried on in the town.

(B) The full permanent address and full local address of the applicant.

(C) A brief description of the nature of the business and the goods to be sold, whether the goods are proposed to be sold from stock in possession, or from stock in possession and by sample; to be sold at auction, direct sale, or by direct sale and by taking orders for future delivery; and where the goods or property proposed to be sold are manufactured and produced.

(D) If the applicant is employed or acting as an agent, the name and address of the employer or principal, together with the credentials establishing the exact relationship.

(E) The place or places within the town where the applicant proposes to carry on his or her business and the length of time during which the applicant proposes that the business shall be conducted.

(F) If one or more vehicles are to be used, a description of them, together with license numbers or other means of identification.

(G) A copy of a current, valid state issued identification containing a photograph of the applicant and each person who will be selling or soliciting under the license, or if a corporation, a photograph of the person to have the management or supervision of the applicant's business in the town.

(H) If the applicant is proposing to sell food and is required by local or state ordinances, regulations or laws to have a separate permit or license, including but not limited to a food service establishment permit, the applicant will produce a copy of any and all valid permits or licenses required.

(I) Any other reasonable information as to the identity or character of the applicant; or his or her agents or employees or the method or plan of doing business that the town may deem proper to fulfill the purpose of this chapter in the protection of the public good and welfare.

(Ord. 2015-04, passed 3-12-2015)

§ 111.05 INVESTIGATION OF APPLICANT.

(A) A license shall be issued to a vendor by the Clerk-Treasurer upon such vendor's completion of an application, confirmation that such vendor has no felony or misdemeanor conviction within 15 years of the application date for a crime of dishonesty, fraud, theft and/or moral turpitude, and such vendor has paid a license fee of \$40 for a ten-day license for \$150 for a 120-day license for each person selling items.

(B) The decision as to whether an application is approved or denied shall be made by the town within 20 days from the date the application is submitted to the Clayton Clerk-Treasurer for processing.

(Ord. 2015-04, passed 3-12-2015)

§ 111.06 SUSPENSION; REVOCATION.

(A) If the town determines that one or more of the following apply to a vendor who applies for a license or who is involved in door-to-door solicitation, then the town shall deny the application and/or revoke an issued license and/or identification card(s) relating thereto, whichever action is applicable under the circumstances:

- (1) Vendor submitted an application that contains materially false or misleading information;
- (2) Vendor was, within 15 years prior to the date of vendor's application, convicted of a felony or misdemeanor crime of dishonesty, fraud, theft and/or moral turpitude;
- (3) Vendor has violated this section or has been charged with or convicted of a felony or misdemeanor crime of dishonesty, fraud, theft, and/or moral turpitude after the issuance of but prior to the expiration date of such person's license and/or identification card;
- (4) Vendor or any of vendor's employees or agents has failed to properly display his or her identification card while engaged in door-to-door solicitation;
- (5) Two or more written and sworn complaints have been delivered to the Clayton Marshal regarding allegedly untruthful or illegal conduct concerning vendor or vendor's employees or agents during his or her door-to-door solicitation;

(B) All license and/or identification card denials/revocations shall be in writing, shall state thereon the effective date of the denial/revocation and the reason for the same, and shall be served by U.S. certified mail or by personal service on vendor at a vendor's address as contained in the application.

(C) Any vendor, within 20 days from the date on which notice of such license and/or identification card denial or revocation notice is served thereon, may by written request made and delivered to the Clayton Clerk-Treasurer within such time period, appeal such action to the Clayton Town Council ("Board"). If a timely appeal is not made, the decision of the town is final. If a timely appeal is made, the Board shall hear the appeal at a public hearing which shall begin no more than 20 days from the date of the receipt, of the appeal request by the Clayton Clerk-Treasurer. The Board shall issue its written decision on the appeal no more than ten days from the ending date of the hearing thereon, which Board decision shall be final.

(D) No application, license or identification card fees shall be returned or refunded upon the

revocation of a license and/or identification card issued pursuant to this section, all such monies being deemed forfeited.

(Ord. 2015-04, passed 3-12-2015)

§ 111.07 EXHIBITION OF LICENSE.

(A) Every person holding a license under this chapter shall exhibit it to all prospective customers before personally promoting a sale.

(B) Persons holding a license hereunder making sales from a particular place may comply with this section by posting the license in a conspicuous location at that place.

(Ord. 2015-04, passed 3-12-2015)

§ 111.08 TRANSFERABILITY.

All licenses issued under authority of this chapter shall not be transferable.

(Ord. 2015-04, passed 3-12-2015)

§ 111.09 EXEMPTIONS.

(A) *Licensed individuals.* Those individuals who hold a valid occupational or professional license, which is issued and regulated by the state are exempt from this chapter. This exemption shall only be applicable to the practice under or business conducted, pursuant to and within the terms and provision of the individual's license. Any individual claiming an exemption shall be required, upon request by the town, to provide written proof of his or her valid licensure, for example, a copy of a license or certificate that was issued by the state. The Clayton Marshal or Clerk-Treasurer shall make any determination as to whether the activity to be conducted falls within the claimed licensure.

(B) *Yard sales.* A resident of the town who conducts a sale of tangible personal property for no more than six days per calendar year at his or her primary residence.

(C) *Charitable exemption.* The members of any not-for-profit organization a majority of the members of which live in Hendricks County, Indiana or actively functioning within the town limits of the Town of Clayton, The charitable exemption shall also apply to students soliciting contributions to finance extracurricular social, athletic, artistic, scientific or cultural programs provided that the solicitation has been approved in writing by the school administration.

(D) *Locally grown produce.* Fresh produce for human consumption grown regionally, which produce was actually raised by the seller or the seller's immediate family.

(E) *Estate sale/auction.* Items sold at sales or auctions involving estates of residents of the town or real property and the improvements located on the real property located in the town or the personal property used and held by the decedent thereon.

(F) *Commercial salespersons.* Commercial travelers or salespersons calling exclusively upon businesses, professional persons, schools, or public institutions for the purpose of taking orders or selling books, equipment, supplies or services used professionally thereby.

(G) *Handcraft shows or fairs.* Organized shows, fairs, exhibitions or demonstrations involving two or more different crafters of hand crafted items at an established business located within the town. "Hand crafted" means items which have been created or crafted by the individual who is

selling the item.

(H) *Veterans*. This section applies to any veteran that served during war time and received an honorable discharge as described in state law. Such a person shall be entitled to a license to canvass, solicit, and peddle goods, wares, fruits, vegetables, and merchandise in the town without the payment of any fee therefor. Upon the presentation of his or her certificate and papers of discharge, properly executed, to the Jefferson County Veteran's Affairs Officer, and proving his or her identity as the person named in his or her certificate of honorable discharge, the Clayton Clerk Treasurer shall issue a license to canvass, solicit, and peddle goods, wares, fruits, and merchandise within the town, which license shall be free, and no fee shall be charged to the holder of such license, but such license shall be full and complete authority to canvass, solicit, and peddle as aforesaid, without the payment of any sum of money. This section is in accordance with I.C. 25-25-2-1.

(I) *Religious belief or political positions*. Persons advocating or disseminating information for, against or in conjunction with any religious belief or political position regardless of whether goods, services or any other consideration is offered or given with or without any form of commitment, contribution, donation, pledge or purchase.

(Ord. 2015-04, passed 3-12-2015)

§ 111.10 RIGHT TO APPEAL.

Any person aggrieved by the decision of the town in regard to the denial or revocation of a license as provided for herein shall have the right to appeal to the Board of Public Works. Appeal shall be taken by filing with the Board of Public Works, within 14 days after notice of the decision by the town has been mailed to the person's last known address, a written statement setting forth the grounds for the appeal. The Board of Public Works shall set the time and place for a hearing on the appeal and notice of the hearing shall be given to the person in the manner provided for in § 111.06(C) above for notice of hearing on revocation. The order of the Board on the appeal shall be final.

(Ord. 2015-04, passed 3-12-2015)

§ 111.11 DEPOSIT OF FUNDS.

All funds collected as a result of this chapter shall be deposited in the Clayton General Fund.

(Ord. 2015-04, passed 3-12-2015)

§ 111.99 PENALTY.

(A) Any vendor and/or any employee or agent of vendor who engages in door-to-door solicitation in violation of this section shall be subject to a fine of up to \$200 for each day (or portion thereof) during which the same engages in such conduct.

(B) The town may seek a temporary and/or permanent restraining order against any vendor and/or any employee or agent thereof in any court of competent jurisdiction.

(C) The town's remedies hereunder shall be cumulative and pursuit of one remedy shall not preclude the pursuit of others under this section or otherwise.

(D) Willful or intentional disregard of this section shall, to the full extent permitted by law, entitle the town to collect from the violator the town's attorney fees, court costs, litigation expenses, and all

other reasonable costs and expenses incurred in obtaining a restraining order and/or any other enforcement remedies against same.

(Ord. 2015-04, passed 3-12-2015)

TITLE XIII: GENERAL OFFENSES

Chapter

130. WEAPONS

CHAPTER 130: WEAPONS

Section

130.01 Discharging firearms

§ 130.01 DISCHARGING FIREARMS.

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

FIREARM. Any weapon which is capable of or deigned to which may readily be converted to expel a projectile with deadly force by means of an explosion.

(B) *Shooting of firearms prohibited.* No person shall fire or discharge, or cause to be fired or discharged, within the limits of the town, any firearm.

(C) (1) *Exceptions.* This section shall not apply to:

(2) Peace officers or soldiers in the discharge of their official duties and while in the exercise of reasonable care;

(Ord. 2015-07, passed 8-13-2015)

TITLE XV: LAND USAGE

Chapter

150. BUILDING REGULATIONS

151. ZONING CODE

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CHAPTER 150: BUILDING REGULATIONS

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Cross-reference:

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Sewer and wastewater provisions, see Chapter 51

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GENERAL REGULATIONS

§ 150.01 TITLE.

This chapter and all material included herein by reference shall be known as the "Building Code of Clayton. Indiana."

(Ord. 2015-09, passed 8-4-2015)

§ 150.02 PURPOSE.

The purpose of this chapter is to protect the life, public safety, health and general welfare of the citizens of Clayton, Indiana, and shall be construed in such a manner as to effectuate this purpose.

(Ord. 2015-09, passed 8-4-2015)

§ 150.03 DEFINITIONS.

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

BUILDING COMMISSIONER. As used in this chapter, includes individuals employed by the

Building Department that are authorized to represent the Building Commissioner.

CLASS 1 STRUCTURE. Has the meaning ascribed thereto in I.C. 22-12-1-4.

CLASS 2 STRUCTURE. Has the meaning ascribed thereto in I.C. 22-12-1-5.

CONSTRUCTION. Has the meaning ascribed thereto in I.C. 22-12-1-7.

INDUSTRIALIZED BUILDING SYSTEM. Has the meaning ascribed thereto in I.C. 22-12-1-14.

MANUFACTURED HOME. Has the meaning ascribed thereto in I.C. 22-12-1-16.

MOBILE STRUCTURE. Has the meaning ascribed thereto in I.C. 22-12-1-17.

PERSON. Has the meaning ascribed thereto in I.C. 22-12-1-18.

STRUCTURE. Means both Class 1 and Class 2 structures, unless specifically stated otherwise.

VEHICULAR BRIDGE. Has the meaning ascribed thereto in I.C. 22-12-1-26.

(Ord. 2015-09, passed 8-4-2015)

§ 150.04 SCOPE.

(A) All construction shall be accomplished in compliance with the provisions of this building chapter.

(B) Pursuant to I.C. 22-13-2-6, this building chapter shall not apply to industrialized building systems or mobile structures certified under I.C. 22-15-4: however, the provisions of this building chapter and the rules promulgated by the Fire Prevention and Building Safety Commission do apply to any construction related to an industrialized building system or mobile structure not certified under I.C. 22-15-4.

(C) Pursuant to I.C. 22-13-2-9, this building chapter is not applicable to regulated amusement devices, regulated boilers, regulated pressure vessels, or regulated lifting devices.

(Ord. 2015-09, passed 8-4-2015)

§ 150.05 AUTHORITY.

The Building Commissioner is hereby authorized and directed to administer and enforce the following:

(A) All of the provisions of this building chapter.

(B) Variances granted in accordance with I.C. 22-13-2-11.

(C) Orders issued under I.C. 22-12-7.

(Ord. 2015-09, passed 8-4-2015)

§ 150.06 EFFECT OF ADOPTION ON PRIOR ORDINANCE.

The expressed or implied repeal of amendment by this chapter of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this chapter. Such rights, liabilities, and other proceedings are continued and penalties shall be imposed and enforced under the repealed or

amended ordinance as if this chapter had not been adopted.

(Ord. 2015-09, passed 8-4-2015)

BUILDING PERMITS

§ 150.10 BUILDING PERMIT REQUIRED.

Construction is prohibited unless in conformity with a valid building permit obtained from the Building Commissioner prior to commencement of construction.

(Ord. 2015-09, passed 8-4-2015)

§ 150.11 APPLICATION FOR BUILDING PERMIT.

(A) Any person required to have a building permit shall submit a complete application to the Building Commissioner.

(B) This application shall be submitted on a form prepared by the Building Commissioner, and shall contain the following:

(1) Information that the Building Commissioner determines to be necessary to locate and contact the applicant.

(2) A clear and understandable copy of detailed plans and specifications drawn to scale which indicate in a precise manner the nature and location of all construction to be accomplished.

(3) A plot plan drawn to scale; provided, however, such plot plan shall not be required in the instance where all such construction is to occur entirely within an existing structure. This plot plan shall reflect the location of the structure in relation to existing property lines and shall show streets, curbs and sidewalks and proposed changes or additions to such streets, curbs and sidewalks.

(4) If required by state law or any rule of the Fire Prevention and Building Safety Commission, a copy of a Construction Design Release for the construction to be done that has been issued by the Building Law Compliance Officer pursuant to I.C. 22-15-3.

(5) Any additional information that the Building Commissioner finds to be necessary to determine that the construction will conform to all applicable building and fire safety laws and will not violate any other applicable ordinances or laws.

(6) The fee established by the Town Board of Clayton, Indiana.

(C) Application for a building permit shall be made by the person entitled to obtain the permit or by an employee or agent of that person. The Building Commissioner may require that such an employee or agent provide written authority to apply for a permit.

(Ord. 2015-09, passed 8-4-2015)

§ 150.12 ISSUANCE OF BUILDING PERMIT.

The Building Commissioner shall issue a building permit to a person after the person has submitted a complete application, including any applicable fee. provided that the proposed construction will conform to all applicable building and fire safety laws and will not violate any other applicable ordinances or laws.

(Ord. 2015-09, passed 8-4-2015)

§ 150.13 CERTIFICATE OF OCCUPANCY.

No certificate of occupancy for any structure shall be issued unless such structure was constructed in compliance with the provisions of this building chapter. It shall be unlawful to occupy any structure unless a full, partial, or temporary certificate of occupancy has been issued by the Building Commissioner.

(Ord. 2015-09, passed 8-4-2015)

INVESTIGATIONS AND INSPECTIONS OF CONSTRUCTION ACTIVITIES

§ 150.20 GENERAL AUTHORITY TO MAKE INSPECTIONS AND INVESTIGATIONS.

(A) All construction shall be subject to periodic inspections by the Building Commissioner irrespective of whether a building permit has been or is required to be obtained.

(B) The Building Commissioner may at any reasonable time go in, upon, around or about the premises where any structure subject to the provisions of this building chapter or to the rules of the Fire Prevention and Building Safety Commission is located for the purposes of inspection and investigation of such structure. Such inspection and investigation may be made before and/or after construction on the project is completed for the purposes of determining whether the structure meets building standards and procedures, and ascertaining whether the construction and procedures have been accomplished in a manner consistent with this building chapter and the rules of the Fire Prevention and Building Safety Commission.

(Ord. 2015-09, passed 8-4-2015)

§ 150.21 INSPECTIONS BY FIRE DEPARTMENT.

The Building Commissioner and the Fire Department shall work cooperatively to conduct inspections and investigations to promote compliance with fire safety laws (The Fire Department has independent authority to conduct inspections and take enforcement actions under I.C. 36-8-17).

(Ord. 2015-09, passed 8-4-2015)

ENFORCEMENT AND PENALTIES

§ 150.30 WITHHOLD ISSUANCE OF PERMITS.

(A) Whenever a person which is either an applicant for a building permit or an obtainer of a building permit owes fees (including checks returned for insufficient funds, permit fees owed, or inspection fees owed) to the Building Commissioner the Building Commissioner may withhold the issuance of subsequently requested permits until such time that the debt is satisfied.

(B) Whenever a person applies for a building permit for a structure that is not being used or constructed in conformance with applicable provisions of an applicable zoning ordinance or other ordinance relating to land use. the Building Commissioner is authorized to withhold the issuance of requested permit(s) until such time that the property is brought into conformance with applicable ordinances.

(Ord. 2015-09, passed 8-4-2015)

§ 150.31 PERMIT REVOCATION.

The Building Commissioner may revoke a building permit when any of the following are applicable:

- (A) The application, plans or supporting documents contain a false statement or misrepresentation as to a material fact.
- (B) The application, plans or supporting documents reflect a lack of compliance with building standards and procedures.
- (C) There is failure to comply with the building chapter.
- (D) The structure for which the building permit has been issued is not being used or constructed in conformance with an applicable zoning ordinance or other ordinance relating to land use.

(Ord. 2015-09, passed 8-4-2015)

§ 150.32 STOP-WORK ORDER.

(A) The Building Commissioner may issue an order requiring suspension of the pertinent construction (stop-work order) in accordance with this section.

(B) The stop work order shall:

- (1) Be in writing.
- (2) State with specificity the construction to which it is applicable and the reason for its issuance.
- (3) Be posted on the property in a conspicuous place.
- (4) If practicable, be given to:
 - (a) The person doing the construction; and
 - (b) To the owner of the property or the owner's agent.
- (5) The stop-work order shall state the conditions under which construction may be resumed.

(C) The Building Commissioner may issue a stop-work order if:

- (1) Construction is proceeding in an unsafe manner, including, but not limited to, in violation of any standard set forth in this building chapter or any state law-pertaining to safety during construction.
- (2) Construction is occurring in violation of this building chapter or in such a manner that if construction is allowed to proceed, there is a reasonable probability that it will substantially difficult to correct the violation.
- (3) Construction for which a building permit is required is proceeding without a building permit being in force.

(D) The issuance of a stop-work order shall in no way limit the operation of penalties provided elsewhere in this building chapter.

(Ord. 2015-09, passed 8-4-2015)

§ 150.33 CIVIL ACTION.

Pursuant to I.C. 36-1-6-4. the city may initiate a civil action in a court of competent jurisdiction to restrain any person from violating a provision of this building chapter.

(Ord. 2015-09, passed 8-4-2015)

§ 150.34 MONETARY PENALTY.

Any person violating any provision of this building chapter may be subject to a fine in any sum not exceeding \$2,500. The assessment of a monetary penalty shall in no way limit the operation of the penalties provided elsewhere in this building chapter.

(Ord. 2015-09, passed 8-4-2015)

§ 150.35 RIGHT OF APPEAL.

Any person aggrieved by an order issued under this building chapter shall have the right to petition for review of any order of the Building Commissioner. Such a person may file a petition using either, or both, of the following procedures:

(A) Appeal to the Fire Prevention and Building Safety Commission.

(1) A person aggrieved by an order issued under this building chapter may appeal to the Fire Prevention and Building Safety Commission, in accordance with I.C. 22-13-2-7.

(2) The Commission may modify or reverse any order issued by the municipality that covers a subject governed by I.C. 22-12, I.C. 22-13, I.C. 22-14, I.C. 22-15, a fire safety or a building rule.

(3) The Fire Prevention and Building Safety Commission must review orders that concern a Class 2 Structure if the person aggrieved by the order petitions for review under I.C. 4-21.5-3-7 within 30 days after the issuance of the order.

(4) The Fire Prevention and Building Safety Commission may review all other orders issued, under this building chapter.

(5) The review of an order by the Fire Prevention and Building Safety Commission does not suspend the running of the time period under any statute in which a person must petition a court for judicial review of the order.

(B) *Appeal to an established local administrative body or court.* Pursuant to I.C. 36-7-8-9. a person aggrieved by a decision of the Building Department may appeal as in other civil actions. The appellant must, by registered mail, give the Municipality Executive a 15 day written notice of his or her intention to appeal. This notice must concisely state the appellant's grievance. If, pursuant to I.C. 36-1-6-9, the municipality has established by ordinance to hear appeals of orders issued under ordinances, then a person aggrieved by an order may petition for review with this administrative body in accordance with the ordinance. If no such administrative body exists, then the person may petition a court for judicial review of the order.

(Ord. 2015-09, passed 8-4-2015)

MINIMUM CONSTRUCTION STANDARDS

§ 150.40 ADOPTION OF RULES BY REFERENCE.

(A) Pursuant to I.C. 22-13-2-3(b), the rules of the Indiana Fire Prevention and Building Safety Commission as set out in the following Articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this Code and shall include any later amendments to those rules.

- (1) Article 13 - Building Codes.
- (2) Article 14 - Indiana Residential Code.
- (3) Article 16 - Indiana Plumbing Code.
- (4) Article 17 - Indiana Electrical Code.
- (5) Article 18 - Indiana Mechanical Code.
- (6) Article 19 - Indiana Energy Conservation Code.
- (7) Article 20 - Indiana Swimming Pool Code.
- (8) Article 22 - Indiana Fire Code.
- (9) Article 25 - Indiana Fuel Gas Code.
- (10) Article 28 - NFPA Standards.

(B) Two copies of the above rules incorporated by reference are on file in the office of the clerk for the legislative body for public inspection as required by I.C. 36-1-5-4.

(C) The Building Commissioner and the Fire Prevention and Building Safety Commission may grant a variance to the fire safety laws and building laws adopted in this building chapter. Pursuant to I.C. 22-13-2-7(b), a variance granted by the Building Commissioner is not effective until it has been approved by the Fire Prevention and Building Safety Commission.

(Ord. 2015-09, passed 8-4-2015)

§ 150.41 LIFTING DEVICES LOCATED WITHIN A PRIVATE RESIDENCE.

(A) Pursuant to I.C. 22-12-1-22(b)(12), lifting devices, such as elevators and wheelchair lifts, located within a private residence are not regulated lifting devices. Therefore, the following standards applicable to lifting devices located within a private residence are incorporated by reference:

(1) Part 5.3, Private Residence Elevators, ANSI/ASME A17.1-2000, Safety Code for Elevators and Escalators published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016.

(2) Part 5.4, Private Residence inclined Elevators, ANSI/ASME A17.1-2000, Safety Code for Elevators and Escalators published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016.

(3) Section 5, Private Residence Vertical Platform Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016.

(4) Section 6, Private Residence Inclined Platform Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the

American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016.

(5) Section 7, Private Inclined Stairway Lifts, ASME A18.1a. 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016.

(B) Two copies of the above lifting device standards incorporated by reference are on file in the office of the clerk for the legislative body for public inspection as required by I.C. 36-1-5-4.

(Ord. 2015-09, passed 8-4-2015)

USE OF ENGINEERED ROOF TRUSSES AND FLOOR JOISTS

§ 150.45 USE OF ENGINEERED ROOF TRUSSES AND FLOOR JOISTS.

(A) This section applies only to new construction of a Class 1 structure and a Class 2 structure.

(B) (1) As used in this section, "engineered lumber roof trusses and/or floor joists" refers to a structural assembly that:

(a) Is fabricated from:

1. Wood;
2. Light gauge metal;
3. Other component materials; or
4. Any combination of materials described in divisions 1. through 3.;

(b) Has less mass cross sectional area than sawn lumber members that would be used in an equivalent application;

(c) Is assembled from combustible or noncombustible materials, or both; and

(d) Is not a vertical member and supports a roof or floor, or both.

(2) The term does not include a structural assembly that provides a minimum of one hour fire resistance when tested in accordance with ASTM Standard E119.

(3) As used in this section, "owner" means a person having control or custody of any structure to which this section applies.

(C) (1) A structure that contains engineered lumber roof trusses and/or floor joists must have a placard affixed to the structure that meets the requirements of this section.

(2) The placard shall use coding and lettering that identifies both of the following:

(a) The types of engineered lumber roof trusses and floor joists used in the structure, including truss or engineered lumber.

(b) The location of engineered lumber roof trusses and/or floor joists used in the structure including floor joists or truss roof systems.

(3) The placard may not be:

- (a) Smaller than three and one-half inches by four and one-half inches; and

(b) Larger than five inches by five and one-half inches.

(D) The placard must be permanently affixed:

(1) Below the structure's electrical meter, if the structure has electrical service; or

(2) On the left side of the front entrance four to six feet above the ground, if the structure does not have electrical service.

(E) (1) An applicant for a building permit must indicate on the application:

(a) The types of engineered lumber roof trusses and/or floor joists used in the structure:

(b) The location of the engineered lumber roof trusses and/or floor joists used in the structure.

(2) The application form for a building permit must include a place on the form for providing the information under division (1).

(F) (1) An applicant for a building permit shall not be issued a building permit unless the individual at the time of the application is issued a placard by the Building Commissioner.

(2) A fee, not to exceed \$5, shall be charged for each placard issued.

(G) (1) The Building Commissioner shall not:

(a) Approve a structure on final inspection; or

(b) Issue a certificate of occupancy for a structure;

(2) Unless a placard is affixed to the structure that meets the requirements of this section.

(H) (1) Not later than ten business days after issuing a building permit, the Building Commissioner shall send written notification to the local Fire Department and the 911 telephone call center that has jurisdiction in the area where the structure is located. The notification shall be sent by certified mail, return receipt requested.

(2) The notification must include the following information:

(a) The street address of the property.

(b) The name of the municipality and county in which the structure is located.

(c) The types of engineered lumber roof trusses and/or floor joists used in the structure.

(d) The location of the engineered lumber roof trusses and/or floor joists by area within the structure.

(I) Upon receiving a copy of the notification under division (H) of this section, the chief of the Fire Department or the chiefs designee shall:

(1) Post the information in a conspicuous place for all emergency personnel;

(2) Provide the information to any Fire Department providing mutual aid; and

(3) For Class 1 structures only, add the structure to the inspection file for follow up on a timely basis for inspection.

(J) Upon receiving a notification under division (G) of this section, the 911 telephone call center shall maintain the information on each property, by the address of the property, that uses engineered lumber roof trusses and/or floor joists. When dispatching to the listed address, the dispatcher shall notify the responding units of the information.

(K) An owner of a structure shall ensure that the placard remains affixed to the structure during the life of the structure.

(L) (1) If:

(a) The Building Commissioner provides written notice to an owner that the owner has failed to install or maintain a placard on the structure in violation of this article; and

(b) The owner fails to correct the violation not later than ten business days after receiving the written notice;

(2) The owner is liable for a civil penalty of not more than \$100 per day during the period beginning ten business days after the owner receives written notice of the violation from the unit and until the date the violation is corrected. A penalty imposed under this section may not exceed \$3,000 per structure per year.

(Ord. 2015-09, passed 8-4-2015)

UNSAFE BUILDINGS

§ 150.50 TITLE AND SCOPE.

This subchapter shall be known as the Unsafe Building Law of Clayton, Indiana, and the requirements herein apply throughout the unincorporated territory of Clayton.

(Ord. 2013-01, passed 5-9-2013)

§ 150.51 ADOPTION BY REFERENCE.

Indiana Code 36-7-9-1 through 36-7-9-28 is hereby incorporated by reference as the Unsafe Building Law of Clayton, Indiana. All proceedings within the town, for the inspection, repair and removal of unsafe buildings shall be governed by the Indiana Code and the provisions of this subchapter. In the event the provisions of this subchapter conflict with the Indiana Code, then the provisions of the Indiana Code shall control. The building standards and rules of the Indiana Fire Prevention and Building Safety Commission, as set forth in the Indiana Code and in the Indiana Administrative Code, are adopted as the building standards and rules for matters considered under the terms of this subchapter.

(Ord. 2013-01, passed 5-9-2013)

§ 150.52 ADMINISTRATION.

The Administer of the Town of Clayton is hereby authorized to administer the Clayton Unsafe Building Law and to order the repair or removal of unsafe buildings and structures in accordance with the procedures set forth herein.

(Ord. 2013-01, passed 5-9-2013)

§ 150.53 PUBLIC NUISANCE.

All building, structures or portions thereof which are determined after inspection by the enforcement authority to be unsafe, as defined in this subchapter, are hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal.

(Ord. 2013-01, passed 5-9-2013)

§ 150.54 DEFINITIONS.

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

CONDITIONS OR DEFECTS hereinafter described, 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 any 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 walking surface of any aisle, passageway, stairway, or other means of exit is so warped, worn, or loose or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic;
- (3) Whenever the stress in any materials, members or portion thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed for new buildings of similar structure, purposes or location;
- (4) 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 minimum requirements for new buildings of similar structure, purpose or location;
- (5) Whenever any portion, member or appurtenance thereof is likely to fail, to become detached or dislodged, or to collapse and thereby injure persons or property damage;
- (6) 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 permitted for such buildings;
- (7) Whenever any portion thereof has racked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;
- (8) Whenever the building or structure, or any portion thereof, because of:
 - (a) Dilapidation, deterioration or decay;
 - (b) Faulty construction;
 - (c) The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such a building;
 - (d) The deterioration, decay or inadequacy of its foundations; or
 - (e) Any other cause, is likely to partially or completely collapse;

(9) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used;

(10) 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 base;

(11) Whenever the building or structure, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members, or 50% damage or deterioration of its non-supporting member, enclosing or outside walls or coverage;

(12) Whenever the building or structure has been damaged by fire, wind, earthquake or flood or has become so dilapidated so as to become:

(a) An attractive nuisance to children; or

(b) Freely accessible to person for the purpose of committing unlawful acts;

(13) Whenever any building or structure 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 Clayton, or of any law or ordinance of the state or town relating to the condition, location or structure of buildings;

(14) Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances has in any non-supporting portion less than 50%, or in any supporting part, member, or portion less than 66% of the:

(a) Strength;

(b) Fire-resisting qualities or characteristics; or

(c) Weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location;

(15) Whenever a building structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, sanitation facilities or otherwise, is determined by the Clayton Health Department to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease;

(16) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction is determined by the Fire Department to be a fire hazard;

(17) Whenever any portion of a building or structure remains on the 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 month so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

DEPARTMENT. The Town of Clayton.

UNSAFE PREMISES means an unsafe building or structure and the tract of real property on which the unsafe building or structure is located.

(Ord. 2013-01, passed 5-9-2013)

§ 150.55 ORDER AND NOTICE.

(A) The enforcement authority is authorized to issue an order requiring any remedies described in I.C. 36-7-9-5 and containing the information and time limit required by I.C. 36-7-9-5.

(B) An order that requires sealing a building under I.C. 36-7-9-5(a) requires notification to each person holding any fee interest or life estate. For other orders issued under I.C. 36-7-8-5, each person having a substantial property interest in the unsafe premises must be notified.

(C) Notification under this section must be made in accordance with I.C. 36-7-9-25.

(Ord. 2013-01, passed 5-9-2013)

§ 150.56 HEARING AND REVIEW.

(A) Hearing and review are provided as set forth in I.C. 36-7-9-3 and I.C. 36-7-9-8. A hearing is not required to carry out an order to seal a building.

(B) However, a previously issued order to seal may be modified or rescinded only if the persons previously notified have been notified of the change or rescission by means of a written statement in the manner prescribed by I.C. 36-7-9-6. The order to seal does not become final until ten days from issuance, within which time a fee interest or life estate holder may, in writing, request a hearing.

(Ord. 2013-01, passed 5-9-2013)

§ 150.57 EMERGENCY ORDERS.

Emergency action in order to protect life, safety, or property may be taken without issuing an order or giving notice, but shall be taken in accordance with I.C. 36-7-9-9. The action is limited to the abatement of immediate danger. The town may recover the costs of the action by filing a suit in the Hendricks Circuit or Superior Court against person then holding the fee interest or a life estate in the unsafe premises. Alternatively, the enforcement authority may bring a civil action under I.C. 36-7-9-17 and I.C. 36-7-9-22, alleging the existence of unsafe premises that present an immediate danger to the community sufficient to warrant emergency action. In such case there shall be a hearing within ten days on the complaint.

(Ord. 2013-01, passed 5-9-2013)

§ 150.58 MANNER OF PERFORMANCE.

The manner of performance of work, including bids and notifications, must be in accordance with I.C. 36-7-9-11.5.

(Ord. 2013-01, passed 5-9-2013)

§ 150.59 COSTS.

The cost of the work performed under this subchapter shall be the responsibility of the persons that hold fee interests or life estates in the unsafe premises. Costs shall be determined on the basis of the factors listed in I.C. 36-7-9-12. Objections and requests for a hearing on bills submitted to responsible parties may be filed in the Hendricks Circuit or Superior Court. Unpaid costs are subject to the procedure in I.C. 36-7-9-13, and may result in a judgment against the real or personal property of the persons who are responsible for the costs.

(Ord. 2013-1, passed 5-9-2013)

§ 150.60 UNSAFE BUILDING FUND.

An Unsafe Building Fund is hereby established in the operating budget of the town in accordance with the provisions of I.C. 36-7-9-14.

(Ord. 2013-01, passed 5-9-2013)

§ 150.61 STANDARD OF WORK.

All work for reconstruction, alteration, repair or demolition shall be performed in a good, workmanlike manner according to the accepted standards and practices in the trade. The provisions of the building laws, as defined in I.C. 22-12-1-3, adopted as rules of the Fire Prevention and Building Safety Commission (675 I.A.C.), including 675 Indiana Administrative Building Code 12-4-9 and 675 Indiana Administrative Building Code 12-4-11(a), shall be considered standard and acceptable practice for all matters covered by this subchapter by the Executive Director of the Clayton Area Plan Commission.

(Ord. 2013-01, passed 5-9-2013)

§ 150.62 INSPECTION WARRANTS.

The enforcement authority may obtain an inspection warrant from the Court in cases when the owner or possessors refuse the authority permission to inspect as provided in I.C. 36-7-9-16.

(Ord. 2013-01, passed 5-9-2013)

§ 150.63 ENFORCEMENT.

The enforcement authority may request the Prosecuting Attorney to bring a civil action in the Clayton Circuit Court seeking remedies authorized in I.C. 36-7-9-19 and I.C. 36-7-9-22, including a request to the Court for forfeiture up to \$1,000.

(Ord. 2013-01, passed 5-9-2013)

§ 150.64 VIOLATIONS.

(A) It shall be a violation of this subchapter for a person to:

- (1) Remain in, use or enter a building in violation of this subchapter;
- (2) Knowingly interfere with or delay the carrying out of an order made under this section;
- (3) Knowingly obstruct, damage or interfere with persons engaged or property used in performing any work or duty under this subchapter;
- (4) Erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy or maintain any building or premises, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this subchapter or any order issued by the Enforcement Authority;
- (5) Fail to comply with I.C. 36-7-9-27 regarding information on transfers of property interest.

(B) Violators shall be subject to a fine not to exceed \$2,500 for each offense. Each day the violation continues shall constitute a separate offense.

CHAPTER 151: ZONING CODE

Section

151.01 Adoption by reference

§ 151.01 ADOPTION BY REFERENCE.

The Zoning Code of the town is hereby adopted by reference and incorporated as fully as is set out at length herein.

CHAPTER 152: FAIR HOUSING

Section

152.01 Policy statement

152.02 Definitions

152.03 Unlawful practice

152.04 Discrimination in the sale or rental of housing

152.05 Discrimination in residential real estate-related transactions

152.06 Discrimination in the provision of brokerage service

152.07 Interference, coercion or intimidation

152.08 Prevention of intimidation in fair housing cases

152.09 Equal access to housing in HUD programs

152.10 Exemptions

152.11 Administrative enforcement

§ 152.01 POLICY STATEMENT.

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

(Ord. 2016-3, passed 3-10-2016)

§ 152.02 DEFINITIONS.

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

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

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

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

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

DISCRIMINATORY HOUSING PRACTICE. An act that is unlawful under §§ 152.04 through 152.08 or I.C. 22-9.5-5.

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

FAMILIAL STATUS. One or more individuals who have not attained the age of 18 years being domiciled with a parent or another person having legal custody of such individual or the written permission of such parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

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

HANDICAP.

- (1) With respect to a person, means:
 - (a) A physical or mental impairment which substantially limits one or more of such person's major life activities;
 - (b) A record of having such an impairment;
 - (c) Being regarded as having such an impairment;
 - (d) An impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990; or
 - (e) Any other impairment defined in 910 IAC 2-3.
- (2) The term **HANDICAP** shall not include current illegal use of or addictions to a controlled substance as defined in Section 802 of Title 21 of the United States Code 910 IAC 2-3-2(14); nor does the term **HANDICAP** include an individual solely because that individual is a transvestite 910 IAC 2-3-2(14).

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

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

(Ord. 2016-3, passed 3-10-2016)

§ 152.03 UNLAWFUL PRACTICE.

Subject to the provisions of division (B) of this section, § 152.09 and I.C. 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth I.C. 22-9.5-5-1 and in § 152.04 shall apply to:

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

(B) Other than the provisions of division (C) of this section, nothing in § 152.04 shall apply to:

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

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

(b) Without the publication, posting or mailing, after notice of advertisement or written notice in violation of § 152.04(C), but noting in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other such professional assistance as necessary to perfect or transfer this title; or

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

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

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

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

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

(Ord. 2016-3, passed 3-10-2016)

§ 152.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.

As made applicable by § 152.03 and except as exempted by § 152.03(B) and § 152.09, it shall be

unlawful:

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

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

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

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

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

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

(1) That buyer or renter;

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

(3) Any person associated with that person.

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

(1) That person;

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

(3) Any person associated with that person.

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

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

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

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

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

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

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

1. An accessible route into and through the dwelling;

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

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

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

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

(Ord. 2016-3, passed 3-10-2016)

§ 152.05 DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS.

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

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

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

(a) For purchasing, constructing, improving, repairing, or maintaining a dwelling; or

(b) Secured by residential real estate.

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

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

(Ord. 2016-3, passed 3-10-2016)

§ 152.06 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICE.

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

(Ord. 2016-3, passed 3-10-2016)

§ 152.07 INTERFERENCE, COERCION, OR INTIMIDATION.

It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by sections §§ 152.03 through 152.06.

(Ord. 2016-3, passed 3-10-2016)

§ 152.08 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES.

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

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

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

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

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

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

(Ord. 2016-3, passed 3-10-2016)

§ 152.09 EQUAL ACCESS TO HOUSING IN HUD PROGRAMS.

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

(Ord. 2016-3, passed 3-10-2016)

§ 152.10 EXEMPTIONS.

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

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

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

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

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

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

(Ord. 2016-3, passed 3-10-2016)

§ 152.11 ADMINISTRATIVE ENFORCEMENT.

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

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

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

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

information.
(Ord. 2016-3, passed 3-10-2016)

TABLE OF SPECIAL ORDINANCES

Table

- I. FRANCHISES
- II. STREETS AND SIDEWALKS

TABLE I: FRANCHISES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
1-1985	5-9-1985	Grants non-exclusive franchise to Columbia Cablevision III, Ltd. to operate and maintain a community antenna television system

TABLE II: STREETS AND SIDEWALKS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
1-2007	8-9-2007	Vacates public alleyway between two tracts of land
2018-06	4-12-2018	Vacates public alleyway running between Lots 6 and 7 in the original plat of the town
2018-07	4-12-2018	Vacates public alleyway lying contiguous with and east of Lot 11 in the original plat of the town and Lot 5 in the Gardens Minor Plat; and a portion of unimproved Tennessee Street, 60 feet in width, lying between and contiguous with Lot 5 in the Gardens Minor Plat to the south and Lots 11 and 12 in the original plat of the town to the north

PARALLEL REFERENCES

References to Indiana Code

REFERENCES TO INDIANA CODE

<i>I.C. Section</i>	<i>Code Section</i>
<i>I.C. Section</i>	<i>Code Section</i>
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