

**GOODLAND, INDIANA  
CODE OF ORDINANCES  
TABLE OF CONTENTS**

**TITLE I: GENERAL PROVISIONS**

- 10. General Provisions, Penalties

**TITLE III: ADMINISTRATION**

- 30. Town Council
- 31. Town Employees
- 32. Parks and Recreation
- 33. Town Elections
- 34. Clerk-Treasurer
- 35. Financial
- 36. Economic Development

**TITLE V: PUBLIC WORKS**

- 50. General Provisions
- 51. Water
- 52. Sewer
- 53. Storm Water
- 54. Residential Solid Waste Removal

**TITLE VII: TRAFFIC CODE**

- 70. Parking Rules
- 71. Slow Moving Vehicles
- 72. Golf Carts and Off Road Vehicles

**TITLE IX: GENERAL REGULATIONS**

- 90. Nuisances and Animal Regulations
- 91. Yard Sales
- 92. Litter Control
- 93. Noise Pollution
- 94. Trees

**TITLE XI: BUSINESS REGULATIONS**

- 110. Itinerant Merchants

### **TITLE XIII. GENERAL OFFENSES**

- 130. Curfew
- 131. Weapons
- 132. Drugs and Alcohol

### **TITLE XV: LAND USE**

- 150. Building Regulations
- 151. Flood Hazard Areas

### **TITLE XVII**

- 170. Zoning

**TITLE I: GENERAL PROVISIONS**

**10. GENERAL PROVISIONS**

**CHAPTER 10: GENERAL CODE CONSTRUCTION;  
PENALTY PROVISIONS**

Section

- 10.01 Title
- 10.02 Definitions and Rules of Construction
- 10.03 Acts by Deputy or Designee
- 10.04 Code Provisions as Continuance of Existing Ordinances
- 10.05 Effect of Repeal of Ordinances
- 10.06 References Include Amendments and Penalties; Construction
- 10.07 Conflicting Provisions
- 10.08 Catchlines and Headings; Construction
- 10.09 Unlawful or Prohibited Acts Include Causing, Permitting, Concealing
- 10.10 Code Severability
  
- 10.99 Penalty Provisions

**§ 10.01 TITLE**

The provisions embraced in this and following Chapters, Articles and Sections shall constitute and be designated “The Code of the Town of Goodland, Indiana,” for which designation “Code of Ordinances,” “Code,” or “Goodland Town Code” may be substituted.

**§ 10.02 DEFINITIONS AND RULES OF CONSTRUCTION**

In the construction of this Code and of all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Town Council or the context clearly requires otherwise:

(A) Agency, when used to designate a subordinate element of government shall mean and be construed as including all offices, departments, institutions, boards, commissions, and corporations of the Town government and, when so specified, offices, departments, institutions, boards, commissions, and corporations which receive or disburse Town funds.

(B) Whenever the words “Board of Trustees,” “this Board,” “the Board” or “Town Council” are used, such words shall be construed to mean the governing body of the Town of Goodland, Indiana.

(C) Computation of time when a statute requires a notice to be given, or any other act to be done, a certain time before any motion or proceeding, there must be that time, exclusive of the day for such motion or proceeding, but the day on which such notice is given, or such act is done, may be counted as part of the time, but when a statute requires a notice to be given or any other act to be done within a certain time after any event or judgment, that time shall be allowed in addition to the day on which the event or judgment occurred.

(D) Town shall mean and be construed as if the words “Goodland, Indiana,” followed

it.

(E) Definitions given within a Chapter shall apply only to words or phrases used in such Chapter unless otherwise provided.

(F) Designee following an official of the Town shall mean the authorized agent, employee, or representative of such official.

(G) Gender- a word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations, as well as to males.

(H) May- the word may is permissive and discretionary.

(I) Month shall mean a calendar month unless otherwise expressed.

(J) Number- a word importing the singular number only, may where the context requires, extend and be applied to several persons or things as well as to one person or thing; a word importing the plural number only, may, where the context requires, extend and be applied to one person or thing, as well as to several persons or things.

(K) Oath shall mean any form of attestation by which a person signifies that he is bound in conscience to perform an act or to speak faithfully and truthfully and includes an affirmation or declaration in cases whereby law an affirmation may be substituted for an oath.

(L) Ordinances and resolutions shall mean the ordinances and resolutions of the Town of Goodland and all amendments and supplements thereto.

(M) Person shall mean and extend and be applied to associations, firms, partnerships and bodies politic and corporate as well as to individuals.

(N) Personal property shall mean any money, goods, movable chattels, things in action, evidence of debt, all objects and rights which are capable of ownership, and every other species of property except real property.

(O) Public place shall mean and include any public street, road, or highway, alley, lane, sidewalk, crosswalk, or other public way, or any public resort, place of amusement, stadium, athletic field, park, playground, public building or grounds appurtenant thereto, school building or school grounds, public parking lot or any vacant lot, the elevator, lobby, halls, corridors and areas open to the public of any store, office, or apartment building or any other place commonly open to the public.

(P) Real property shall mean land, together with all things attached to the land so as to become a part thereof.

(Q) Registered mail shall include certified mail with return receipt requested.

(R) Shall, must- the words shall or must are mandatory.

(S) Signature and subscription shall mean the name of a person, mark or symbol appended by him to a writing with intent to authenticate the instrument as one made or put into effect by him.

(T) State shall mean the State of Indiana.

(U) Words and phrases shall mean and be construed according to the common and approved usage of the language, but technical words and phrases and others that have acquired a peculiar and appropriate meaning in the law, shall be construed and understood according to such meaning.

(V) Year shall mean a calendar year unless otherwise expressed.

#### **§ 10.03 ACTS BY DEPUTY OF DESIGNEE**

Whenever a power is granted to or a duty is imposed upon a public officer or employee, the power may be performed by any authorized deputy or designee or by any person duly authorized, unless this Code expressly provides otherwise.

#### **§ 10.04 CODE PROVISIONS AS CONTINUANCE OF EXISTING ORDINANCES**

The provisions appearing in this Code, insofar as they relate to the same subject matter and are substantially the same as those ordinance provisions previously adopted by the Town and existing at the effective date of this Code, shall be considered as restatements and continuations thereof and not as new enactments.

No new ordinance shall be construed to repeal a former ordinance, as to any offense committed against the former ordinance, or as to any act done, any penalty, forfeiture, or punishment incurred, or any right accrued, or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or done, or any penalty, forfeiture, or punishment so incurred or any right accrued, or claim arising before the new ordinance takes effect; save only that the proceedings thereafter had shall conform, so far as practicable, to the ordinances in force at the time of such proceedings; and if any penalty, forfeiture, or punishment be mitigated by any provisions of the new ordinance, such provision may, with the consent of the party affected, be applied to any judgment pronounced after the new ordinance takes effect.

(1985 Code, § 1-1-4)

#### **§ 10.05 EFFECT OF REPEAL OF ORDINANCES; REVIVAL**

Neither the adoption of this Code nor the repeal hereby of any ordinance of the Town shall in any manner affect the prosecution for violation of ordinances, which violations were

committed prior to the effective date hereof, nor be construed as a waiver of any license or penalty at the effective date due and unpaid under such ordinance, nor be construed as affecting any of the provisions of such ordinance relating to the collection of any such license or penalty or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof, required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereof appertaining shall continue in full force and effect.

Whenever any ordinance repealing a former ordinance, clause or provision is repealed, such repeal shall not be construed as reviving such former ordinance, clause or provision, unless expressly provided therein.

**§ 10.06 REFERENCES INCLUDE AMENDMENTS AND PENALTIES;  
CONSTRUCTION**

Any reference in this Code to an ordinance or provision of this Code shall mean such ordinance or provision as may now exist or as hereafter amended.

Any reference in this Code to Chapters, Sections shall be to the Chapters and Sections of this Code unless otherwise specified.

Any reference to any amendment of any Section of this Code containing provisions for which a penalty is provided in another Section, the penalty so provided in such other Section shall be held to relate to the Section so amended or the amending Section whether reenacted in the amendatory ordinance or not, unless such penalty is specifically repealed therein.

**§ 10.07 CONFLICTING PROVISIONS**

If the provisions of different Chapters, or Sections of this Code conflict with or contravene each other, the provisions of each Chapter, or Section shall prevail as to all matters and questions growing out of the subject matter of that Chapter, or Section.

If clearly conflicting provisions are found in different Sections of the same Chapter, the provisions of the Section last enacted shall prevail unless the construction is inconsistent with the meaning of that Chapter.

**§ 10.08 CATCHLINES AND HEADINGS; CONSTRUCTION**

All designations and headings of Chapters, and Sections are intended only for convenience in arrangement and as mere catchwords to indicate the contents of such Chapters, or Sections, whether printed in boldface type or italics. They shall not be deemed or taken to be any part or title of such Chapters, Sections; nor unless expressly so provided, shall they be so deemed upon amendment or reenactment; nor shall they be construed to govern, limit, modify, alter or in any other manner affect the scope, meaning or intent of any of the provisions of this Code.

**§ 10.09 UNLAWFUL OR PROHIBITED ACTS INCLUDE CAUSING, PERMITTING OR CONCEALING**

Whenever in this Code any act or omission is made unlawful or prohibited it shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

**§ 10.10 CODE SEVERABILITY**

It is declared to be the intention of the Town Council that the Sections, Subsections, paragraphs, sentences, clauses, phrases and words of this Code are severable. If any Section, Subsection, paragraph, sentence, clause, phrase or word is declared unconstitutional or otherwise invalid by the lawful judgment or decree of any court of competent jurisdiction, its unconstitutionality or invalidity shall not affect the validity of any of the remaining Sections, Subsections, paragraphs, sentences, clauses, phrases and words of this Code, since the same would have been enacted by the Town Council without and irrespective of any unconstitutional or otherwise invalid Section, Subsection, paragraph, sentence, clause, phrase or word being incorporated into this Code.

*(Statutory Reference: I.C. § 36-1-3-8(a)(10))*

**§ 10.99 PENALTY**

(A) Penalty Provision for violations of the code.

1. In all cases where the same offense is made punishable or is created by different clauses or sections of an ordinance the prosecuting officer may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense; provided, that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

2. Whenever a minimum but not maximum fine or penalty is imposed, the court may in its discretion fine the offender any sum exceeding the minimum fine or penalty so imposed but not exceeding two thousand five hundred dollars (\$2500.00) for each offense.

3. Whenever the doing of any act or the omission to do any act constitutes a breach of any section or provision of an ordinance, and there shall be no fine or penalty declared for such breach, any person found to have violated such section or provision shall be fined not more than two thousand five hundred dollars (\$2500.00) for each offense.

4. A separate offense will be deemed committed on each day on or which a violation occurs or continues.

(B) Any Section of the code which refers to the penalty provision of this division may be admitted by the violator before the Clerk-Treasurer who shall serve as Violations Clerk, and pay the civil penalty described in this section in lieu of the filing of an ordinance violation. The maximum civil penalty which may be paid to the Violations Clerk is \$250.00. In the event the violator does not wish to admit the violation and pay the civil penalty, or in the event that the civil penalty exceeds \$250.00, the violation shall be filed in court, and the civil penalty described in this



section shall be assessed upon judgment of an ordinance violation by the court.

(C) *Specific Penalties.*

(1) For violations of § 32.05, Prohibiting Pedestrians on the Racetrack:

(a) A person who violates the provisions of this Section shall be fined Two Hundred Fifty Dollars (\$250.00).

(Ordinance No. 2004-10; passed September 20, 2004)

(2) For violations of § 32.06, Skateboards and Roller Blades:

(a) A person who violates the provisions of this Section shall be fined One Hundred Dollars (\$100.00).

(Ordinance No. 2009-10, passed August 17, 2009)

(3) For violations of § 32.07, Fishing in the Town Pond:

(a) A person who violates the provisions of the Section shall be fined Two Hundred Dollars (\$200.00) per fish found in the offender's possession.

(Ordinance No. 2011-12, passed August 15, 2011)

(4) For violations of § 50.02, Sharing Utilities:

(a) A person who violates the provisions of this Section shall be fined Two Hundred Fifty Dollars (\$250.00). The penalty may be enforced against either or both, the person providing the Service and/or the person accepting the Service.

(Ordinance No. 2015-3, passed May 18, 2015)

(5) For violations of § 51.01, Water Conservation:

(a) A person who violates the provisions of this Section shall be fined Two Hundred Fifty Dollars (\$250.00).

(Ordinance No. 1988-3, passed July 18, 1988)

(6) For violations of § 51.02, Unauthorized Water Use:

(a) A person who violates the provisions of this Section shall be fined Two Hundred Fifty Dollars (\$250.00).

(Ordinance No. 1995-8-5, passed August 21, 1995)

(7) For violations of § 51.03, Private Wells Prohibited:

(a) A person who violates the provisions of this Section shall be fined Two Hundred Fifty Dollars (\$250.00).

(Ordinance No. 2005-11, passed June 20, 2005)

(8) For violations of § 51.04, Backflow Prevention:

(a) A person or entity who violates this Section shall be fined \$25.00 per day per connection that violates this Section.

(Ordinance No. 2016-2, passed January 18, 2016).

(9) For violations of § 70.01, Damaging Streets:

(a) A person who violates the provisions of this Section shall be fined One Hundred Dollars (\$100.00).

(10) For violations of § 70.02, Time Limits for Parking:

(a) A person who violates the provisions of this Section shall be fined Fifty Dollars (\$50.00).

(Ordinance No. 1998-3, passed April 20, 1998)

(11) For violations of § 70.03, Parking on Benton Street:

(a) A person who violates the provisions of this Section shall be fined One Hundred Dollars (\$100.00).

(Ordinance No. 2017-1120, passed November 20, 2017; 1984 Code, § 7-1, amending similar provision passed in 1937)

(12) For violations of § 70.04, Handicap Parking:

(a) A person who violates the provisions of this Section shall be fined One Hundred Dollars (\$100.00).

(Ordinance No. 2007-2, passed June 18, 2007, amending Ordinance No. 2004-14, passed 2004; amending Ordinance No. 2000-9-1, passed August 21, 2000)

(13) For violations of § 70.05, Parking of Semi-Tractors and Trailers:

(a) A person, corporation, or entity, which violates the provisions of this Section shall be fined One Hundred Dollars (\$100.00).

(Ordinance No. 2009-13, passed December, 2009; amending Ordinance No. 2009-1, passed January 19, 2009; amending Ordinance No. 2004-12, passed September 20, 2004; amending Ordinance No. 1997-4, passed December 15, 1997; amending Ordinance No. 1996-13, passed May 20, 1996; amending Article 7-3 of the 1984 Code)

(14) For violations of § 72.01, Golf Carts and Off Road Vehicles

(a) A person who violates the provisions of this Section shall be fined One Hundred Fifty Dollars (\$150.00).

(Ordinance No. 2009-12, passed October 19, 2009; Ordinance No. 2007-12, passed July 16, 2007)

(15) For violations of § 90.02, Animal Regulations:

(a) A person who violates the provisions of this Section shall be fined One Hundred Dollars (\$100.00) per offense.

(Ordinance No. 2005-8, passed April 18, 2005)

(16) For violations of § 90.03(D), Weeds and Grasses:

(a) A person who violates the provisions of this Section shall be fined One Hundred Dollars (\$100.00).

(Ordinance No. 2004-4, passed July 19, 2004; Ordinance No. 2003-317B, passed; Ordinance No. 1998-12, passed October 19, 1998)

(17) For violations of § 90.03(F), Burning:

(a) A person who violates the provisions of this Section shall be fined One Hundred Fifty Dollars (\$150.00).

(Ordinance No. 2005-6, passed March 21, 2005)

(18) For violations of § 90.03(G), Offensive Odors:

(a) A person who violates the provisions of this Section shall be fined One Hundred Dollars (\$100.00).

(Ordinance No. 2000-320, passed January 15, 2001)

(19) For violations of § 90.03(H), Noise Pollution:

(a) A person who violates the provisions of this Section shall be fined One Hundred Dollars (\$100.00).

(Ordinance No. 2000-320, passed January 15, 2001)

(20) For violations of § 90.03(K), Trash Containers:

(a) A person who violates the provisions of this Section shall be fined Fifty Dollars (\$50.00).

(Ordinance No. 2019-0415, passed April 15, 2019)

(21) For violations of § 90.04(A), Prohibiting Storage of Junk Vehicles:

(a) A person who violates the provisions of this Section shall be fined Fifty Dollars (\$50.00).

(Ordinance No. 2017-5)

(22) For violations of § 91.01, Yard Sales:

(a) A person who violates the provisions of this Section shall be fined Seventy-five (\$75.00).

(Ordinance No. 2011-13, passed October 17, 2011)

(23) For violations of § 92.01, Dumping at the Sewer Plant:

(a) A person who violates the provisions of this Section shall be fined Two Hundred Fifty Dollars (\$250.00).

(Ordinance No. 2018-1217C, passed December 17, 2018)

(24) For violations of § 93.01, Trees and Shrubs:

(a) If said trees are not trimmed within the time of the five days' notice, the owner of said real estate shall be fined \$100.00.

(Article 10-1 of the 1984 code, amending 1889 provision)

(25) For violations of § 110.01, Peddlers:

(a) A person/business entity who violates this Section shall be fined One Hundred Dollars (\$100.00).

(Ordinance No. 2016-4, passed June 20, 2016)

(26) For violations of § 131.01, Prohibiting Dangerous Devices:

(a) A person who violates the provisions of this Section shall be fined Two Hundred Fifty Dollars (\$250.00).

(Ordinance No. 2005-3, passed January 17, 2005)

(27) For violations of § 132.02, Tobacco and Nicotine Use:

(a) A person who violates the provisions of this Section shall be fined Fifty Dollars (\$50.00).

(Ordinance No. 2018-1217A, passed December 17, 2018)

(28) For violations of Chapter 150, Building Code:

(a) A person who violates the provisions of this Section shall be fined Two Hundred Fifty Dollars (\$250.00).

(Ordinance No. 2007-5, passed October 15, 2007)

(29) For violations of Chapter 170, Zoning:

(a) A person who violates this Chapter or fails to comply with any of its requirements shall be fined not less than Twenty Dollars (\$20.00) and not more than Three Hundred Dollars (\$300.00).

(28) For violations of Ordinance No. 2019-0520, Unauthorized Sewer Discharge:

(a) A person who violates the provisions of this Section shall be fined Two Hundred Fifty Dollars (\$250.00).

(Ordinance No. 2019-0520, passed May 20, 2019)

**Cross-reference:** *Violations Clerk, see § 31.15*

**Statutory reference:** *see I.C. 33-36-2-2, 33-36-2-3, 33-36-3-1, 36-1-3-8(a)(10)*

(Ordinance No. 2011-12, passed November 21, 2011; Ordinance No. 2016- , passed March 21, 2016; amended by Ordinance No. 2020-0921A, passed September 21, 2020)

**TITLE III: ADMINISTRATION**

- 30. TOWN COUNCIL**
- 31. TOWN EMPLOYEES**
- 32. PARK AND RECREATION**
- 33. TOWN ELECTIONS**
- 34. CLERK-TREASURER**
- 35. FINANCIAL**

## **CHAPTER 30: TOWN COUNCIL**

### Section

30.01 Town Council

### **§ 30.01 TOWN COUNCIL**

(A) The three-member Town Council of Goodland, Indiana, under IC 36-5-1-1 et seq. is the town legislative body.

(B) Regular meetings of the legislative body shall be held the third Monday of each month at 7:00 P.M. C.S.T. in the Town Hall.

(C) Special meetings may be called by the legislative body if the public interest requires.

## CHAPTER 31: TOWN EMPLOYEES

### Section

- 31.01 Employee Benefits
- 31.02 Drug Free Workplace
- 31.03 Town Marshal
- 31.04 Marshal Reserve Program
- 31.05 Nepotism

### § 31.01 EMPLOYEE BENEFITS

#### (A) Definitions

1. "Department Head" shall mean the Street and Water Superintendent, Sewer Superintendent, Town Marshal, or Clerk-Treasurer, all of which are by definition a Permanent Full Time Employee for the purposes of this Section.

2. "Employee," for the purpose of this Ordinance alone, shall refer only to Full Time Permanent Employees.

3. "Extended Family" shall mean the employees: (i) immediate family; (ii) parents; (iii) siblings; (iv) any children of immediate family, parents, or siblings; (v) parents-in-law; or (vi) stepparent or stepsibling.

4. "Full Time" means a person employed with the intention that the person will generally work thirty-five (35) actual work hours exclusive of breaks per calendar week; who is designated by the employee's Department Head as a full-time employee for the purposes of benefits; and whose status is approved by the Town Council.

5. "Hired" shall mean the first day upon which the employee earned pay and was designated as a Permanent Full-Time employee. Therefore, a part-time or temporary employee that is later designated as a Permanent Full-Time employee, shall be considered hired as of that first paid day in their new Permanent Full-Time designation.

6. "Immediate Family" shall mean the employee's spouse, child, or stepchild.

7. "Part Time Employee" shall mean any person who is not a full-time employee.

8. "Pay Period" shall mean a calendar week, beginning at 12:00 a.m. on Sunday and concluding at 11:59 p.m. on Saturday, consisting of five (5) working days. For the purposes of determining days off with pay, each day shall include eight (8) hours, a total of forty (40) working hours per week.

9. A Department Head shall not hire a person or promote a person, into a Permanent Full-Time position, without the prior approval of the Town Council. However, the Town Council may elect to make a person's status as a Permanent Full-Time employee retroactive.

#### (B) Work Time

1. The following work periods are established for all the various full-time employees of the Town:

a. All hourly paid employees shall be compensated on the basis of a 40-hour work period unless otherwise reflected on the salary ordinance. The scheduled work week shall consist of 40 hours in the form of five eight-hour shifts, excluding time for lunches. No overtime compensation shall be given until after 40 hours has been actually worked in any work



period, with such overtime hours of work being measured in no less than one-half hour increments.

b. Salaried employees. The following positions shall be deemed salaried: Clerk-Treasurer, Chief Marshal, Street and Water Superintendent, and the Sewer Superintendent. Further, the town hereby adopts federal specifications for salaried employees as established by the Fair Labor Standards Act, in that salaried employees shall be paid their set salary if they work more or less hours than the usual forty (40) hour scheduled work week.

2. Overtime shall be paid to all hourly paid employees at an hourly rate of time and one half for hours actually worked over forty (40) hours in any pay period. No employee shall be paid for overtime without prior approval of the employee's Department Head.

3. No employee shall work less than eight (8) hours on a given workday, without the prior approval of the employee's Department Head.

(C) Vacations

1. All salaried and hourly paid employees of the Town, who are on the payroll of the Town in any year, shall receive vacation as follows:

a. Employees who have completed one (1) year of continuous service shall receive ten (10) paid days leave as Vacation Days.

b. Employees who have completed five (5) years of continuous service shall receive fifteen (15) paid days leave as Vacation Days.

c. Employees who have completed ten (10) years of continuous service shall receive twenty (20) paid days leave as Vacation Days.

2. Employees shall accrue vacation days on January 1st of each fiscal year, based on their years of service, except as provided below.

a. Employees may not take and do not earn vacation during their first year of employment.

b. Employees hired before July 1st shall earn five (5) vacation days on their one year anniversary date and shall continue earning vacation days on January 1st of each year following their anniversary date in accordance with Section A.

**EXAMPLE:** An employee is hired into, or promoted into, a Permanent Full Time Employee position on February 1, 2004. On February 1, 2005, the employee shall earn five (5) vacation days. On January 1, 2006, the employee shall earn ten (10) vacation and earn all future days on January 1st of each year.

c. In order to earn vacation days, an employee must work at least one day on or following January 1st of a given year. In the event the employee is on vacation, sick leave, extended sick leave, or any other paid or unpaid leave, the vacation days shall not be earned until the employee's first working day after January 1.

3. The most recent date hired shall be considered the anniversary date for employees with breaks in service wherein the employee was not a Permanent Full Time Employee of the Town but was subsequently rehired.

4. Vacation days may not be taken on an hourly basis, but rather must be used in whole day increments.

5. An employee may carry over up to five (5) vacation days from a prior year, to be added to the vacation days earned by the employee on January 1st of the new year.

a. On January 1st of each year, if an employee had more than five (5) unused vacation days from the previous year, those days shall be forfeited without pay.

b. On or before the January Council Meeting of each year, all

employees shall submit to the Council, a proposed vacation schedule, which schedules all paid vacation time for the calendar year. Either the Council or the employee, may adjust the proposed vacation schedule, to meet the needs of the Town or the Employee.

6. A Department Head is not obligated to grant an employee's request to use vacation days, if the request unreasonably conflicts with the needs of the Town or another employee's previously scheduled vacation, or is requested less than two (2) weeks in advance, otherwise the Department Head should make reasonable efforts to accommodate the employee's request.

(D) Sick Leave

1. Employees shall receive five (5) days Sick Leave with pay each year, accruing on the January 1st following their first full year of employment. Any unused Sick Leave shall expire and not be carried over from year to year. Sick leave available in any calendar year shall be granted only for sickness or injury of an employee or member of the employee's immediate family or to attend a dental and medical appointments, where the employee is the patient.

2. After exhausting all sick days, personal days, and vacation days, an employees may receive up to eight (8) weeks Extended Sick Leave with pay, for personal injury or illness lasting in excess of one (1) week when absence from work is ordered by a Physician previously approved by the Council.

a. The affected employee or their duly authorized Health Care Representative or Attorney-in-Fact (as defined by Indiana Code), may request approval for Extended Sick Leave to the Council by making such request the same in writing, which consents to and agrees to pay for an examination by a Physician approved by the Council.

b. The Physician shall be authorized to report to the Council: (1) whether the employee is physically unable to perform their normal duties; (2) the minimum duration of leave required; (3) whether it is medically necessary for the employee to be absent from work; (4) whether the employee is capable of returning to work with limited duties and reasonable accommodations, which should be specified by the Physician, and (5) whether or not the employee may be able to return to work in less than eight (8) weeks.

c. The Council shall then discuss in Executive Session the contents of the letter, and vote in a public meeting whether to approve the Extended Sick Leave and the amount of time authorized, which may be granted retroactively. If an employee is granted less than eight (8) weeks sick leave, they may reapply for Extended Sick Leave, pursuant to these provisions, as many times as necessary until the eight (8) weeks is exhausted.

d. The employee may not receive in excess of eight (8) weeks paid Extended Sick Leave for any one related injury or illness.

e. Once an employee has exhausted their eight (8) weeks of Extended Sick Leave, they may not apply for Extended Sick Leave, for any reason, until they have returned to work for one year.

3. Sick Leave may be used in whole hour increments and should be requested in advance, when possible.

(E) Employee Insurance. Life, accident, medical and hospitalization insurance shall be provided to eligible employees in amounts and with such insurance companies, as shall be determined and approved by the Town Council, as set forth in the minutes and records of the Council with such policies to be on deposit with the Clerk-Treasurer and copies of same to be

provided to employees or made available to them upon request.

(F) Holidays.

1. The following days shall be observed as paid Holidays off for the benefit of Employees: New Year's Day, Presidents' Day, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day.

2. In the event the holiday falls upon the employee's scheduled day off, the Clerk-Treasurer shall administratively designate an alternative day for observance.

(G) Bereavement Leave. All employees of the town shall receive bereavement leave with pay up to a maximum of three (3) days on the workdays taken within a reasonable time following the death of the employee's Extended Family. Employees shall not receive bereavement leave during periods of absence from work for any reason, including layoffs, sick leave, holidays, vacations, and any other authorized or unauthorized absence.

(H) Retirement Fund. A retirement fund shall be provided to eligible employees in amounts and with such retirement funds, as shall be determined and approved by the Town Council, as set forth in the minutes and records of the Council, with such funds to be on deposit with the Clerk-Treasurer and forwarded to such retirement fund. Copies of the fund program, employee and employer's contribution will be made available to employees upon request.

(I) Termination Notice.

1. An employee who gives less than ten (10) working days advance notice of their intent to terminate employment shall be entitled only to their wages accrued in the pay periods falling between the last pay period wherein the employee received wages in the form of a payroll check and the last day the employee performed scheduled work for the Town. No other benefits provided by the Town that may be accruable or payable shall be authorized or allowed in the preceding circumstances.

2. An employee who gives at least ten (10) working days advance notice shall be entitled to payment for unused, but earned vacation days as of the last working day.

3. Any employee who is absent from scheduled duties for five (5) consecutive scheduled work days without notifying the office of the Clerk-Treasurer and without receiving approval for such absence from said office shall be deemed to have terminated such employee's employment with the Town and all wages and benefits shall thereupon immediately cease.

(J) Personal Leave.

1. Employees shall be entitled to two (2) days per calendar year with pay for absences deemed by the employee as Personal Days.

2. Employees with less than one (1) year of service, shall earn Personal Days on their first-year anniversary date, then on January 1st of each year thereafter.

3. Personal Days are earned on January 1st of each year and are not cumulative from year to year.

4. Employees should request Personal Days off in advance from their Department Head whenever possible.

5. Personal days may be taken on an hourly basis.

(K) Hours Worked on a Paid Day Off.

1. Whenever an employee works on a day on which a Vacation Day, Holiday, Personal Day, Bereavement Day, Sick Leave or Extended Sick Leave, is claimed by the employee, the amount of hours credited for the paid time off together with the actual hours worked shall not exceed eight (8) hours. To the extent that claiming such paid day off after working some period of time, causes the employee to claim overtime, the paid time off shall be reduced to prevent exceeding the eight (8) hour limit. EXAMPLE: An employee works three (3) hours and needs to leave work early and requests permission for their Department Head to use a Vacation Day. The Vacation Day will have allowed the employee to earn five (5) paid hours leave, together with three (3) hours worked, for a total of eight (8) hours.

2. If an employee is called out to work, due to an emergency or for the needs of the Town, on a previously scheduled Holiday or Vacation Day, the Department Head may approve overtime for the hours worked, irrespective of this provision.

(L) Flex Time.

1. Supervisors may, at their discretion, cause hourly paid employees under their supervision to begin work earlier or later and/or split scheduled hours to satisfy the usual daily work requirement standard of eight hours.

2. Salaried employees who are exempt from overtime compensation and are required to maintain mandatory hours throughout the work week, shall be granted the latitude to schedule flex time, so long as the hours are used by the end of the year.

(Ordinance No. 2010-7, passed October 18, 2010)

§ **31.02 DRUG FREE WORKPLACE**

(A) Policy

1. The Town requires all employees to report for work in a condition that allows them to perform their duties in a safe and efficient manner. Employees will not be permitted to work under the influence of alcohol or with prohibited drugs in their systems thereby affecting job performance.

2. Violation of any provision of this Section will be considered just cause for disciplinary action up to and including discharge, even for a first offense. In addition, refusal to adhere to any part of the policy may be considered an act of insubordination and also may lead to disciplinary action up to and including discharge.

3. This Section and related procedures may be modified by the Town at any time in order to comply with any applicable federal, state or local laws or to better serve the needs of the Town.

(B) Prohibited Drugs

1. Prohibited drugs are defined as illegal substances, including controlled substances as defined in the Controlled Substance Act (21 U.S.C. 8120 and the Code of Federal Regulations (21 C.F.R. 1308.11-1308.15) and prescription-controlled substance which have not been prescribed by a licensed physician or dentist for specific treatment purposes for the employee. Abuse of prescription or over-the-counter drugs will also be treated as a substance abuse problem

under this Section.

2. This Section prohibits the illegal use, sale, transfer, distribution, possession, or unlawful manufacture of narcotics, drugs, or other controlled substances while on the job or on Town premises (including vehicles used for Town business). These include but are not limited to marijuana, cocaine, crack, PCP, heroin, LSD, amphetamines, methamphetamine (or two or more precursors thereof), hallucinogens, and barbiturates. Any illegal substances found on such premises will be turned over to the state police and may lead to criminal prosecution.

3. Any employee who intends to transport or possess Anhydrous Ammonia, shall inform the Clerk-Treasurer, in writing, of the amount involved, the time frame that the employee will transport or possess it, and the reason for doing so.

(C) Alcohol

1. The use of alcohol on the job or on Town premises is prohibited, unless such use is non-abusive and is part of an authorized official event held off Town premises. The use of alcohol in vehicles used for Town business is strictly prohibited. Operating a vehicle with a measurable amount of alcohol or a controlled substance, shall be a violation of this Section, except that controlled substances prescribed by a physician, which do not impair the operating of the vehicle is permissible.

2. Alcohol possession applies to all open or unsealed alcoholic beverage containers. Such containers are not allowed on the job or on Town premises, unless their possession is part of an authorized official event. Possession of such containers in vehicles used for Town business is never authorized.

(D) Reporting Violations

1. Employees must as a condition of employment abide by the terms of this Section and report in writing, any conviction under a criminal drug statute for violations occurring on or off Town premises when conducting Town business, to the Town Council President, within five (5) business days after the conviction. The Town Council President will then notify the Town Council members within ten (10) days after receiving notice from either the employee or from another source. (These requirements are mandated by the Drug-Free Workplace Act of 1988.)

2. An employee who is involved with off the job illegal drug activity may be considered in violation of this Section. In determining whether disciplinary action will be imposed for this activity, the Town will consider the circumstance of each incident, including but not limited to any adverse effect the employee's actions may have on its customers, other employees, the public, or the Town's reputation and image.

3. Any questions regarding the reporting of violations should be directed to the Clerk-Treasurer.

(E) Employee Rehabilitation

1. Health maintenance is primarily a personal responsibility and it is the individual's responsibility to correct unsatisfactory job performance or behavioral problems caused by alcohol or drug abuse. In an effort to assist employees, the Town will provide various means for employees and their family members to remain aware of the dangers of substance abuse in the workplace and to overcome drug and alcohol related problems.

2. Employees with a personal alcohol or drug related problem are encouraged to volunteer to participate in a rehabilitation program, before work performance becomes affected.

3. Participation in a rehabilitation program will not be considered cause for disciplinary action. Employees will not be disciplined merely because of participation in a rehabilitation program or excused from the disciplinary consequences of conduct which is in violation of this Section or any other Town policies or job requirements.

4. Any employee identified through a Town investigation as having a substance abuse problem also may not avoid disciplinary action by requesting to participate in an approved rehabilitation program.

5. Circumstances in each case will be evaluated to determine the course of action to be taken (i.e., whether the employee will be offered the opportunity to participate in a rehabilitation program and/or will be subject to discipline.)

(F) Testing

1. The Town will not ask employees to submit to random alcohol or drug tests.  
2. Alcohol or drug tests may be required for employees in the following circumstances:

a. When unsatisfactory job performance or other employee behavior is reasonably indicative of substance abuse.

b. During and after participation in a drug or alcohol rehabilitation program for a reasonable period of time as determined by the Town.

c. When required by law.

3. If an employee of the Town ("reporting employee") identifies a co-employee with a behavior pattern and/or job performance reasonably indicative of substance abuse ("affected employee"), the reporting employee shall notify the Town Clerk-Treasurer or the President of the Town Council, who shall bring the issue to the attention of the Town Council during an Executive Session. The Council may recommend that the employee have a fitness for duty examination by a physician designated by the Town. The physician will determine whether a fitness for duty examination is necessary and whether alcohol or drug tests will be required.

4. Pre-employment drug testing may be utilized as a part of the pre-employment physical. The method of testing will be determined by the Town Council. Applicants who test positive for prohibited drugs in their systems will not be offered employment. Any questions regarding reapplication opportunities should be directed to the Clerk-Treasurer or Town Council.

(Ordinance No. 2004-6, passed August 16, 2004)

**§ 31.03 TOWN MARSHAL**

(A) The Goodland Police Department shall have up to three (3) deputy marshals and six (6) reserve deputy marshals.

(B) Town Marshal and his or her deputies shall be subject to a one-year probationary period during which time the officer's performance will be evaluated by the Town Council and the Town Marshal. Prior to the officer's one-year anniversary, the Town Council shall be apprised of the officer's performance by the Town Marshal, or, if it is the Town Marshal's first year of employment, the Town Council will review his or her performance. After this evaluation, the Town

Council shall notify the officer in writing prior to his first-year anniversary whether his or her job performance has been satisfactory. If an officer is so notified that his or her performance is unsatisfactory, his or her employment shall immediately cease. Otherwise, at the expiration of the probationary period, the officer is considered regularly employed by the Town.

(C) It shall be the duty of the Town Marshal to seek applicants and interview potential deputy marshal candidates. When the Town Marshal has completed that task, he or she shall report to the Town Council his recommendation, and the Town Council will ultimately decide whether the candidate recommended shall receive an offer of employment.

(D) The terms of service of deputy marshals are that they serve part time and each shall serve with compensation. Reserve Deputy Marshals shall serve as needed and without compensation.

(E) The Deputy Marshal Position for the purposes of the Annual Wage Ordinance, shall be funded and used, primarily, to pay for law enforcement coverage to Deputy Marshals on the regularly scheduled days off of the Town Marshal. If the Town Marshal is unable to locate a Deputy Marshal to work on the Marshal's regular day off, then the Town Marshal may, at his discretion, work on the day off to provide Supplemental Coverage to the residents of Goodland, and the Clerk-Treasurer shall compensate him at his appropriate rate of pay.

(F) In the event that the Town Council agrees to send the Town Marshal and/or his or her deputy marshal to receive training, prior to receiving any such training, the officer shall be required to sign an agreement agreeing to repay to the Town the costs of any such training, in the event that the officer does not remain in the employ of the Town for one (1) year after completion of the training course. In the event that the officer leaves the employ of the Town within one (1) year after completion of training at the Indiana Law Enforcement Academy, whether voluntarily or involuntarily, the Town shall be reimbursed by said officer by an amount equal to the cost of the academy training multiplied by a percentage of the time remaining in the one-year period.

(G) The Town Marshal may dismiss a deputy marshal or reserve deputy marshal at any time. However, a deputy marshal or reserve deputy marshal who has been employed by the Town for more than six (6) months after completing the minimum basic training requirements adopted by the law enforcement training board under Indiana Code 5-2-1-9 may be dismissed only if the procedure prescribed by Indiana Code 36-5-7-3 is followed.

(Ord. No. 1997-3, passed September 15, 1997; amended by Ordinance No. 2005-14, passed September 19, 2005; amended by Ordinance No. 2009-11, passed November 16, 2009)

#### **§ 31.04 MARSHAL RESERVE PROGRAM**

(A) The Town Marshal is authorized to create and operate a Town Marshal Reserve Program at the discretion of the Town Marshal.

(B) A Reserve Marshal shall be a law enforcement officer for the Town and is

empowered by the Town to enforce Ordinances and exercise all law enforcement powers, to the fullest extent of the laws of the State of Indiana and the United States.

(C) The Town Marshal shall insure that all Reserve Marshals comply with the requirements of the Indiana Law Enforcement Academy.

(D) A Reserve Marshal shall be an unpaid employee for the Town and shall not be entitled to compensation for his services or entitled to benefits.

(E) The Town Marshal shall create a policy to determine the eligibility requirements for such applicants and to regulate their hiring and employment.

(F) As a volunteer, the Reserve Marshal is employed at the will of the Town Marshal and the Town.

(Ordinance No. 2005-13, passed August 15, 2005)

#### **§ 31.05 NEPOTISM AND CONTRACTING WITH A UNIT BY A RELATIVE**

(A) The Town's Nepotism Policy is hereby established effective July 1, 2012 by adopting the minimum requirements provisions of Indiana Code 36-1-20.2, and including all future supplements and amendments thereto which become law from time to time, and making them a part hereof as if fully set out herein. In addition, a copy of Indiana Code 36-1-20.2 Nepotism in effect on July 1, 2012 is attached as an Appendix.

(B) The Town's Contracting with a Unit by a Relative Policy is hereby established effective July 1, 2012 by adopting the minimum requirements provisions of Indiana Code 36-1-21, and including all future supplements and amendments thereto which become law from time to time, and making them a part hereof as if fully set out herein. In addition, a copy of the Indiana Code 36-1-21 Nepotism in effect on July 1, 2012 is attached as an Appendix.

(C) A single member of the legislative body cannot act for the body to make work assignments, compensation, grievances, advancement or a performance evaluation without prior authority of a majority of the body and therefore without such authority by the majority he/she will not be in the direct line of supervision. See, IC 36-4-6-11, IC 36-5-2-9.4.

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

(E) All elected and appointed officials and employees of the Town are hereby directed to cooperate fully in the implementation of the policies created by this Section and in demonstrating compliance with these same policies.



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

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

(H) A copy of the provisions of Indiana Code 36-1-20.2 and Indiana Code 36-1-21 effective July 1, 2012 may be found in the Appendix.

(I) Two (2) copies of Indiana Code 36-1-20.2 and Indiana Code 36-1-21, and as supplemented or amended, are on file in the office of the Clerk-Treasurer for public inspection as maybe required by Indiana Code 36-1-5-4.

(Ordinance No. 2012-5, passed June 18, 2012)

## CHAPTER 32: PARKS AND RECREATION

### Section

- 32.01 Advisory Park Board
- 32.02 Athletic Advisory Committee
- 32.03 Recreation
- 32.04 School Use Policy
- 32.05 Pedestrians on the Racetrack
- 32.06 Skateboards and Rollerblades
- 32.07 Fishing

### § 32.01 ADVISORY PARK BOARD

(A) The Goodland Advisory Park Board shall consist of five (5) members, and shall assist with the planning, maintenance, organization, and enhancement of park services to the citizens of the Town by conducting regular meetings and providing recommendations to the Town Council for their consideration.

(B) The members of the Goodland Advisory Park Board shall be selected as follows:

1. Members 1, 4 and 5: To be appointed by the Town Council, on or before January 1st of the first year that any such position shall become available.
2. Members 2 and 3: To be appointed by the Library Board of Trustees, on or before January 1st of the first year that any such position shall become available.

(C) Except for its first five (5) members, the members of the Goodland Advisory Park Board shall serve staggered four (4) year terms.

(Ordinance No. 1999-12-1, passed December 20, 1999; amended by Ordinance No. 2000-417, passed April 17, 2000)

### § 32.02 ATHLETIC ADVISORY COMMITTEE

(A) There is now created and established a standing committee, under the supervision of the Park Board, which shall hereafter be known as the Athletic Advisory Committee (the "Committee").

(B) The Committee shall consist of seven (7) members who are adult residents of the Town.

(C) At least one (1) member shall be a member of the Board.

1. In the event that no member of the Association serves on the Board, the Association may solicit a Board member to serve on the Association or designate one of the Association's members to recuse themselves from service on the Committee, and allow the Town Council to fill the vacancy created by the recusal. If the Association does not recuse a member, the Town Council may select a member to be removed from the Committee and appoint a replacement.

2. Upon a vacancy created by the recusal or removal of a member from the Committee or the failure of the Association to fill all seven (7) Committee positions, the Council may appoint members to Committee, who shall serve for a minimum of one (1) year or until the Association can locate a qualified replacement, whichever is later.

(D) A Committee member shall actively and diligently participate in a reasonable number of meetings and activities and faithfully carry out the duties requested by the Committee, Board, or Council, while exercising due diligence and good character at all times.

(E) Notwithstanding any of these provisions, a Committee member may be removed by a majority vote of the Committee or Council, and serves at the sole discretion of the Council.

(F) This Committee shall have the duty of organizing and overseeing the youth baseball program for the Town, and other youth athletic activities in the Town, as determined by the Council, Board, and/or Committee.

(G) The Committee shall select a President and Secretary, either of whom may call or convene meetings and shall serve one (1) year terms each.

(H) The Committee shall meet in accordance with the Indiana Open Door Law, whether or not required by law, and shall generally meeting at the Town Hall.

(I) The Committee shall meet at least one (1) time during per year on the third Monday in March, and other times as necessary.

(Ordinance No. 2011-10, passed July 18, 2011)

### **§ 32.03 RECREATION**

(A) It shall be unlawful for any person or persons not being residents of the Town to hire, put on, or perform in, any circus show, menagerie of any kind, concert show, or public exhibition of any kind, within the corporate limits of the Town without first having obtained a license to do so from the Clerk.

(B) It shall be unlawful for any person or persons not being a resident of the Town to run, own, or lease any machine, device, table target, any apparatus for throwing, lifting or striking, any shooting gallery, any game of chance, any huckster stand, or any refreshment stand within the corporate limits of the Town without first having obtained a license to do so from the Clerk.

(C) Any license for the above activities shall not be less than \$5.00 nor more than \$50.00 per appearance, according to the size and extent of said activity.

**§ 32.04 SCHOOL USE POLICY**

(A) No fee will be charged for youth groups such as scouts, 4-H, religious school, etc., and not for profit organizations. Donations however will be welcomed.

(B) A flat fee of \$100.00 will be charged for the Goodland Alumni.

(C) Other events such as wedding receptions, reunions, anniversaries, and other gatherings will be charged \$250.00 plus a deposit of \$250.00 to be paid by cashier's check or money order. The deposit will be returned when a representative of the Town inspects the building and finds it to be in a condition satisfactory to the representative. All groups are expected to clean up the area and remove any trash before the deposit will be returned.

(D) Any person renting the building must sign a lease agreement (available at the Goodland Town Hall) and provide a certificate of insurance as required by the lease agreement.

(Ordinance No. 1997-6-1, passed June 16, 1997)

**§ 32.05 PEDESTRIANS ON THE RACETRACK**

(A) Unauthorized persons shall not be allowed to enter upon the designated racetrack during any racing event hosted or endorsed by the Town, from a period of one (1) hour before any racing activity, until one (1) hour after any racing activity.

(B) A racing activity shall include qualification laps, race laps, victory laps, test laps, or any other instance upon which a racing vehicle is scheduled to use the track.

(C) An Authorized Person shall include any person who is not acting under the direction and authority of the Town, a law enforcement officer, EMS or firefighters acting in their official capacity, a driver engaged in a racing event, or the race event sponsor or organizer.

(D) An unauthorized person shall include, any passers-by, a race car driver who is not presently engaged in the racing event or who has not been instructed to enter the racetrack by an Authorized Person.

(E) Penalty, see §10.99.

(Ordinance No. 2004-10, passed September 20, 2004)

**§ 32.06 SKATEBOARDS AND ROLLERBLADES**

(A) No person may use a skateboard, roller blades or similar devices, bicycles or scooters on the sidewalk and handicap-accessible ramp on the gazebo located in the town park, nor may any person place or apply wax or similar dangerous substances on said public property.

Signage notifying patrons of this prohibition shall be posted in the vicinity of the sidewalk and ramp.

(B) No person may use a skateboard, roller blades or similar devices, bicycles or scooters on the sidewalks between the following streets in the Town's business district, as follows: on Newton Street, between Jasper Street and Prairie Street.

(C) Penalty, see § 10.99.

(Ordinance No. 2009- ; passed August 17, 2009)

### § 33.07 FISHING

(A) Removing fish from the public pond is prohibited; however, catching and releasing fish promptly back into the fresh water is permitted.

(B) The Town Council shall have the authority to provide notice of designated times when fish may be kept.

(C) No person shall place fish in a bucket, net, on a stringer, wire, or otherwise attempt to remove fish from the public pond, which doing so shall be construed as a violation of the catch and release provisions permitted above.

(D) A person who catches a fish from the public pond shall promptly, safely, and reasonably remove the hook from the fish and return it to the pond immediately upon releasing it from the hook.

(E) No person shall be permitted to transport or possess live fish in the Town Park.

(F) Penalty, see §10.99.

(Ordinance No. 2011-12, passed August 15, 2011)

## **CHAPTER 33: TOWN ELECTIONS**

### Section

33.01 Abolishing Legislative Body Districts

### **§ 33.01 ABOLISHING LEGISLATIVE BODY DISTRICTS**

Town legislative body districts are hereby abolished. All members of the Town Council shall be elected at large.

(Passed October 15, 1990)

## CHAPTER 34: CLERK-TREASURER

Section:

34.01 Ordinance Violations Clerk

### § 34.01 ORDINANCE VIOLATIONS CLERK

(A) The Clerk-Treasurer is designated as Violations Clerk, pursuant to Indiana Code § 33-36-2-2, and he or she is authorized to take all actions permitted under Indiana Code 33-36-2, et seq. and 33-36-3, et seq.

(B) The violations clerk may accept:

1. written appearances;
2. waivers of trial;
3. admissions of violations; and
4. payment of civil penalties up to two hundred fifty dollars (\$250.00) in ordinance violation cases, subject to the schedule prescribed under IC 33-36-3 by the Town Council.

(C) The schedule of ordinance and code provisions listed in Section 10.99 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 are set forth in Section 10.99.

(D) If a person:

1. denies an ordinance or code violation;
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;

the clerk shall report this fact to the official having the responsibility to prosecute ordinance violation cases for the municipal corporation pursuant to I.C. §33-36-3-5. Proceedings in court against the person shall then be initiated for the alleged ordinance violation.

(Ordinance No. 2020-0921, passed September 21, 2020)

## CHAPTER 35: FINANCIAL

### Section

- 35.01 Traffic Accident Report Fee
- 35.02 Nonsufficient Funds
- 35.03 Inventories of Fixed Assets
- 35.04 Purchasing Policy
- 35.05 Cash Policy
- 35.06 Authorization to Pay Certain Claims
- 35.07 Credit Card Policy
- 35.08 Travel Reimbursement Policy

### § 35.01 TRAFFIC ACCIDENT REPORT FEE

There is hereby established a \$5.00 fee for furnishing traffic accident reports.

(1981, amended 1983; amended by Ordinance No. 1996-1, passed May 20, 1996)

### § 35.02 NON-SUFFICIENT FUNDS

(A) These provisions shall apply to any check that is dishonored by a financial institution for any reason, including but not limited to: non-sufficient funds, closed account or a stop payment order.

(B) These provisions shall not limit the Town's remedies to pursue a civil action, which may include treble damages, costs of litigation, and attorney fees, or any other remedy created by federal, state or local statute and codes.

(C) Each check dishonored by a financial institution shall be assessed a service fee as provided for by Indiana Code § 35-43-5-5, as may be amended from time to time.

(Ordinance No. 2004-11, passed September 20, 2004; amended by Ordinance No. 2002-715, passed July 15, 2002)

### § 35.03 INVENTORIES OF FIXED ASSETS

(A) Generally.

1. The capital asset threshold will be \$5,000. An asset with a value under \$5,000 will be expensed in the year of purchase. The infrastructure portion of this policy is also effective on the date duly adopted and published.

2. Town Municipal Utilities will follow this same definition of capital assets. Assets that are not capitalized are expensed in the year of acquisition. Town Municipal Utilities will follow the capitalization guidelines of the Indiana Utility Regulatory Commission.

3. The Town has established a Capital Asset Policy in order to provide a higher



degree of control over its considerable investment in capital assets, and to be able to demonstrate accountability to its various constituencies: citizens, rate-payers, oversight bodies and regulators. All public information pertaining to capital assets will be made available in the Comprehensive Annual Financial Report (CAFR).

4. The purpose of establishing a Capital Policy is fivefold:
  - a. to safeguard the investments of the citizens of the Town,
  - b. to fix responsibility for the custody of equipment,
  - c. to provide a basis for formulating capital asset acquisition, maintenance and retirement policies,
  - d. to provide data for financial reporting,
  - e. to demonstrate appropriate stewardship responsibility for public assets.

(B) Definition of Capital Assets.

1. Capital assets include: land, land improvements, including monuments, buildings, building improvements, construction in progress, machinery and equipment, vehicles and infrastructure. All land will be capitalized but not depreciated. All items with a useful life of more than one year and having a unit cost of \$5,000 or more shall be capitalized (including acquisitions by lease-purchase agreements and donated items). A capital asset meeting the criteria will be reported and depreciated in the government-wide financial statements.

2. Assets that are not capitalized (items less than \$5,000) are expensed in the year of acquisition. An inventory will be kept on all computers and other equipment with a capitalized cost of less than \$5,000. Exceptions are:

- a. items costing less than the above limits which are permanently installed as a part of the cost of original construction or installation of a larger building or equipment unit will be included in the cost of the larger unit;
- b. modular equipment added subsequent to original equipment construction of a larger building or equipment unit which may be put together to form larger units costing more than the prescribed limits will be charged to capital assets even though the cost of individual items is less than such units; and
- c. cabinets, shelving, bookcases, and similar items, added subsequent to original construction, which are custom made for a specific place and adaptable elsewhere, will be capitalized.

(C) Threshold levels for capital assets. The following schedule will be followed for the different types of capital assets other than infrastructure assets:

1.	Land	All/Capitalize only
2.	Land Improvements	\$5,000
3.	Building	\$5,000
4.	Building Improvements	\$5,000
5.	Construction in Progress	All/Capitalize only
6.	Machinery and Equipment	\$5,000
7.	Vehicle	\$5,000
8.	Town Municipal Utility Assets	\$5,000

(D) At the network level, the asset will be classified as major if the cost of the network

item is at least 10% of the cost of all capital assets in fiscal year 2021. A network will be defined as a group of similar assets that serve a particular function or purpose for the Town. At the subsystem level, the asset will be classified as major if the cost of the subsystem item is at least 5% of the cost of all capital assets in fiscal year 2021. A subsystem will be defined as a segment of a network of assets that serve a similar function for the Town of Goodland.

(E) Capital assets must be recorded at actual cost. Normally the cost recorded is the purchase price or construction costs of the asset, but also included is any other reasonable and necessary costs incurred to place the asset in its intended location and intended use. Such costs could include the following:

1. legal and title fees, closing costs;
2. appraisal and negotiation fees, surveying fees;
3. damage payments;
4. land preparation costs, demolition costs;
5. architect, engineering and accounting fees;
6. insurance premiums during construction;
7. transportation charges; and
8. interest costs during construction.

Donated or contributed assets should be recorded at their fair market value on the date donated.

(F) It is important to the maintenance of accurate records that each asset category be precisely defined and that all persons responsible for records maintenance be fully aware of the categorization system. This section further clarifies the asset definitions by major category.

1. Land is defined as specified land, lots, parcels or acreage including rights of way, owned by the Town, its various departments, boards or authorities, regardless of the method or date of acquisition. Easements will not be included as the Town does not own them, but as an interest in land owned by another (i.e. property owner) that entitles its holder to a specified limited use.

2. Improvements Other Than Buildings. Examples of Town assets in this category are walks, parking areas and drives, fencing, retaining walls, pools, fountains, planters, underground sprinkler systems, and other similar items.

Examples of Town Municipal Utilities assets in this category are water supply mains, collection sewers, wells, dams, fences, intake pipes, manholes, and fire hydrants.

3. Buildings.

a. All structures designed and erected to house equipment services, or functions are included. This includes systems, services, and fixtures within the buildings, and attachments such as porches, stairs, fire escapes, canopies, areaways, lighting fixtures, flagpoles, and all other such units that serve the building.

b. Plumbing systems, lighting systems, heating, cooling, ventilating and air handling systems, alarm systems, sound systems, surveillance systems, passenger and freight elevators, escalators, built-in casework, walk-in coolers and freezers, fixed shelving, and other fixed equipment are included with the building, if owned. Communication antennas and/or towers are not included as buildings. These are parts of the equipment units that they serve.

4. Equipment. Equipment includes all other types of physical property within the scope of the Fixed Asset Management System not previously classified. Included within this

category are office mechanical equipment, office furniture, appliances, furnishings, machinery items, maintenance equipment, communication equipment, police, fire, sanitation and park department, laboratory equipment, vehicles, road equipment, aircraft, emergency equipment, earth moving equipment, text equipment, civil defense equipment, and data processing equipment. All supplies are excluded.

5. Infrastructure. Infrastructure assets are long-lived capital assets that normally can be preserved for a significant greater number of years than most capital and that are normally stationary in nature. Examples include roads, streetlights, traffic signals, drainage systems; and water systems. Infrastructure assets do not include buildings, drives, parking lots or any other examples given above that are incidental to property or access to the property above.

Additions and improvements to infrastructure, which increase the capacity or efficiency of the asset, will be capitalized. Maintenance/repairs will be considered as necessary to maintain the existing asset, and therefore not capitalized. For example, patching, resurfacing, snow removal, etc., are considered maintenance activities and will be expensed. Also, normal department operating activities such as feasibility studies; and preliminary engineering and design, will be expensed and not capitalized as an element of the infrastructure asset.

Alleys will not be included as part of infrastructure for the following reasons: (i) Existing improved alleys will be maintained as gravel alleys, and the Town is responsible only for the maintenance, such as patching and repairing; (ii) any investments to upgrade the alleys will be done by homeowner participation. Therefore, the Town will not track and value alleys, and the patching/repairs will be expensed as they occur.

The retroactive reporting requirements for infrastructure of GASB 34 requires the Town to report items put into service from 1980 forward, and gives the Town the option to report items put into service prior to 1980. The Town will report only on items put into service after 1980. Retroactive reporting is mandated and in which the Town will comply with.

(G) Depreciation Methods. The Town will be depreciating capital assets by using either composite/group method depreciation or the straight-line method.

1. Salvage value will be determined on an asset-by-asset basis. Depreciation will be calculated at year-end. Land is not depreciated according to general accepted accounting principles.

2. A network of assets is composed of all assets that provide a particular type of service for government. A subsystem of a network of assets is composed of all assets that make a similar portion or segment of a network of assets. The following will be the breakdown of the Town's networks and subsystems:

- a. Roads/Streets Network
  - i. Subsystems: Types of Streets and Curbs
- b. Traffic Components Network
  - i. Subsystems: Traffic Signals and Street Lights

(H) Composite depreciation refers to calculating depreciation for a collection of similar assets. A single composite rate is applied annually to the acquisition cost of the collection as a whole. At year-end an adjustment will be made to the total cost to account for any additions/disposals throughout the year. The accumulated depreciation associated with it will also be adjusted. A gain or loss will never be reported on the asset when using the composite method. A full year's depreciation will be taken when the asset is placed in service and no depreciation

recorded in the year it is sold or disposed of. The Town will group its dissimilar assets by useful lives and its similar assets by networks. To determine the appropriate depreciation rate for the composite group, divide 1 by the number of years the assets are depreciated. For instance a group of assets with a 25 year life will be depreciated at 4% each year (1/25). Following is the list of groups the Town will use for depreciation:

1. Street Lights - 35 years
2. Traffic Signals - 25 years
3. Flood Walls/Gates - 50 years
4. Roads
  - a. Cement - 10 years
  - b. Gravel - 15 years
  - c. Concrete - 30 years
  - d. Asphaltic Concrete - 20 years
  - e. Brick or Stone - 50 years

(I) Straight-line Depreciation. All assets accounted for under the Capital Asset Policy will be depreciated using the straight-line method of depreciation. A gain or loss on disposal will be recorded. Following is a list of the most common useful lives:

1. Vehicles - 5 years
2. Office Equipment - 5 years
3. Office Furniture - 20 years
4. Heavy Equipment - 10 years
5. Fire Trucks - 15 years
6. Buildings - 50 years
7. Building Components (HVAC systems, roofing) - 20 years
8. Leasehold Improvements - useful life of asset or lease term (whichever is shorter)
9. Land Improvements - structure (parking lots, athletic courts, swimming pools) - 20 years
10. Land Improvements - groundwork (golf course, athletic fields, landscaping, fencing) - 20 years
11. Outdoor Equipment - (playground equipment, radio towers) - 15 years
12. Grounds Equipment - (mowers, tractors, attachments) - 15 years
13. Computer Hardware - 3 years
14. Computer Software - 5 years
15. Water Municipal Utilities useful lives are as follows:
  - a. Buildings and improvements - 50 years
  - b. Transmission and Distribution Mains - 50 years
  - c. Meters/Hydrants - 50 years
  - d. Pumping Equipment - 50 years
  - e. Water Treatment Equipment - 50 years
  - f. Reservoirs/Tanks - 50 years
  - g. Furniture and Equipment - 10 years
  - h. Other Equipment - 10 years
  - i. Transportation Equipment - 10 years
  - j. Shop and Lab Equipment - 10 years

- k. Computer Equipment - 3 years
- l. Communications Equipment - 10 years
- 16. Sewer Municipal Utilities useful lives are as follows
  - a. Buildings and Improvements - 50 years
  - b. Sewer Lines - 50 years
  - c. Combined Sewer Overflow - 50 years
  - d. Lift Station - 50 years
  - e. Treatment Plant/Equipment - 10 years
  - f. Office Equipment - 5 years
  - g. Miscellaneous Operating Equipment - 5 years
  - h. Vehicles - 5 years

(J) Capital Asset Acquisitions

1. The method of acquisition is not a determining factor. Each department should report items acquired by:

- a. regular purchases
- b. lease purchase - see below
- c. construction by Town personnel
- d. construction by an outside contractor
- e. resolution/condemnation
- f. donation/contribution
- g. addition to an existing asset
- h. transfer from another department
- i. trade or barter
- j. annexation

2. Leased equipment should be capitalized if the lease agreement meets any one of the following criteria:

- a. The lease transfers ownership of the property to the lessee by the end of the lease term;
- b. The lease contains a bargain purchase option;
- c. The lease term is equal to 75 percent of the estimated economic life of the leased property; or
- d. The present value of the minimum lease payments at the inception of the lease, excluding executory costs, equals at least 90 percent of the fair value of the leased property.

Leases that do not meet any of the above criteria should be recorded as an operating lease and reported in the notes of the financial statements.

(K) Asset Transfers and Dispositions

1. Property should not be transferred, turned-in for auction, or disposed of without prior approval of the department head. A Vehicle/Equipment outprocessing checklist should be sent to the Clerk-Treasurer in all cases. This form is a dual-purpose form for transfer (defined as any movement of an asset by virtue of change in location, either by account, department, building, floor, or room) or retirement (disposal) of property.

2. The main points to be remembered when using this form are:

- a. always provide sufficient detail to properly identify the asset, most

importantly the asset's tag number or Town ID

- b. be accurate and do not overlook any of the needed entries
- c. write legibly
- d. complete each column for every asset listed on the form
- e. enter information in the correct row, depending on whether the

Town is transferring or deleting an asset

- f. have Department Head sign at the bottom of the form
- g. return the form to the Clerk-Treasurer's Office

3. If an asset is stolen, the Department Head should notify the Clerk-Treasurer as well as the Town Council.

(L) Periodic Inventories. A physical inventory of all capital assets (any item over \$5,000) will be conducted in each department on or about December 31 of every year. The Clerk-Treasurer will conduct spot checks on a random basis. Department heads will be accountable for the capital asset inventory charged to their departments by verifying a list of their capital assets at year-end.

(M) Responsibilities of Clerk-Treasurer. The Clerk-Treasurer will ensure that accounting for capital assets is being exercised by establishing a capital asset inventory; both initially and periodically in subsequent years. The Clerk-Treasurer will further ensure that the capital asset report will be updated annually to reflect additions, retirements, and transfers and to reflect the new, annual capital asset balance for financial reporting purposes and the annual and accumulated depreciation calculation.

(N) Responsibilities of Department Managers. It is the responsibility of the department manager to act as or designate a steward for each piece of property. The steward will become the focal point for questions regarding the availability, condition, and usage of the asset, as well as the contact during the physical inventory process.

Someone should be designated to record the receipt of the asset, to examine the asset to make sure that no damage was incurred during shipment and to make sure that the asset was received in working order.

The steward is also responsible for arranging for the necessary preventative maintenance and any needed repairs to keep the asset in working condition. It is necessary to have a responsible person available for questions that arise during a physical inventory or when someone wants to borrow the asset. The steward ensures that the asset is used for the purpose for which it was acquired and that there is no personal or unauthorized use. In addition, the steward should report any property damage or theft.

(Ordinance No. 2007-12, passed August 20, 2007; amended by Ordinance No. 2020-0720B, passed July 20, 2020)

## § 35.04 PURCHASING POLICY

(A) The Purchasing Agency for the Town is the Town Council.

(B) The Purchasing Agent shall:

1. Assume the duties, powers and responsibilities assigned to a Purchasing Agent in I.C. 5-22 and establish small purchasing policy for purchases not governed by I.C. 5-22.

2. Act as the sole agent in obtaining materials, supplies, equipment or contractual services for all Town departments and divisions, municipally operated utility, or any board, commissioner, officer or person otherwise empowered by law to make purchase of materials, equipment, goods, supplies and property of whatever description for the Town. Any such department or division shall requisition such materials, supplies, equipment or services from the Purchasing Agent who shall, upon determining that appropriations are available for such purposes, acquire the items requisitioned in accordance with public purchase law. All contracts of purchase shall be made in the name of the Town department or division and be subject to the approval of the department or division.

3. Establish such purchasing and contractual procedures as may best be suited to obtain the greatest economic value to the Town.

4. Prepare specifications and notice to bidders and see that the required notices are published, where bidding and publication of notices are required by law.

5. Cooperate and consult with the Clerk-Treasurer for the purpose of ensuring that adequate funds are available prior to making necessary purchases and acquisitions to assure they are within the limits of the budget appropriations of the department or division in need of the material.

6. Act as the agent of the Town to sell or exchange any personal property ordered to be sold by the Goodland Town Council in accordance with procedures prescribed by law.

(C) The Purchasing Agent may designate in writing that an employee of the Town is a Purchasing Agent.

(D) Purchases shall be made in accordance with the restrictions on purchases as stated in I.C. 5-22 regarding purchases from the Department of Corrections and purchases of Rehabilitation Center Products.

(E) Supplies manufactured in the United States shall be specified for all Town purchases and shall be purchased unless the Town determines that:

1. the supplies are not manufactured in the United States in reasonably available quantities;

2. the prices of the supplies manufactured in the United States exceeds by an unreasonable amount the price of available and comparable supplies manufactured elsewhere;

3. the quality of the supplies manufactured in the United States is substantially less than the quality of comparably priced available supplies manufactured elsewhere; or

4. the purchase of supplies manufactured in the United States is not in the public interest.

(F) Any purchase made in violation of this section or the purchasing procedures established by the Purchasing Agent shall be null and void.

(G) Upon declaration of any emergency, the Purchasing Agent or designee as defined in I.C. 5-22, may purchase repairs and purchase or lease materials without giving notice, receiving bids or obtaining Council approval, so long as the procedures outlined in I.C. 5-22 are followed.

(H) Small Purchases.

1. Subject to the limitations contained in I.C. 5-22, if the Purchasing Agent expects a purchase to be less than Fifty Thousand Dollars (\$50,000), the Purchasing Agent may make the purchase supplies, including goods and services, without inviting bids or receiving quotes, subject to approval by the Town Council.

2. If the Purchasing Agent expects a purchase to be at least Fifty Thousand Dollars (\$50,000) and not more than One Hundred Fifty Thousand Dollars (\$150,000), subject to approval by the Town Council:

a. The Purchasing Agent may purchase supplies by inviting bids from at least three (3) persons known to deal in the lines or classes of supplies to be purchased.

b. The Purchasing Agent shall mail an invitation to quote to such persons at least seven (7) days before the time fixed for receiving quotes.

c. If the Purchasing Agent receives a satisfactory quote, the Purchasing Agent shall award a contract to the lowest responsible and responsive offeror for each line or class of supplies required.

d. The Purchasing Agent may reject all quotes.

e. If the Purchasing Agent does not receive a quote from a responsible and responsive offeror, the Purchasing Agent may purchase the supplies under I.C. 5-22-10-10.

(I) Purchasing Requiring Prior Approval; De Minimis Purchases.

1. The Purchasing Agent or his or her designee may make purchases for and on behalf of the Town in the amount of Five Hundred Dollars (\$500.00) or more only by submitting the requested purchase to and receiving the approval of the Town Council as Purchasing Agency in advance.

2. The Purchasing Agent or his or her designee may make purchases for and on behalf of the Town if under Five Hundred Dollars (\$500.00), or in the event of an emergency, without prior approval of the Town Council, so long as receipts or invoices for the purchase are presented to the Town Council for approval and ratification by the Town Council at its next regularly scheduled meeting.

3. The Purchasing Agent or his or her designee may make purchases for and on behalf of the Town if over Five Hundred Dollars (\$500.00), without prior approval of the Town Council for the following items, so long as receipts or invoices for the purchase are presented to the Town Council for approval and ratification by the Town Council at its next regularly scheduled meeting:

a. Fuel;

b. Vehicle or equipment repair.

(Ordinance No. 1998-14, passed October 19, 1998; amended by Ordinance No. 2020-0720A, passed July 20, 2020)



§ **35.05 CASH POLICY**

(A) Receiving and Processing Customer Payments

1. Cash must be properly safeguarded prior to deposit through the use of adequate physical security (e.g. safe or locking cabinet).
2. Counting cash shall occur in a non-public area not easily visible to others.
3. Access to and location of cash should be limited and restricted to only designated employees.
  - a. Cash handlers and prospective cash handlers may be subject to background/reference checks.
4. At the start of the business day, the cash drawer to be used for collection purposes will be taken out and the cash will be counted prior to the start of the day. During the day, only the person or persons designated as the cash handler will have access to the drawer.
  - a. During breaks and lunch periods, the cash handler will lock the cash drawer.
  - b. The keys to the cash drawer shall be kept on the person and not left in a desk drawer or other similar location.
5. When receiving cash from a customer, the cash payment shall be counted in front of the customer and verified. If any change is due, the cash returned shall also be counted in front of the customer.
6. When receiving a check from a customer, the following shall be checked and verified:
  - a. The check has been signed and dated;
  - b. The numbered amount agrees with the written amount;
  - c. The check amount agrees with the accompanying paperwork regardless of whether the amount due is being paid partially or in full;
  - d. The check is not stale-dated and has not been altered;
  - e. Checks shall be restrictively endorsed checks (“for deposit only”) immediately upon receipt;
7. The customer shall be provided a receipt for the payment.
8. To reduce the risk of error, all cash in the cash drawer is separated according to denomination. Checks are endorsed when received and kept together separate from the cash in the cash drawer. Credit card receipts are kept separate and secure due to the sensitive nature of the information.
9. The Clerk-Treasurer shall maintain a comprehensive cash ledger update report that includes for each item:
  - a. The date each remittance was received;
  - b. The name of the remitter;
  - c. The amount of each remittance;
  - d. The form of each remittance (e.g. check, cash, money order);
  - e. The check number and date;
  - f. The purpose of the collection (if known).
10. All cash receipts are to be deposited into a bank account designated and approved by the Town Clerk-Treasurer.
11. All cash receipts shall be deposited daily when cash receipts total more than \$500.00, but in no case less frequently than once a week.

12. All cash receipts on hand should be deposited on the last working day of the month to ensure that receipts are made available for their intended purpose and that activity is posted to the correct accounting period.

13. The Clerk-Treasurer or his or her designee shall maintain and match a copy of the deposit slip with the bank deposit receipt for all bank deposits.

14. The Clerk-Treasurer or his or her designee shall record the deposit in the software within two days of deposit at the bank.

(B) Reconciliation

1. A reconciliation between the recorded cash balance and the bank balance shall be completed monthly by an individual separate from the receipting and disbursing processes.

2. A reconciliation between the disbursement ledger and the debits to the bank account is completed periodically by an individual separate of the disbursement process.

3. A reconciliation between the receipts ledger and the credits to the bank account is completed periodically by an individual separate of the receipting process.

(C) Cash Change Fund

1. The Cash Change Fund (cash drawer) shall maintain a balance of \$150.00 of which \$75.00 comes from a check written from the Water Operating Fund and \$75.00 comes from a check written from the Wastewater Operating Fund.

2. This fund shall only be used for making change for cash payments from customers. This fund shall not be used to make change for check or credit card payments.

3. The fund shall not be used to make any type of payments or reimbursements or to cash personal checks for anyone.

4. At the end of the Clerk-Treasurer's term, the funds shall be receipted back to the creating fund.

(D) Overages and Shortages

1. All cash overage of over \$1.00 should be deposited on a separate deposit slip to the respective entity bank account daily and intact, at the same time as all other cash receipts collected by the responsible department or activity. This deposit shall be identified as being a cash overage.

2. When the source of a cash overage is known, then the account will be credited.

3. Occasionally, errors will occur in making change and other cash transactions that result in cash shortages. Any employees experiencing an unresolved cash shortage must report the exact sum of any cash deficit to the Clerk-Treasurer or Department Head at the close of each business day. A shortage of \$20.00 or more shall be reported to a member of the Town Council immediately.

4. Whenever warranted by the size of the shortage, the Clerk-Treasurer or supervisor should make a thorough attempt to determine the reason for the shortage. The review might include recounting the cash, reviewing the transactions and/or checking the amounts of all checks to ensure that receipts were written for the correct amounts.

5. Any person suspecting theft or negligence shall report such irregularities to the Clerk-Treasurer or Town Council.

6. The Clerk-Treasurer shall contact the State Board of Accounts if the amount

is over the materiality policy.

(Ordinance No. 2020-0817B, August 17, 2020)

**§ 35.06 AUTHORIZATION TO PAY CERTAIN CLAIMS**

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

1. Property or services purchased or leased from:
  - a. the United States government; or
  - b. an agency or a political subdivision of the U.S. government.
2. License fees or permit fees.
3. Insurance premiums.
4. Utility payments or utility connection charges.
5. Federal grant programs if:
  - a. advance funding is not prohibited; and
  - b. the contracting party provides sufficient security for the amount

advanced.

6. Grants of state funds authorized 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.

(B) By virtue of this Section and in accordance with §36-5-4-12(b)(13) the Clerk-Treasurer is further authorized to pay the following reoccurring payments:

1. Court Ordered Garnishments, including child support, directed to the Town by an order of any court or tribunal; or, which is voluntarily requested by an employee of the Town for her/his obligation under an order.
2. Employee retirement contributions and the Town's match thereof, in the manner approved by the Town Council.
3. A claim paid pursuant to a specific motion of the Town Council, approved in a public meeting.
4. Postage to the United States Post Office relating to the mailing of monthly utility bills for the Town's Water and Sewer Utility.
5. An expense, under Paragraph (A)(12) is an "emergency circumstance" if (a) waiting to pay the claim until after the next regular meeting of the Town Council would cause the Town to incur a late fee, penalty, default interest rate, or place the Town in default, pursuant to the terms and conditions of an agreement with a creditor, contractor or provider of goods or services to the Town, and (b) the Clerk did not receive an invoice in sufficient time to obtain Council approval and pay the Claim before the due date on the obligation.

(C) Each payment of expenses under this section must be supported by a fully itemized invoice or bill and certification by the Clerk-Treasurer.

(D) The Town Council or the board having jurisdiction over the allowance of the claim shall review and allow the claim at the Town Council's or board's next regular or special meeting following the pre-approved payment of the expense.

(Ordinance No. 2015-3, passed July 20, 2015)

## § 35.07 CREDIT CARD POLICY

(A) Credit cards may be distributed to those Town officials and employees who, in the opinion of the Clerk-Treasurer, have job responsibilities which would cause their job performance to benefit by use of a credit card (use of the term "Credit Card" shall include either the credit card or the credit card number).

(B) The Clerk-Treasurer shall develop and implement guidelines and accounting controls subject to the approval of the Town Council to ensure the proper usage of credit cards and credit card funds. Including designation those employees or officials, who will be authorized to use a credit card "Authorized User" and maintain a log of the cards assigned to each.

(C) The Clerk-Treasurer shall set credit limits on each credit card issued; provided, that in no event shall such credit limit exceed \$\_\_\_\_\_ for any individual credit card nor shall the aggregate credit limits for all credit cards issued to or authorized for use to exceed \$\_\_\_\_\_.

(D) The Clerk-Treasurer shall establish and implement a written procedure or policies for the payment of all credit card bills subject to the approval of the Town Board, which shall cause the credit card purchases to be paid in full on a monthly basis, prior to the end of the grace period, so to avoid late fees or finance charges.

(E) The following uses are expressly prohibited and unauthorized:

1. Personal charges or charges not for official Town business;
2. Cash advances;
3. Use of another Authorized User's credit card;
4. Obtaining or attempting to obtain a new line of credit, using a credit card issued to the Authorized User;
5. Use of a credit card, which has been revoked, cancelled, or after the authorization to use the credit card has been terminated by the Town;
6. Uses in excess of the credit limit or, in light of charges incurred during the billing cycle by the Authorized User, would cause the credit card's limits to be exceeded;
7. Authorized Users shall not use a credit card, otherwise consistent with this Ordinance, in such a manner that would likely bring about embarrassment or disgrace to the Town or appear immoral or unprofessional to the citizens of the Town;

8. Use of a credit card after the Authorized User's employment ended or elected term in office has concluded; or

9. In any manner inconsistent with other Town Ordinances or Policies, federal, state, or local laws.

(F) An Authorized User shall obtain and retain itemized receipts for each and every purchase made using a Town credit card and shall submit clear and legible copies of said receipts to the Clerk-Treasurer on or before the last business day of each month for that month. Any charges, which cannot be properly identified or which are not properly allowed, shall be paid promptly by the Authorized User by check, together with interest and all other charges assessed by the credit card company, and shall constitute a prior lien against all amounts owed by the Town to the card user until paid in full. Upon receipt of a credit card, each Authorized User shall execute an agreement to be personally liable for any charges, which are unauthorized, not documented or cannot be properly identified, as set forth herein, to the satisfaction of the State Board of Accounts or the Town Council.

(G) Each Authorized User shall be responsible for contacting the issuing financial institution and the Clerk-Treasurer, immediately upon discovering that a credit card has been lost, stolen, or is otherwise unaccounted for. Authorized users shall maintain in a safe location, the telephone number for reported cards lost or stolen. The employee in violation of this provision, may be held responsible for charges incurred, using the card. Each employee shall be required to submit a lost/stolen card affidavit to the Clerk-Treasurer, attesting to the date the loss was discovered and the last charge used.

(H) No Authorized User shall knowingly use or attempt to use a credit card beyond the scope of the authority permitted by this Section or the policies established by the Clerk Treasurer.

(Ordinance No. 2020-0720A, passed July 20, 2020)

## **§ 35.08 TRAVEL REIMBURSEMENT POLICY**

(A) The Town will reimburse employees for reasonable business expenses incurred while on assignments over fifty (50) miles from the normal work location. Business Expenses are defined and will be reimbursed as follows:

1. Lodging at the single room rate of the host hotel;
2. Meals up to fifty dollars (\$50.00) per day (based on detailed receipts) and only if accrued during overnight travel.

When travel is complete, employees must submit receipts within seven (7) days. When paying by credit card, the summary receipt is not sufficient for reimbursement. A detailed receipt must be provided.

(B) Town employees who use their personal vehicles while conducting town business shall be paid a mileage fee of fifty-eight (58) cents per mile traveled. This Section shall be effective retroactive to January 1, 2019. This mileage reimbursement rate shall automatically

increase or decrease to the amount authorized by IRS regulations in every subsequent year hereafter. When requesting reimbursement for mileage, the employee must submit SBOA Claim Form 1010 that lists where the employee went, the date the employee went, and the nature of the business conducted. It must be accompanied by a printed map (e.g. MapQuest or Google Maps).

(Ordinance No. 2020-0817A, passed August 17, 2020)

## CHAPTER 37: ECONOMIC DEVELOPMENT

### Section

- 37.01 Economic Development Commission
- 37.02 Redevelopment Commission

### § 37.01 ECONOMIC DEVELOPMENT COMMISSION

- (A) The Town Council finds and determines that a need exists for an Economic Development Commission (the “Commission”).
- (B) The Commission is created pursuant to I.C. § 36-7-12 et. seq.
- (C) The Commission shall have the duties provided for by I.C. § 36-7-12 et. seq. and as otherwise provided for by law, which may be changed from time to time.
- (D) The Commission shall be governed by a Board of Commissioners (the “Board”), appointed pursuant to I.C. § 36-7-12.

(1978, amended 1984, amended by Ordinance No. 2007-3, passed June 18, 2007)

### § 37.02 REDEVELOPMENT COMMISSION

- (A) There is now created, within the Town, a commission, which shall be known as the Goodland Redevelopment Commission (the “Commission”).
- (B) The Commission is created pursuant to I.C. § 36-7-14 et. seq.
- (C) The Commission shall have the duties provided for by I.C. § 36-7-14-11 and as otherwise provided for by law, which may be changed from time to time.
- (D) The Commission shall be governed by a Board of Commissioners (the “Board”) and shall have the powers provided for I.C. § 36-7-14-12.2 and as otherwise provided for by law, which may be changed from time to time.
- (E) The Board shall consist of Commissioners, appointed by pursuant to I.C. § 36-7-14-6.1.
- (F) The Commissioners shall serve on a voluntary basis and without compensation but may receive reimbursement as permitted.
- (G) As each of the Commissioners are required to post a bond, the Town will pay the costs.

(Ordinance No. 2007-4, passed June 18, 2007)

**TITLE V: PUBLIC WORKS**

- 50. GENERAL PROVISIONS**
- 51. WATER**
- 52. SEWER**
- 53. STORM WATER**
- 54. RESIDENTIAL SOLID WASTE REMOVAL**



**CHAPTER 50: UTILITIES GENERALLY**

Section

- 50.01 Utility Bills, Deposits, and Disconnections
- 50.02 Sharing Town Services

**§ 50.01 UTILITY BILLS, DEPOSITS AND DISCONNECTIONS**

(A) Clerk-Treasurer Responsible for Utility Billing and Collection. In addition to the statutory duties of the Clerk-Treasurer, the Clerk-Treasurer, or his or her designee, shall be responsible for the billing and collection of the Town’s utility rates and charges, garbage collection service fees, and tall grass and weed abatement fees, charges and penalties.

(B) Establishing Connection to the Town’s Utilities.

- 1. Residents who desire to receive Town water, wastewater, and trash services shall submit a completed service application.
- 2. New Customers
  - a. A new account is defined as a new customer with no deposit on file, or any additional account or accounts for an existing customer.
  - b. The installation charges by tap size will be charged to accounts which require new taps to the main.
  - c. New meters installed with no new tap to the main required as in remote meters for subunit/master accounts, accounts on property where water service taps have already been made, etc. will be installed at cost.
  - d. Any person, persons, corporation or business wanting to obtain water from the Goodland Water Works must obtain a metered account by first contacting the Clerk-Treasurer and must secure a water meter with a deposit and, if applicable, a new tap installation fee, as follows:

New Account Deposits		New Tap Installation Fee*
5/8-3/4"	\$150.00	\$1,000.00
1"	200.00	1,000.00
1 1/4"	250.00	1,000.00
1 1/2"	400.00	minimum 1,000.00
2"	405.00	minimum 1,000.00

New Account with no new tap - at cost.

\*The new tap installation fee may also include the actual cost of installation.

- 3. Fire Protection/Sprinkler Tap: 1 ½" to 10" Cost plus 10%
- 4. If a current meter and account number are being turned on for a new customer, the above deposits must be paid to said Clerk-Treasurer before service is turned on.
- 5. The deposit shall be credited to the final bill. Any excess shall be refunded to the rate payer.

6. Following disconnection, service may be reconnected on non-holiday Monday through Friday between the hours of 8:00 a.m. and 4:00 p.m. upon the payment of a Seventy-five Dollar (\$75.00) reconnect fee.

(C) Billing Procedures.

1. The rates and charges shall be prepared and billed by the Town monthly, as the Town may deem appropriate and as determined by the bylaws and regulations of the Town as hereinafter provided for and shall be collected in the manner provided by law and ordinance. The rates and charges will be billed to the tenant or tenants occupying the property served unless otherwise requested in writing by the owners. The property owner will receive a delinquency notice on leased properties. The owners of the properties served, which are occupied by tenants, shall have the right to examine the collection records of the Town for the purpose of determining whether the rates and charges have been paid by the tenants, provided that the examination shall be made in the office in which the records are kept and during the hours that the office is open for business.

2. The following dates apply to Town water, wastewater, garbage collection, or tall grass and weed abatement bills:

6th day of month: bills are sent to rate payers

1st day of month: payment is due on bills sent on the 6th of the prior month

3. Payment is due on the date of billing. Users shall have until 4:00 p.m. on the first day of the month of billing to pay the billing without penalty. Accounts not paid within the period shall be delinquent and a penalty equal to ten percent (10%) of the sum due shall be assessed as a surcharge and added to the user's bill. In the event the account holder had a prior unpaid balance, any payments shall be first applied to the oldest billing, and then to the next oldest billing, until the account balance is paid in full. Partial payments shall be applied first to water, second to wastewater and lastly to trash.

4. Upon a bill becoming delinquent, a user shall be notified of the possibility of disconnection and the opportunity to address the Town Council at the next regularly scheduled Town Council meeting as set forth below. Disconnection may be avoided only by the user or lessee paying the full account balance, including penalties.

5. The Town may offer a payment plan to users whose accounts are delinquent if the user appears before the Town Council to request a payment plan and demonstrates hardship. If the user breaches the agreement, the disconnection procedure described herein shall be utilized.

(D) Collection of Delinquent Water, Wastewater, Garbage Collection and Tall Grass and Weed Abatement Fees, Charges and Penalties.

1. Wastewater fees are fees assessed against real estate and shall constitute a lien against the property served until paid. Water, sanitation, or tall grass and weed abatement fees are fees assessed against real property and may constitute a lien against residential owner-occupied and business properties served. The lien attaches when a Notice of Lien, described below, is recorded in the office of the County Recorder, except in the following circumstances:

a. A fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the County Recorder before the conveyance to the subsequent owner. If the property is conveyed before the lien can be filed, the

Town shall notify the person who owned the property at the time the fee became payable. The notice shall inform the former owner that payment, including penalty fees for delinquencies, is due not more than fifteen (15) days after the date of the notice. If payment is not received, the amount due may be collected in any manner permitted by law. If payment is not received within one hundred eighty (180) days after the date of the notice, the amount due may be expensed as a bad debt loss.

2. If the water, wastewater, garbage collection, or tall grass and weed abatement fees, charges and penalties are not paid within the time fixed by this Code, they are delinquent. The Clerk-Treasurer, or his or her designee, is charged with the responsibility to collect delinquent water, wastewater, garbage collection, and tall grass and weed abatement fees, charges and penalties (the "Delinquent Fees"). The Clerk-Treasurer shall review all delinquent accounts every month, or as necessary and attempt to collect the Delinquent Fees in any of the following manners, pursuant to Indiana Code Chapters 36-1-3, 36-9-23 and 36-7-10.1:

a. By filing a civil action in the name of the Town against the customer, for the following:

i. Delinquent water fees, charges and penalties from residential customers, whether or not owner-occupied, and business owners;

ii. Delinquent wastewater fees, charges and penalties from residential customers, whether or not owner-occupied, business owners, or owners of non-owner occupied residences, pursuant to Indiana Code 36-9-23-31;

iii. Delinquent stormwater, sanitation, or tall grass and weed abatement fees, charges and penalties from owners or occupants of any property served;

b. Collection of wastewater, stormwater, garbage collection or tall grass and weed abatement fees, charges and penalties, by the County Auditor's and Treasurer's Offices following the recording of a Notice of Lien, in the manner described in I.C. § 36-9-23-33, summarized as follows:

i. As often as the Clerk-Treasurer determines is necessary in a calendar year, the Clerk-Treasurer shall prepare a Notice of Lien for each lot or parcel of real property on which fees and penalties are delinquent, listing the amount of fees, charges and penalties which are delinquent, together with the costs of recording and service charges, on said Notice of Lien.

ii. The Clerk-Treasurer shall record each Notice of Lien with the County Recorder, and shall then mail to each property owner on the Notice of Lien a notice stating that a lien against the owner's property has been recorded. The cost of recording the Notice of Lien and the costs of recording a Release of Lien shall be added to the amount due for each Notice of Lien.

iii. Not later than ten (10) days after recording each Notice of Lien, the Clerk-Treasurer shall certify to the County Auditor a list of the liens that remain unpaid for collection in the next May.

iv. The Clerk-Treasurer shall release any recorded Notice of Lien when the Delinquent Fees and recording fees described above have been fully paid.

v. Upon receipt of the Clerk Treasurer's certified list described above, the County Auditor shall enter on the tax duplicate for the Town the Delinquent Fees, penalties, service charges, recording fees and certification fees, which are due not later than the due date of the next installment of property taxes. The County Treasurer shall then include any unpaid charges for the Delinquent Fees, penalty, and recording fees to the owner or owners

of each lot or parcel of property, at the time the next cycle's property tax installment is billed.

vi. After the Clerk-Treasurer's certification of liens, the Clerk-Treasurer may not collect or accept Delinquent Fees, penalties, service charges, recording fees, or certification fees from property owners whose property has been certified to the County Auditor.

vii. If the Delinquent Fees, penalty, service charge, recording fees, and certification fee are not paid, they shall be collected by the County Treasurer in the same way that delinquent property taxes are collected.

viii. At the time of each semiannual tax settlement, the County Treasurer shall certify to the County Auditor all fees, charges, and penalties that have been collected. The County Auditor shall pay over the Clerk-Treasurer the fees and penalties due the Town.

ix. Delinquent Fees, penalties and service charges that were not recorded before a recorded conveyance shall be removed from the tax roll, and a release of lien shall be recorded, for a purchaser who provides a verified demand in writing to the Clerk-Treasurer and the County Auditor, which states that the Delinquent Fees were not incurred by the purchaser as a user, lessee, or previous owner, and that the purchaser has not been paid by the seller for the delinquent fees.

x. The Clerk-Treasurer may at any time elect to record a release of the Notice of lien, paying the recording fees and decertifying the lien such that collection is not undertaken by the County Auditor and County Treasurer, and seek to collect the Delinquent Fees by filing a civil action in the manner described above.

c. By foreclosing a lien following the recording of a Notice of Lien.

3. In lieu of collection, the Town Council may write off Delinquent Fees that are for less than Forty Dollars (\$40.00), pursuant to Indiana Code Section 36-9-23-33(1).

(E) Disconnection Procedures.

1. If a bill, including penalties, becomes delinquent and is not paid by the bill's due date, the property served shall be placed on the disconnection list. In addition, the Town Council, or its designated officers, shall terminate service for any user for any of the following reasons:

a. For any misrepresentation in the service application as to property or fixtures to be supplied, or the use to be made of the water supply;

b. For willful waste of water through improper or imperfect pipes, fixtures, meters or otherwise;

c. For failure to keep in good order and to protect the Town's connections, service lines or fixtures;

d. For damage or molesting any service pipe, meter, curb stop-cock, or any other appliance of the Town controlling or regulating the water supply;

e. For neglecting to make agreed payments, or for the non-payment of any account for water supplied, water service, wastewater service, garbage collection or any other scheduled fee or charge as required;

f. Payment by dishonored check will be treated as non-payment and penalties will apply as provided herein if such payment is not paid by the appropriate due date. Further, any person who pays with a check which is dishonored or returned for any reason, shall be assessed an additional non-sufficient fund charge as set forth in Indiana Code § 35-43-5-5, as

may be amended from time to time (currently \$20.00 or five percent (5%) of the face value of the check, but not to exceed \$250.00, whichever is greater) per check, as permitted in Town Code § 35.02 (“Dishonored Check Fees”). The Town shall be entitled to collect such sum; or

g. In case of vacancy of the premises.

2. Prior to the Town Council deciding whether to the disconnect service, the user will be provided an opportunity to present evidence to the Town Council. If an owner of a property maintains a single meter for multiple non-owner occupants, notice shall be sent to every unit serviced by the meter in the event of a delinquency and of the disconnection hearing. All non-owner occupants serviced by a delinquent account shall have the right to address the Town Council at the disconnection hearing. Town employees will notify users of the possibility of disconnection by mailing disconnection notices to the user on the second (2nd) day of each month, or as soon thereafter as possible.

3. All disconnection notices shall plainly state:

a. That the user will have an opportunity to present evidence to the Town Council at the Town Council meeting on the third Monday of the month in which the disconnect notice was issued, at 7:00 p.m. C.D.T. prior to the Town Council determining whether to disconnect the service at the property served by the utility.

b. If the Town Council votes to approve disconnection of utility services at that meeting, the actual disconnection will take place within forty-eight (48) hours of the meeting.

c. The reason for disconnection.

d. The telephone number of the Town Hall which the user may call during regular business hours in order to question the proposed disconnection or seek information concerning his or her rights.

4. If disconnection notices are sent in any month, at the next Town Council meeting, there shall be an agenda item for disconnection hearings. The Town Council shall invite all persons who received disconnection notices to address the Town Council and present evidence concerning the proposed disconnection. At the conclusion of any each hearing, or if no evidence is presented, after determining that no one wishes to address the Town Council and present evidence, the Town Council will decide whether disconnection of utilities should proceed against anyone receiving a disconnection notice.

5. Within forty-eight (48) hours of the meeting where the Board votes to disconnect utility service to a property or properties, Town employees shall disconnect the utility service of those owners, lessees and users of the property whose disconnection was approved at said Town Council meeting.

6. When service is disconnected for non-payment, it will not be reconnected until all past due charges and penalties, together with a reconnection fee are paid.

(Ordinance No. 2004-5, passed July 28, 2004; amended by Ordinance No. 2020-0511B, passed May 11, 2020)

## § 50.02 SHARING TOWN SERVICES

(A) General Provisions

1. "Account" shall mean a user, Customer, or property, which has an account

associated with it, as established and maintained by the office of the Clerk-Treasurer, for the purposes of billing for any Town Services.

2. "Customer" shall mean any property, parcel, person or entity that receives or benefits from any Services from the Town.

3. "Service" shall mean Water Utility, Sewer Utility, Garbage Disposal, and Trash Removal.

4. "Sharing" shall mean the act of allowing one's Services to be used by another, or the act of accepting the use of Services from another, with or without their consent, in such a manner that it circumvents the Town's ability to charge for the usage in the ordinary and customary manner the Town charges its Customers for that Service.

(B) Services provided by the Town or its vendors to a Customer are authorized only to be used by persons dwelling at the Customer's property address, identified on the Account, and to which the Services are provided, or in the case of a business, for employees, patrons, and owners of that business Customer, within the ordinary course of that Customer's business. Sharing of Services by Customers of the Town or others is prohibited.

1. A Customer is prohibited from sharing their Service with any other person, parcel, or entity, regardless of whether the other has their own Account with the Town.

2. A person, entity, or other owner, tenant, lessee of a parcel, is prohibited from accepting the use of the sharing of Services to a Customer, regardless of whether that person has their own account.

3. The following are examples of violations, which are prohibited:

a. A person who places, or authorizes another to place, their garbage bags, in/alongside the trash receptacles of a Customer, for removal by the Town or its vendors.

b. A person who provides water to a nearby residence, or a person who accepts water service provided from nearby residence.

c. A person who disposes of their sewage through the plumbing of a nearby property owner.

4. It is not a defense to an alleged violation of this Section that either party consented to the sharing of Services.

5. A Customer who discharges sewage from their own recreational vehicle into their own sewer system is not a violation of this Section.

(C) Any use or sharing of the Services, which is not expressly authorized by this Section is specifically prohibited and unauthorized as it deprives the Town of its use and value of those Services.

(D) Penalty, see §10.99.

(Ordinance No. 2015- ; passed May 18, 2015)

## CHAPTER 51: WATER

### Section

- 51.01 Water Rationing
- 51.02 Unauthorized Use of Water
- 51.03 Prohibiting Private Wells
- 51.04 Cross Connection Control
- 51.05 Rates and Charges Historical Note

### § 51.01 WATER RATIONING

(A) Upon determining that the Town's public water system is in imminent danger of a shortage of water or is experiencing a shortage of water, the Town Council shall declare a water conservation emergency and establish the appropriate conservation measures and the duration thereof.

(B) Users shall be requested to reduce water consumption by practicing voluntary conservation techniques. The Town Council shall suggest reasonable and meaningful actions which will alleviate existing or potential water shortage. Users shall be prohibited from the water uses listed below, subject to reasonable terms, times and conditions as the governing body shall determine.

1. Sprinkling, watering or irrigating of shrubbery, trees, grass, ground covers, plants, vines, gardens, vegetables or any other vegetation.
2. Washing of automobiles, trucks, trailers, mobile homes, railroad cars or any other type of mobile equipment.
3. Cleaning or spraying of sidewalks, driveways, paved areas, or other outdoor surfaces.
4. Washing and cleaning of any business equipment or machinery.
5. The filling of swimming pools, wading pools and ornamental fountains.
6. Knowingly allowing leakage through defective plumbing.

(C) In addition to the mandatory conservation measures identified above, users shall be limited to water use per the following schedule:

1. Residential use shall be limited to 10-50 gallons per person per day.
2. Business, commercial and industrial users shall be limited to 50-80 percent of the volume of water used during the corresponding month of the preceding year. Business, commercial or industrial users that were not in business and operating in the area served by the public water system more than one year prior to the declaration of need shall be restricted to 50-80 percent of the average monthly volume of water used during the number of months such business, commercial or industrial user was in business and operating in the public water system area.

(D) The Town Council reserves the right to establish alternative rationing requirements for the following:

1. Health care providers.
2. A reasonable use of water to maintain adequate health and sanitary

standards.

3. Those industrial and agricultural activities declared to be necessary for the public health and wellbeing.

(E) Notice of voluntary conservation measures shall be by publication in a local newspaper of general circulation or other means as deemed appropriate by the Town Council. Said Notice shall be effective upon publication.

Notice of mandatory conservation or rationing shall be by first class United States Mail, or by other door-to-door distribution to each current user, and by electronic and print media. Notice shall be deemed effective at the conclusion of door-to-door distribution, or at noon of the third day after depositing same in the United States Mail.

(F) Any user who violates Section D or E may be punished by a fine of not more than \$2,500. Each day of violation shall constitute a separate offense. In addition to, or in the alternative to a fine, water service may be terminated for any user who violates Section D or E.

(Ordinance No. 1988-3, passed July 18, 1988)

## **§ 51.02 UNAUTHORIZED USE OF WATER**

(A) It shall be unlawful for any plumber, pipe fitter, or other person or persons to attach to or in any way tamper with any property of the public water utility, including but not limited to water lines, meters, hydrants, or any other apparatus used in the storage, pumping or delivery of water supplied by the public water utility without the express permission and supervision of the water superintendent. It shall be unlawful to in any way divert or use for any purpose water of the water supplied by the public water utility whether through any unmetered source, fire hydrant or any other means.

(B) Penalty, see § 10.99

(Ordinance No. 95-8-5, passed August 21, 1995)

## **§ 51.03 PROHIBITING PRIVATE WELLS**

(A) No person, firm, or corporation shall establish or permit to be established or maintain or permit to be maintained any private water well or water source, upon their property, which causes, allows, or enable any liquid or solid to be introduced into the Town's sanitary system, either directly or indirectly.

1. The Town Sewer Superintendent may cause inspections to be made of all properties served by the Town's sanitary system where a private well is suspected. The frequency of inspections and re-inspections shall be established by the Sewer Superintendent.

2. Upon presentation of credentials, the Sewer Superintendent shall have the right to request entry at any reasonable time to examine the property served by a connection to the Town's sanitary system for presence of a private well and compliance with these provisions. On



request, the owner, lessee, or occupant of any property so served shall furnish to the Sewer Superintendent any pertinent information regarding the piping system or systems on such property and the location of any well or water source. The refusal of access or refusal of requested pertinent information shall be deemed evidence of the presence of private well.

3. "Source" means any of the following: private well; water/liquid storage tank; water supplied from adjoining or nearby properties; storm water systems that introduce water into the Town's sanitary system; water delivered to the property from anywhere off site, other than through the Town's water meter assigned to and serving that parcel and customer; in the event of a multi-family dwelling, water derived from other separately metered users on the parcel; and, any other means that would cause water to be provided to the property/user other than through the Town's metered system for that user's property. However, this does not include de minimis amounts of water purchased for consumption from retail establishments, such as bottled water packaged for retail distribution.

(B) Any person, firm, or corporation who owns or maintains a property that is connected to the Facility; was connected to the Facility as of the date of this Section; or is located within the Town limits, shall at all times maintain a physical connection to the Town's water utility, in manner approved by the Town and may not use a private well or water source.

(C) Nothing in this Section shall be construed to prohibit a private well that is used strictly for agricultural purposes and does not introduce water or solids into the Town's sanitary system.

(D) A person, firm, or corporation that is in violation of Section B may, at their own expense, purchase a water meter or other regulatory device, approved in advance by the Sewer Superintendent, and install such device in a manner approved by the Sewer Superintendent, to enable the monitoring of water usage at the real estate and said person, firm, or corporation shall permit the Water Superintendent to inspect and read the water meter at times and intervals as determined by the Water Superintendent.

(E) The person, firm, or corporation, who owns the property shall obtain and submit an Application for a Private Well Permit with the Clerk-Treasurer, who shall forward the application to the Sewer Superintendent.

1. Upon inspection of the property and a finding that the water meter installed in an appropriate manner, the Sewer Superintendent shall issue the permit and return the original to the Clerk-Treasurer and provide a copy to the applicant. An applicant whose permit is issued shall become a utility customer and be liable for all fees incurred.

2. A copy of the approved permit shall be retained by the utility customer.

3. Once a permit is granted, the property shall at all times remain in compliance with this section and be made available for inspection as described above.

4. A person who tampers with a water meter or regulatory device, installed under these provisions, shall be in violation of this section and subject to fine pursuant to the provisions of the Goodland Town Code prohibiting Tampering with a Water Meter.

5. The Clerk-Treasurer shall have the authority to suspend a permit issued under these provisions for delinquent accounts caused by the non-payment of sewer fees determined pursuant to this section. The Clerk-Treasurer may suspend a permit in the same manner

that utility customers may have service disconnected. The utility customer shall pay a reconnection fee before the permit may be reinstated. A permit that remains suspended for thirty (30) days shall be deemed cancelled and void as of the date it was first suspended and the person, firm, or corporation shall be in violation of this section as of that date.

(F) Penalty, see §10.99.

(Ordinance No. 2005-11, passed June 20, 2005; amended by Ordinance No. 2015-; passed May 18, 2015)

## **§ 51.04 BACKFLOW PREVENTION**

(A) A cross-connection shall be defined as any physical connection or arrangement between two otherwise separate systems, one of which contains potable water from the Town water system, and the other, water from a private source, water of unknown or questionable safety, or stream, gases, or chemicals, whereby there may be a flow from one system to the other, the direction of flow depending on the pressure differential between the two systems.

(B) No person, firm, or corporation shall establish or permit to be established or maintain or permit to be maintained any cross-connection. No interconnection shall be established whereby potable water from a private, auxiliary, or emergency water supply other than the regular public water supply of the Town may enter the supply or distribution system of the Town, unless such private, auxiliary, or emergency water supply and the method of connection and use of such supply shall have been approved by the Town Water Department and by the Indiana Department of Environmental Management in accordance with 327 IAC 8-10.

(C) It shall be the duty of the Water Superintendent ("Superintendent") to cause inspections to be made of all properties served by the public water system where cross-connection with the public water system is deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved shall be established by the Superintendent.

(D) Upon presentation of credentials, the representative of the Superintendent shall have the right to request entry at any reasonable time to examine the property served by a connection to the public water system of the Town for cross-connections. On request, the owner, lessee, or occupant of any property so served shall furnish to the Superintendent or his or her representative any pertinent information regarding the piping system or systems on such property. The refusal of access or refusal of requested pertinent information shall be deemed evidence of the presence of cross-connections.

(E) The Town Water Department is hereby authorized and directed to discontinue water service to any property wherein any connection in violation of this Code exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service shall be disconnected only after reasonable notice is served on the owner, lessee, or occupants of the property or premises where a violation is found or suspected to exist. Water service to such property shall not be restored until the cross-connection(s) has been

eliminated in compliance with the provisions of this Code.

(F) If it is deemed by the Town Water Department that a cross-connection or any emergency endangers public health, safety, or welfare and requires immediate action, and a written finding to that effect is filed with the Clerk-Treasurer and delivered to the consumer's premises, service may be immediately discontinued. The consumer shall have an opportunity for hearing within ten (10) days of such emergency discontinuance.

(G) All consumers using toxic or hazardous liquids, all hospitals, mortuaries, wastewater treatment plants, laboratories, and all other hazardous users shall install and maintain a reduced pressure principal backflow preventer in an easily accessible location not subject to flooding or freezing.

(H) The reduced pressure principal backflow preventers shall not be installed below ground level.

(I) This Code does not supersede the Indiana Plumbing Code, the IDEM Rule 327 IAC 8-10 or any other code provision, but is supplementary to them.

(J) If, in the judgment of the Superintendent, an approved backflow prevention device is necessary for the safety of the public water system, the Superintendent will give notice to the water consumer to install such an approved device immediately. The water consumer shall, at his or her own expense install such an approved device at a location and in a manner approved by the Superintendent and shall have inspections and tests made of such approved devices as required by the Superintendent and in accordance with the IDEM Rule 327 IAC 8-10.

(K) Penalty, see §10.99.

(Ordinance No. 2016-2, passed January 18, 2016)

## **§ 51.05 HISTORICAL NOTE: RATES AND CHARGES**

(Ordinance No. 1998-1, passed March 16, 1998; amended by Ordinance No. 1998-4A, passed May 18, 1998; amended November 16, 1998; amended by Ordinance No. 2015-1, passed February 16, 2015; amended by Ordinance No. 2017-1120, passed November 20, 2017; amended by Ordinance No. 2020-0518, passed May 18, 2020)

## CHAPTER 52: SEWER

### Section

- 52.01 Sewer Credits
- 52.02 Sewer Discharge Prohibitions
- 52.03 Historical Note: Rates and Charges

### § 52.01 SEWER CREDITS

#### (A) General Provisions.

1. The Clerk-Treasurer's office is hereby authorized to provide a credit to a sewage utility customer's account, when a majority of the Council votes in favor of the credit.
2. The request for sewer credit shall be submitted in writing to the Clerk's Office or in person at a Town Council meeting, prior to the due date, unless some circumstance beyond the control of the customer, prevented a timely request.
3. Following a request, it is the duty of the customer to determine the decision of the Town Council and to make timely payments as required.
4. This Section applies only to a credit for sewage charges and supersedes all previous Ordinances, which provided credits of any kind for water or sewage charges, incurred by leaks, sprinklers, or otherwise.
5. A customer may only receive credit during the year which precedes the request for credit, so that requests for credit on a bill more than one year old will not be considered. The customer must turn in meter readings on a monthly or annual basis in order to be eligible for any credit.
6. A customer is limited to one month of credit unless the customer can prove the amount of water which did not enter the sewage system.
7. In the event that the Town Water Superintendent authorizes a customer, in writing, to run water during periods of freezing temperatures in order to protect the Town's water system and equipment, a credit will be given for the amount of additional water used during such periods.

#### (B) Intentional Excessive Water Usage.

1. This category includes water which the owner intentionally used, but which should not be considered in determining sewage costs, such as water used for pools, watering lawns and shrubs, or any other use where the Town's sewage treatment facility is not involved.
2. It is the intent of the Town Council to allow credits for this category, to the extent that the customer can prove the actual portion of the water usage that was allocated to the event.
3. The customer shall be required to purchase a meter, approved by the Town, to regulate the amount of water used, if the use is on an on-going basis.
4. The Town may elect to rent or make available meters for the occasional or infrequent use by customers, such as a seasonal pool filling, but may limit the duration that a customer uses such meters.
5. The customer shall certify to the Clerk-Treasurer the amount of water used, as determined by the meter.

(C) Accidental Excessive Water Usage.

1. This category includes water which, through no fault of the owner, leaks in such a manner that the Town's sewage treatment facility was not likely involved or involved in a negligible amount. This does not apply to water leaks that necessarily involve the Town's sewage treatment facility, such as leaking faucets or toilets.

2. The customer shall be required to have the leak inspected by a Town employee or person, unrelated to the customer and neutral, who is hired to repair the leak.

3. An oral or written request submitted by the customer shall explain in detail the amount of the leak, the amount of the adjustment requested, and how the amount was determined.

4. A customer may request a credit under this provision only one (1) time in any twelve (12) month period for a given leak. However, the credit will be for sewage charges only, not for water charges.

5. In determining a credit to be allowed, the Town Council shall consider the totality of the circumstances, considering any factors it deems relevant, which may include:

- a. The amount of the water lost during the leak;
- b. Whether the owner took steps to minimize amount of water lost;
- c. Timeliness of past payments by the customer on utility accounts;
- d. The likelihood that the water entered the sewage treatment facility;
- e. Whether preventative maintenance, routine inspection, or other acts by the customer could have prevented or minimized the leaks;
- f. The frequency of requests for sewer credits from the customer.

(D) Effects of Decision.

1. All decisions made by the Town Council shall be at their sole discretion. This Section provides merely an option, but not create an obligation or duty upon for the Town to honor such requests.

2. All decisions made by the Town Council are final. Utility bills are due and payable within ten (10) days of the Town Council's decision or the due date, whichever is later and unless other arrangement are made with the Town.

(Ordinance No. 2004-2, passed June 21, 2004)

**§ 52.02 SEWER DISCHARGE PROHIBITIONS**

(A) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.

(B) Stormwater and all other unpolluted drainage shall be discharged to the sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer or natural outlet.

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

1. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;
2. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant;
3. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works; and/or
4. Solid or viscous substances in quantities or of a size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers and the like, either whole or ground by garbage grinders.

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

1. Any liquid or vapor having a temperature higher than 150°F (65°C);
2. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 150°F (0 and 65° C);
3. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent;
4. Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions whether neutralized or not;
5. Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to a degree that any material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for the materials;
6. Any waters or wastes containing phenols or other taste or odor-producing substances, in concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies of jurisdiction for discharge to the receiving waters;
7. Any radioactive wastes or isotopes of a half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal

regulations;

8. Any waters or wastes having a pH in excess of 9.5;
9. Materials which exert or cause:
  - a. Unusual concentrations of inert, suspended solids (such as, but not limited to, Fullers earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate);
  - b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);
  - c. Unusual B.O.D., chemical oxygen demand or chlorine requirements in quantities as to constitute a significant load on the sewage treatment works; and
  - d. Unusual volume of flow or concentration of wastes constituting slugs as defined herein.
10. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to a degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(E) If any waters or wastes are discharged, or are proposed to be discharged, to the public sewers, which waters contain the substances or possess the characteristics enumerated in 11-22-2-4 above of this section, and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Reject the wastes;
2. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Require control over the quantities and rates of discharge; and/or
4. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of division (J) below of this section.

If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plans and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances and laws.

(F) Grease, oil and sand interceptors shall be provided when, in the opinion of the the Inspector, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that the interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

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

(H) When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with

necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. The manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his or her expense, and shall be maintained by him or her so as to be safe and accessible at all times.

(I) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this subchapter shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples.)

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

(K) Right of Entry: Inspection and Sampling- The Superintendent shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this ordinance and any individual wastewater discharge permit or order issued hereunder. Users shall allow the Superintendent ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

1. Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Superintendent shall be permitted to enter without delay for the purposes of performing specific responsibilities.

2. The Superintendent shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.

3. The Superintendent may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy.

4. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Superintendent and shall not be replaced. The costs of clearing such access



shall be born by the User.

5. Unreasonable delays in allowing the Superintendent access to the User's premises shall be a violation of this ordinance.

**§ 52.02 HISTORIC NOTE: RATES AND CHARGES**

(Ordinance No. 1991-9, passed December 30, 1991; amended by Ordinance No. 2018-0320, passed March 20, 2018;

## CHAPTER 53: STORM WATER

### Section

#### 53.01 Storm Water

### § 53.01 STORM WATER

#### (A) Definitions

1. "Special Taxing District" for the purposes of this Chapter, shall mean all properties located within corporate boundary of the Town as defined by I.C. § 8-1.5-5-5, to be utilized for funding Storm Water Management for the Town.

2. "Storm Water Management" for the purposes of this Chapter, as defined by I.C. § 8-1.5-5 et seq., shall mean the installation, maintenance and operation of storm water collection and disposal; which includes, but is not limited to, the repair and replacement storm and drainage tiles and pursue other endeavors related to the elimination of storm water from streets and properties.

3. "Storm Water Management Board" for the purposes of this Chapter, as defined by I.C. § 8-1.5-5 et seq., shall mean a board established by the Town Council to be responsible for Storm Water Management.

4. "Storm Water Fund" for the purposes of this Chapter, as defined by I.C. § 8-1.5-5 et seq., shall mean an account established for the Storm Water Management, and said fund to be directed by the Storm Water Management Board.

(B) The Town Council establishes a special taxing district in accordance with I.C. § 8-1.5-5-5 for the purposes of establishing and creating revenue for a Storm Water Fund. In accordance with said statute, the special taxing district is the corporate limits of the Town.

(C) The Town Council establishes a Storm Water Management Board, in accordance with I.C. § 8-1.5-5-4 et seq. The Board shall initially consist of members of the Town Council and the members shall be appointed in accordance with this statute. The powers of the Board shall be in accordance with I.C. § 8-1.5-5-6. The three (3) members shall have staggered terms, consisting of 2 years; 3 years; and 4 years, initial terms, and thereafter each member shall serve a term of 4 years, concluding on January 31. Board members shall be appointed by the Town Council President in January of each year in which a term will lapse. All terms shall hereafter expire on January 31. In the event of a mid-term vacancy, due to death, resignation, removal or otherwise of a Board member, the Town Council President shall appoint an individual to fill the vacancy and complete the prior Board member's remaining term. In the event the Town Council President shall fail to appoint a new member to the Board, when a term is completed, the current member shall continue to serve into the new term, until a replacement is appointed or the Board member is reappointed.

(D) The Town Council establishes a Storm Water Fund, in accordance with Indiana Code § 8-1.5-5-7, 8-1.5-5-8, 8-1.5-5-9, 8-1.5-5-10 and 8-1.5-5-11. This fund shall be established and maintained in accordance with Indiana Code § 8-1.5-5 et seq.

(E) The Town Council establishes a fee or rate, in accordance with Indiana Code § 8-

1.5-5-7. The Town Council shall establish a fee or rate per parcel of property within the Special Taxing District to provide revenue for the Storm Water Fund. The Town Council shall establish the fee or rate annually, or as often as is necessary and prudent for the creating of the fund and operation therewith.

(Ordinance No. 2016-1, passed January 18, 2016)

## **CHAPTER 54: RESIDENTIAL SOLID WASTE REMOVAL**

### Section

54.01 Trash Service

### **§ 54.01 TRASH SERVICE**

(L) Every person whose premises are currently served by the Town Water Utility who maintain a residence or a business in the Town shall be charged for trash and refuse collection service. These charges shall be established in addition to charges presently-assessed for use of the Town water utility and other utilities within the Town.

(M) All rate payers shall be entitled to one trash and refuse pickup per week. Trash and refuse shall be set at a convenient place near the street or alley as otherwise instructed by the provider of the trash and refuse collection service.

(N) The rates and charges established herein may be collected by the Town in the same manner as other utility rates and charges are collected. Any delinquent or unpaid rates and charges may be assessed and collected according to the provisions of the Indiana Code as amended.

(Ordinance No. 91-12, passed July 15, 1991)

**TITLE VII: TRAFFIC CODE**

- 70. VEHICLE AND PARKING RULES**
- 71. SLOW MOVING VEHICLES**
- 72. GOLF CARTS AND OFF-ROAD VEHICLES**

## **CHAPTER 70: VEHICLE AND PARKING RULES**

### Section

- 70.01 Damaging Streets
- 70.02 Time Limits for Parking
- 70.03 Parking Prohibited
- 70.04 Handicapped Parking
- 70.05 Commercial Vehicle Parking
- 70.06 Signage

### **§ 70.01 DAMAGING STREETS**

(A) It is unlawful for any person or persons to drive a tractor or a crawler vehicle of any sort with metal lugs on the wheels on any of the streets of the Town, either on the pavement, gutter or any part of any street in said Town.

(B) Penalty, see §10.99.

(1985 Code Section 7-1, passed 1937, amended 1984; repealed and replaced by Ordinance No. 1998-3, passed April 20, 1998)

### **§ 70.02 TIME LIMITS FOR PARKING**

(A) It shall be unlawful for any person or persons to park a vehicle for more than two (2) hours within any parking zone within the Town, which is denominated and posted a "two hour parking only" parking zone, between the hours of 6 a.m. and 6 p.m.

(B) Penalty, §10.99.

(Ordinance No. 1998-3, passed April 20, 1998)

### **§ 70.03 PARKING PROHIBITED**

(A) There shall be no parking along the North side of Union Street, between the United States Post Office at 122 W. Union Street and Iroquois Street or along the East side of Iroquois Street running North from Union Street to the railroad tracks.

(B) Penalty, §10.99.

(Ordinance No. 2017-1120, passed November 20, 2017)

**§ 70.04 HANDICAPPED PARKING**

(A) The Street and Water Superintendent shall cause three (3) parking spaces at the Town Hall and Community Center to be designated as a handicap parking place. Two shall be restricted to handicap parking at all times, but the third shall be limited to the hours of 10:00 a.m. until 2:00 p.m. All shall be designated by blue paint outlining the parking space.

(B) The Street and Water Superintendent shall cause two (2) parking spaces directly in front of the Goodland Public Library to be designated as a handicap parking place, which shall be designated by sign and other markings for the exclusive use of handicapped drivers bearing proper credentials.

(C) All parking places shall be on the west side of Benton Street at a point closest to U.S. 24, to allow access to the southwest entrance of the building.

(D) Penalty, see § 10.99.

(Ordinance No. 2000-9-1, passed August 21, 2000; Ordinance No. 2004-14, passed 2004; amended by Ordinance No. 2007-2, passed June 18, 2007)

**§ 70.05 COMMERCIAL VEHICLE PARKING**

(A) Definitions

1. "Residential area" shall mean an area consisting, in whole or in part, of residential properties, but excludes businesses located within R-1 districts which have been approved by the Board of Zoning Appeals or which existed prior to being designated R-1.

2. "Containers" shall include, for the purposes of this ordinance:

a. Semi-trailers with a gross vehicle weight in excess of ten thousand (10,000) pounds;

b. Overseas containers, boxes or tanks commonly used to transport goods by railway, commercial motor vehicle, and/or waterway, or which are designed such that they may be used in conjunction with a semi-tractor and trailer for transportation upon a highway;

c. Solid waste containers commonly used for trash and refuse removal; and

d. Boxes commonly affixed to straight-bed trucks, used for hauling cargo upon a highway.

3. "Trucks," shall mean any motor vehicle having a gross vehicle weight rating of 26,000 pounds or more as determined by the Department of Transportation or manufacturer, or any vehicle designed to transport more than (16) passengers, including any school bus.

(B) General Provisions.

1. No person, corporation, or entity shall park a farm machine, truck, semi-tractor and/or trailer having a gross weight in excess of ten thousand (10,000) pounds in a

residential area within the corporate limits of the Town for a continuous period of more than four (4) hours within any twenty-four (24) hour period, unless said farm machine, truck, semi-tractor and/or trailer:

- a. is parked in the Municipal Parking Lot located on Union Street between Iroquois Street and Newton Street;
  - b. is providing service to or on behalf of the Town; or
  - c. is being used in the construction of an improvement to real estate within six (6) months of the date that a building permit was issued for the improvement.
2. No person, corporation, or entity shall allow a container to be placed upon their property, unless the container is:
    - a. Lawfully licensed; and
    - b. Immediately roadworthy.
  3. Farm machines, trucks, semi-tractors and/or trailers may park in the Municipal Parking Lot for a continuous period of up to three (3) days.

(C) Inclement Weather Exception.

1. A person may bring a semi-tractor into a residential area during inclement weather, which shall mean those dates when the forecasted low is expected to be at least 30 degrees Fahrenheit or less in the Town.
2. A person bringing a semi-tractor into a residential area under this exception, must comply with the following:
  - a. The semi-tractor must be plugged in to a block heater or similar engine heating device.
  - b. Only one semi-tractor may be parked per residence, and without any trailer attached.
  - c. The semi-tractor may not idle more than forty-five (45) minutes prior to departure.

(D) Penalty, see § 10.99.

(Ordinance No. 1996-12; Ordinance No. 1996-13, passed May 20, 1996; amended by Ordinance 1997-4, passed December 15, 1997; amended by Ordinance No. 1998- 15; Ordinance No. 2004-12, passed September 20, 2004; repealed by Ordinance No. 2009-1, passed January 19, 2009; amended by Ordinance No. 2009-13, passed December, 2009; amended by Ordinance No. 2009-12, passed December, 2009)

**§ 70.06 SIGNAGE**

The following signs shall be placed:

Two (2) Stop signs (north and south) on Benton Street where it intersects with Meadow Street;

Two (2) Stop signs (north and south) on Washington Street where it intersects with Mill Street;



Two (2) Stop signs (north and south) on Washington Street where it intersects with Prairie Street;

One (1) Stop sign on James Street where it intersects with Monroe Street;

One (1) Stop sign on Monroe Street where it intersects with Benton Street;

One (1) Stop sign on Wayland Avenue where it intersects with Iroquois Street;

One (1) Stop sign on Wayland Avenue where it intersects with Newton Street;

One (1) Stop sign on Wayland Avenue where it intersects with Benton Street;

One (1) Stop sign on Main Street where it intersects with Iroquois Street;

One (1) Stop sign on Harrison Avenue where it intersects with Union Street;

One (1) Stop sign on James Street where it intersects with Union Street;

One (1) Stop sign on Union Street where it intersects with Mill Street;

One (1) Stop sign on Washington Street where it intersects with Benton Street;

Two (2) Stop signs (East and West) on Prairie Street where it intersects with Newton Street;

Two (2) Stop signs (East and West) on Prairie Street where it intersects with James Street;

One (1) Stop sign on Prairie Street where it intersects with Benton Street;

One (1) Stop sign on Mill Street where it intersects with James Street;

One (1) Stop sign on Mill Street where it intersects with Benton Street;

One (1) Stop sign on North Street where it intersects with Newton Street;

One (1) Stop sign on Benton Street where it intersects with Brook Street;

One (1) Stop sign on Central Avenue where it intersects with North Street;

One (1) Stop sign on Park Avenue where it intersects with Newton Street;

One (1) Stop sign on Park Avenue where it intersects with Benton Street;

One (1) Stop sign on the southwest corner of the intersection of Union Street and Harrison Street, facing west;

One (1) Stop sign on the north side of Union Street just prior to its intersection with Harrison Street, facing east;

Four (4) Way Stop at intersection of Monroe Street and Newton Street;

Four (4) Way Stop at intersection of Iroquois Street and Union Street;

Four (4) Way Stop at intersection of Union Street and Newton Street;

Four (4) Way Stop at intersection of Mill Street and Iroquois Street;

Four (4) Way Stop at intersection of Mill Street and Newton Street;

Four (4) Way Stop at intersection of Mill Street and James Street;

One (1) Yield sign on James Street where it intersects with Wayland Avenue;

Two (2) Yield signs (East and West) on Prairie Street where it intersects with Iroquois Street;

One (1) Yield sign on Central Avenue where it intersects with Mill Street;

Two (2) Yield signs (North and South) on James Street where it intersects with North Street;

One (1) Yield sign on Benton Street where it intersects with North Street;

One (1) Yield sign on Main Street where it intersects with Iroquois Street;

One (1) Yield sign on Humston Street where it intersects with Brook Street;

One (1) Truck Traffic Prohibited sign on Prairie Street where it intersects with Iroquois Street;

One (1) Truck Traffic Prohibited sign on Mill Street where it intersects with Iroquois Street;

One (1) Weight Limit 5 Tons sign on Central Avenue where it intersects with North Street and a bridge;

One (1) Gross Weight Limit 8 Tons sign on N. Benton Street where it intersects with North Street and a bridge;

One (1) Weight Limit 5 Tons sign on S. James Street where it intersects with Prairie Street;

One (1) Gross Weight Limit 4 Tons sign on Constable Street where it intersects with Newton County Road 1550 S;

One (1) Gross Weight Limit 4 Tons sign on Humston Street where it intersects with Newton County Road 1550 S;

One (1) Speed Limit 30 MPH sign on Newton Street 100 yards south of Newton County Road 1550 S;

One (1) No Dumping Allowed sign on Benton Street at Goodland Fish Pond.

(Ordinance No. 94-5-2-4, passed May 16, 1994; Ordinance No. 1988-2, passed May 16, 1988; Ordinance No. 1998-5, passed May 18, 1998; Ordinance No. 1999-; passed April 19, 1999; Ordinance No. 1999-10-2, passed October 18, 1999; Ordinance No. 2001- ; passed June 18, 2001)

## CHAPTER 71: SLOW MOVING VEHICLES

### Section

#### 71.01 Slow Moving Vehicles

### § 71.01 SLOW MOVING VEHICLES

(A) For the purposes of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

1. “Slow-moving vehicle” shall include the following: low-speed vehicles as defined in I.C. § 9-13-2-94.5; motorized carts as defined in I.C. § 14-19-1-0.5; motor scooters as defined in I.C. § 9-13-2-109; electric personal assistive mobility device as defined in I.C. § 9-13-2-49.3.

2. This Section shall not include golf carts nor off-road vehicles which are regulated in other sections of the Code and the statutes of the State of Indiana.

(B) The operation of a slow-moving vehicle within the Town is strictly prohibited unless the slow-moving vehicle is operated and equipped in full compliance of this Section.

(C) Slow-moving vehicles shall not be operated on Town streets from one-half hour after sunset to one-half hour before sunrise unless the slow-moving vehicle is equipped with two (2) operating headlights, at least one (1) operating tail lamp mounted on the rear, and at least two (2) red reflectors visible from one hundred (100) feet to six hundred (600) feet when illuminated by the upper beams of head lamps.

(D) Slow-moving vehicles may be operated on Town streets which have a posted speed limit of thirty (30) miles or less. Slow-moving vehicles may cross State Road 24 at intersections in a path ninety (90) degrees to said highway, but may not otherwise be operated on State Road 24.

(E) The number of occupants in a slow-moving vehicle shall be limited to the number of persons for whom seating is installed. Operators are strictly prohibited from carrying any passengers, including children, on laps while the slow-moving vehicle is being operated.

(F) The operator of the slow-moving vehicle shall comply with all traffic rules and regulations adopted by the State and the Town which govern the operation of motor vehicles.

(G) All slow-moving vehicles must display on the back of the slow-moving vehicles a “slow moving vehicle emblem” as described in I.C. § 9-21-9-3, or a red or amber flashing lamp as described in I.C. § 9-21-9-4, as those sections may be amended from time to time.

(H) Penalty, see §10.99.

(Ordinance No. 2020-1019, passed October 19, 2020)

## CHAPTER 72: GOLF CARTS AND OFF-ROAD VEHICLES

### Section

#### 72.01 Golf Carts and Off Road Vehicles

### § 72.01 GOLF CARTS AND OFF ROAD VEHICLES

(A) For the purposes of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

1. “Golf Cart” means a four (4) wheeled motor vehicle originally and specifically designed and intended to transport one (1) or more individuals and golf clubs for the purpose of playing the game of golf on a golf course, as that term is defined in I.C. § 9-13-2-69.7, as amended from time to time.

2. “Off-Road Vehicles” shall mean a motor driven vehicle capable of cross-country travel without benefit of a road. The term is limited to a recreational off-road vehicle that has a utilitarian purpose, defined by I.C. §14-8-2-185, but does not include “low speed vehicles” (I.C. §9-13-2-94.5), “motorized carts” (I.C. §14-19-1-0.5), “motorized vehicles” (I.C. §9-31-2-104), “motor scooters” (I.C. §9-13-2-109), or an “Electric personal assistive mobility device” (I.C. §9-13-2-49.3). Off-road vehicles must be registered by the State of Indiana as required by I.C. §14-16-1-8 and display a registration decal as required by I.C. §14-16-1-11.5.

3. “Driver’s License” means any type of license or privilege to operate a motor vehicle issued under the laws of Indiana.

4. “Proof of Financial Responsibility” as that term is defined in Indiana Code § 9-25-2-3, as amended from time to time, means proof of ability to respond in damages for each motor vehicle registered by a person for liability that arises out of the ownership, maintenance, or use of the motor vehicle in the following amounts:

a. Twenty-five Thousand Dollars (\$25,000.00) because of bodily injury to or death of any one (1) person.

b. Subject to the limit in subsection (a), Fifty Thousand Dollars (\$50,000.00) because of bodily injury to or death of two (2) or more persons in any one (1) accident.

c. Ten Thousand Dollars (\$10,000) because of injury to or destruction of property in any one (1) accident.

(B) The operation of a golf cart and/or an off-road vehicle within the Town is strictly prohibited unless the golf cart and/or off-road vehicle is operated and equipped in full compliance of this Section.

(C) A golf cart may only be operated by an individual who holds a valid driver’s license. An off-road vehicle may only be operated by an individual who has registered that off-road vehicle with the Indiana Department of Natural Resources and obtained a sticker showing current registration from the Indiana Department of Natural Resources.

(D) The financial ability of the operator or owner notwithstanding, the operator of a golf cart or off-road vehicle must be able to show proof of financial responsibility for the golf cart or off-road vehicle when operating a golf cart or off-road vehicle. Written proof of financial

responsibility must be carried by the operator at all times.

(E) Golf carts shall not be operated on town streets during one-half hour after sunset to one-half hour before sunrise unless the golf cart is equipped with two (2) operating headlights (one (1) on each side of the front of the golf cart), at least one (1) operating tail lamp mounted on the rear that when lighted, emits a red light plainly visible from a distance of five hundred (500) feet to the rear, and at least two (2) red reflectors visible from of one hundred (100) feet to six hundred (600) feet to the rear when illuminated by the upper beams of head lamps.

(F) Golf carts and/or off-road vehicles may be operated on Town streets which have a posted speed limit of thirty (30) miles or less. Golf carts and/or off-road vehicles may not be operated on sidewalks. Golf carts and/or off-road vehicles may cross State Road 24 at intersections in a path ninety (90) degrees to said highway, but may not otherwise be operated on State Road 24.

(G) The number of occupants in a golf cart and/or off-road vehicle shall be limited to the number of persons for whom factory seating is installed and provided on the golf cart and/or off-road vehicle. The operator and all occupants shall be seated in the golf cart and/or off-road vehicle and no part of the body of the operator or occupant shall extend outside the perimeter of the golf cart and/or off-road vehicle while the golf cart and/or off-road vehicle is being operated.

(H) The operator of the golf cart and/or off-road vehicle shall comply with all traffic rules and regulations adopted by the State and the Town which govern the operation of motor vehicles.

(I) All golf carts must display on the back of the golf cart a “slow moving vehicle emblem” as described in I.C. § 9-21-9-3, or a red or amber flashing lamp as described in I.C. § 9-21-9-4, as those sections may be amended from time to time.

(J) A person removing a wrecked or damaged golf cart and/or off-road vehicle from a street or highway also must remove any glass or other foreign material dropped upon the street or highway from the golf cart and/or off-road vehicle, as described in I.C. § 9-26-6-1, as amended from time to time.

(K) Penalty, see § 10.99.

(Ordinance No. 2007-10, passed July 16, 2007; Ordinance No. 2009-12, passed October 19, 2009; repealed and replaced by Ordinance No. 2020-0518B, passed May 18, 2020)

**TITLE IX: GENERAL REGULATIONS**

- 90. NUISANCES AND ANIMAL REGULATIONS**
- 91. YARD SALES**
- 92. DUMPING PROHIBITED**
- 93. TREES**

## CHAPTER 90: NUISANCES AND ANIMAL REGULATIONS

### Section

- 90.01 Definitions
- 90.02 Animal Nuisances
- 90.03 Real Estate Nuisances
- 90.04 Vehicle Nuisances
- 90.05 Enforcement

### § 90.01 DEFINITIONS.

(A) For purposes of this chapter, the following definitions shall apply unless the content clearly indicates or requires a different meaning.

1. **ABANDONED VEHICLE.** Any of the following, as described by Indiana Code 9-13-2-1, as that section may be amended from time to time:

- a. A vehicle located on public property illegally, or a vehicle left on public property continuously without being moved for more than 24 hours;
- b. A vehicle located on public property in a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicular traffic on a public right-of-way;
- c. A vehicle that has remained on private property without consent of the owner, or person in control of that property, for more than 48 hours;
- d. 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;
- e. A vehicle that has been removed by a towing service or a public agency upon request of an officer enforcing a statute or ordinance if the impounded vehicle is not claimed or redeemed by the owner or the owner's agent within 20 days after the vehicle's removal;
- f. A vehicle that is at least 3 model years old, is mechanically inoperable, and is left on private property continuously in a location visible from public property for more than 20 days. For purposes of this subdivision, a vehicle covered by a tarpaulin or other plastic, vinyl, rubber, cloth, or textile covering is considered to be visible;
- g. A vehicle that was repaired or stored at the request of the owner, that has not been claimed by the owner; and 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; or
- h. A vehicle deemed "abandoned" under I.C. 9-22-1.

2. **ABANDON.** To forsake entirely, or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner, or his agent. Such abandonment shall constitute the relinquishment of all rights and claims by the owner to such animal.

3. **ABATEMENT PERIOD.** The period of time the owner has to correct the violation stated on the violation notice or warning issued by the town personnel. The initial abatement period is 10 days unless otherwise stated herein. This time may be extended up to 30 days, depending upon the severity of the violation, and only at the discretion of the Town Council, Town Marshal, or other designee of the Town.

4. **AT LARGE.** An animal is at large when it is off the premises of the



owner, and not under the control of the owner or a member of his immediate family either by leash, cord, chain, or otherwise.

5. CONTINUOUS ABATEMENT NOTICE. A notice, issued pursuant to IC §36-7-10.1, et seq., after an initial notice of violation of the provisions relating to weeds, rank vegetation and tall grass, that serves as notice to the real property owner that each subsequent violation during the same year for which the initial notice of the violation was provided may be abated by the Town or its contractors.

6. CONTINUOUS ENFORCEMENT ORDER. A continuous enforcement order is an order in relation to an unsafe building pursuant to IC §36-7-9, et seq., or a real property nuisance pursuant to §36-1-6, et seq., that:

- a. Is issued for compliance or abatement and that remains in full force and effect on a property without further requirements to seek additional compliance and abatement authority or seek additional orders for the same or similar violations; and
- b. Authorizes specific ongoing compliance and enforcement activities if a property requires reinspection or additional periodic abatement; and
- c. Can be enforced, including assessment of fees and costs, without the need for additional notice or hearing; and
- d. Authorizes the office of the Clerk-Treasurer to assess and collect ongoing costs for continuous enforcement order activities from a party that is subject to the notice.

7. DEBRIS. The remains of something broken down, unused for prolonged periods, discarded, abandoned, dilapidated or destroyed, which accumulates and poses a threat to the health, safety and welfare of persons and property, and includes by way of illustration and not limitation: refuse; accumulation of items on public or private property which could pose serious health or safety risks to persons or property; yard refuse, rank vegetation cut but not disposed of, animal remains; trash; junk cars, parts of automobiles or other vehicles which are no longer mobile; pieces or sheets of glass (whether fractured or whole); wood, particle board, bark, wood chips, lumber or other building materials; metal items from any source (whether rusted or not); broken fencing or other barrier with exposed nails, splinters or sharp edges; wire, cables, hoses, ropes, chains or other items which pose a choking or strangling threat to children or other persons; rubber products, gasoline or other flammable liquids, gases and solids, gasoline cans (whether in approved or unapproved containers for storage), oil cans, oil pans, oil or any other type of surface coating; improperly stored industrial detergents and mineral cleaners; grease, alone or in any container, chemical cleansers; refrigerants (including Freon); acetylene, propane, oxygen or other chemical used for welding or manufacturing process accumulated and stored (whether properly or improperly) in containers which are unsafe or unsafely stored; any other items not herein mentioned which accumulate and pose a threat to the health, safety and welfare of person and property.

8. ENVIRONMENTAL PUBLIC NUISANCE. A thing, act, occupation, condition or use of property which shall continue for a length of time as to:

- a. Annoy or may annoy, injure or has the potential to injure, or endanger or has to the potential to endanger the comfort, health, repose, safety or welfare of persons or property;
- b. In any way renders the public insecure in life or in the use of property;
- c. Greatly offends the public morals or decency;

d. Unlawfully and substantially interferes with or may interfere with, obstruct or tend to obstruct, or render and have the potential to render any street, alley, highway, navigable body of water, or public right-of-way dangerous or potential danger to person or property;

e. Is injurious to health, indecent, offensive to the senses or an obstruction to the full use of property, so as essentially to interfere with the comfortable enjoyment of life or property;

f. Any growth of weeds, grass or other rank vegetation on private or public property which is neglected, disregarded or not cut, mowed or otherwise removed and/or which has attained a height of 6 inches or more;

g. Any accumulation of dead weeds, grasses or brush on private or public property;

h. Any poison ivy, ragweed, rank vegetation, poisonous plant or plants detrimental to health, growing on any private or public property;

i. Property which has been allowed to become a health or safety hazard, or which has accumulated litter, contains debris, an unsafe building, abandoned vehicles, waste products, graffiti or any other items which pose a threat to the health, safety and welfare of persons and property, unless specifically authorized under existing laws and regulations; and/or

j. A PUBLIC HEALTH NUISANCE, as defined below.

9. GARBAGE. Rejected food wastes, and shall include every waste accumulation of animal, fruit, or vegetable matter used or intended for food or that attend the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetable.

10. GRAFFITI. Markings of any kind, regardless of content, that may cause or do cause passerby to obstruct, delay or disturb the regular flow of traffic (whether pedestrian or vehicular), thereby creating a potential threat to the health, safety and welfare of citizens or property. The markings are defined as any markings which deface, deform, mar or which cause the defacing, deforming or marring of any public or private property, regardless of ownership or possessory interest therein, including by way of illustration and not limitation, buildings, trees, lampposts, poles, hydrants, bridges, piers, sidewalks, streets, alleyways or surface of any public or private property located upon any public thoroughfare or right-of-way, or upon any public place within the town. However, this section shall not prohibit the posting of notices required by law to be posted.

11. HARBOR. To suffer or permit any animal to frequent or remain on or within one's house, building, enclosure or premises, and to feed, lodge or otherwise care for such animal.

12. INERT MATERIAL. Dirt, soil, brick, broken concrete or similar materials.

13. JUNK. Any articles in any form composed of or consisting of any of the following enumerated secondhand, discarded, abandoned or case-off metals or materials, namely iron, brass, bronze, copper, tin, zinc, lead or any other metals or compounds thereof, broken glass, rags, clothing, rubber, plastics, synthetic substances, fabrics, bottles, papers, feathers, waste material, any compound or by-product of the foregoing items. JUNK shall also include and mean wrecked, abandoned, dismantled or immobile vehicles or parts thereof.

14. JUNK CAR. Any vehicle that is (i) inoperable or unable, because of its mechanical or physical condition, to be immediately operated upon a highway, waterway, or airway. in a safe and lawful manner, excluding those laws regarding insurance and vehicle

registration or (ii) has been stored upon the property for more than three (3) months with little to no movement, even if the vehicle is properly titled and registered to the property owner and properly insured; however, this time may be extended upon request of a property owner to the Town Council, if the vehicle is titled to a member of the armed forces of the United States who is on active-duty assignment. A junk vehicle does not include a vehicle maintained within an enclosed building or garage, or upon lawfully operated salvage yards, gas stations, service stations, auto body repairs shops, airport, automobile dealerships, or other businesses that are customarily engaged in the sales and repairs of junk vehicles.

Any motor vehicle which does not bear a currently valid license plate, and is not kept in a garage or building, regardless of age or condition.

15. **KENNEL.** Any facility, person, group of persons or corporation engaged in the commercial business of breeding, buying, selling or boarding animals.

16. **MECHANICALLY INOPERABLE.** A vehicle that is not readily capable of being operable, such as by having uninflated tires and a battery incapable of starting the engine.

17. **OFF-ROAD VEHICLES.** Those vehicles defined by I.C. § 14-8-2-185, but does not include "low speed vehicles" (I.C. § 9-13-2-94.5), "motorized carts," (I. C. § 14-19-1-0.5), "motorized bicycles" (§ 9-31-2-104), "motor scooters" (§ 9-13-2- 109), or an "Electric personal assistive mobility device" (§ 9-13-2-49.3).

18. **OWNER.** Any one or more of the following:

- a. Any person owning, keeping or harboring a dog, cat, or other animal for a period of 48 hours or longer.
- b. The person or entity with an ownership or occupancy interest in a structure of a parcel of real estate including the life tenant or tenants if any;
- c. The record owner or owners as reflected by the most current records in the county auditor where the real estate is located; or
- d. The purchaser or purchasers of real estate under any contract for the conditional sale thereof.

19. **PUBLIC HEALTH NUISANCE** includes, but is not limited to the following specific situations:

- a. All decayed, harmfully adulterated or unwholesome food or drink offered to the public;
- b. Carcasses of animals, birds or fowl not carried off or otherwise disposed of in a sanitary manner within 24 hours after death;
- c. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, junk vehicles, scrap metal or any material in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed, or may be a fire hazard;
- d. All stagnant water in which mosquitoes, flies or other insects may multiply;
- e. Garbage can which are not fly-tight, or not kept clean;
- f. Pollution of any public well, cistern, stream, river, lake, canal or body of water by sewage, waste, pollution, industrial wastes or other substances;
- g. The escape of smoke, soot, cinders, noxious acids, fumes, gases, flying ash or industrial dust within the town limits in quantities which may or does cause injury or endangers the health of persons or threatens or causes substantial injury to property;

h. Any use of property, substances or things within the town limits emitting or causing foul, offensive, unpleasant, nauseous, noxious or disagreeable odors, or stench extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the town; or any slaughter house;

i. All abandoned wells not securely covered or secured;

j. Any accumulation of junk, rubbish, scrap metal, automotive parts, building materials, machinery, dead trees or parts of dead trees, upon any premises in a residential or non-residential area;

k. Any abandoned refrigerators, freezers or similar appliances from which the doors and other covers have not been removed, or which are not equipped with a device for opening from the inside by pushing only with the strength of a child, or which may or may not contain rust, or which have refrigerant in any part thereof or which still have electrical cables attached regardless of age;

l. Any sign of any size, shape, content or purpose, which infringes upon the town's right-of-way easement from the center of the road to location of the sign, or which poses a serious threat to the health, safety or welfare of the citizens of the town; or

m. Whenever any animal of any species, whether or not it is kept as a household pet, is allowed to run at large in the town or is a hazard to the health and safety of any person, or is allowed to disturb the peace and quiet of one or more neighbors, whether through loud and frequent barking, damage to property, noxious odor, or otherwise.

20. REFUSE. Garbage, rubbish or any combination thereof.

21. RUBBISH. Solid wastes including incinerator ashes, inert material, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, metals, and similar materials or litter of any kind.

22. SPECIFIC BREEDS. The specific canine breeds of Doberman, Pit Bull, Chow chow and Rottweiler, or any mixed breed of dog which contains an element of the foregoing specific breeds.

23. SUBSTANTIAL PROPERTY INTEREST. Any right in real property that may be affected in a substantial way by actions authorized by IC §36-7-9, et seq., including a fee interest, a life estate interest, a future interest, a mortgage interest, or an equitable interest of a contract purchaser.

24. UNSAFE PREMISES. Any premises, building or structure, or any part of a building or structure, defined as unsafe by I.C. 36-7-9-4, as may be amended from time to time.

25. VEHICLE. A self-propelled device in, upon, or by which a person or property is, or may be, transported or drawn upon a highway, waterway, or airway.

26. VICIOUS ANIMAL. Any dog or any other animal, domesticated or wild, or bird, that has a previously displayed unprovoked belligerent behavior toward any person in a manner such as to threaten bodily injury to such person, or has actually bitten any person or animal causing bodily injury, whether such animal or bird was bred, used or trained for fighting or attack.

27. WEEDS AND RANK VEGETATION. Weeds and rank vegetation include grasses and those weeds and growing vegetation which is excessively vigorous in growth, shockingly conspicuous, malodorous and/or flagrant, or tends to overgrow or choke out plants that are more desirable. Weeds and rank vegetation do not include agricultural crops, such as hay and pasture.

**§ 90.02 ANIMAL NUISANCES.**

(A) **KEEPING OF ANIMALS.** Any one or more of the following conditions is a nuisance:

1. A condition which arises by a dog chasing persons, bicycles, automobiles or other moving vehicles on the streets or sidewalks of the county.
2. A condition which arises by a dog or cat or other animal destroying, defacing or damaging shrubbery, lawns, or flowers which results in the general discomfort of citizens in the neighborhood where such dog, cat, or other animals are harbored.
3. Keeping any dog, which, by frequent or habitual howling, yelping or barking, shall cause a nuisance by creating a serious annoyance or disturbance to any individual or to the neighborhood.
4. Keeping any cat or dog in Town which is not registered with the Town.
5. Any dog on which the tax has not been paid on or after the fifteenth (15) day of June of each year.
6. Penalty, see §10.99

(B) **RUNNING AT LARGE PROHIBITED.** No person shall permit any dog or cat to run at large in the Town, except on the property of the owner of said dog or cat, unless the same be on a suitable leash or otherwise restrained. Penalty, see § 10.99

(C) **CONFINEMENT REQUIREMENT.** All owners shall confine within a building or secure enclosure every vicious animal or any dog, cat or other animal when in heat or rutting; and it shall be unlawful for any owner to remove any such dog, cat or other animal from a building or enclosure at any time so as to permit contact with another animal, except for planned breeding purposes conducted in a kennel or veterinarian's office located in a zoning district where such a use is authorized. Penalty, see § 10.99

(D) **VICIOUS ANIMALS AND FARM ANIMALS.**

1. It shall be unlawful and a nuisance to possess, maintain or house within the limits of the Town (a) a vicious animal defined under subsection (1) of the definition of vicious animal, or (b) cattle, calves, buffalo, horses, ponies, mules, donkeys, swine, sheep, goats, or poultry.

2. Persons possessing or keeping such an animal, or any other animal described in this section which fails to comply with this section's requirements, on the effective date of this Section or thereafter shall have thirty (30) days to remove such animal from within the town limits after notice, written or oral, by the Town Council, its representatives, or the Town Marshal. Such animal shall be confined behind a secure wall or fencing until removed. Any failure to keep such animal so secured, or to possess or to maintain such animal more than thirty (30) days after such notice shall constitute a violation of this Section.

3. Every person residing within the Town limits who possesses a breed described in the definition of Specific Breed, shall do the following:

a. Annually register such animal(s) with the Clerk-Treasurer at the Town Hall, on or before June 1st of each year, or within 48 hours of bring such animal(s) inside the Town limits;

b. Maintain liability insurance, naming the Town as an additional insured, in the minimum amount of \$200,000, which would cover a bite or attack by such animal(s), and prove such insurance coverage at the time of registration;

c. Prove, at the time of registration, that the animal has been inoculated against rabies within the preceding year;

d. Sign, at the time of registration, a Release of Information granting the Town Clerk-Treasurer, or his or her designee, permission to periodically contact the insurance company with whom said liability insurance is maintained, for the purpose of ensuring that the insurance is continuously maintained.

e. Continuously maintain such animal(s) within a fenced enclosure measuring at least six (6) foot in height, adequate to securely confine such animal(s), or, when such animal(s) is removed from said fenced enclosure, be securely restrained and muzzled or kept within a cage.

The Town Marshal and all other duly authorized Law Enforcement Officers charged with enforcing the Town's Ordinances may issue an Appearance Ticket and Complaint, stating the date and time of violation, the name and address of the person violating this Ordinance, and ordering that person to appear on a certain date and time in Newton Superior/Circuit Court in Kentland, Indiana, for the purpose of a trial thereon, if contested. Pending trial on said Complaint, the Town Marshal, his or her designee, and/or the Newton County Animal Control, shall impound such animal(s) and dispose of them as unwanted or stray animals if the owner or person possessing such animal(s) does not agree to immediately remove such animal(s) from within the Town limits. The owner or person possessing such animal(s) shall be liable for any costs, billings, or charges incurred in the removal of any such animal(s) in the event of a violation of the provision of this Section. Penalty, see §10.99(B)(1)(g).

(E) NUMBER OF ANIMALS RESTRICTED. Not more than two (2) dogs and two (2) cats shall be allowed in the residence or on the property of the owner of a dog or cat. The owner of a dog or cat may retain the puppies born of said dog or kittens born of said cat exceeding the permissible number set forth in the previous Section for twelve (12) weeks after birth of the animals. If after that time there are more than two (2) dogs and two (2) cats in the residence or on the property of the owner, it will be deemed a violation of this Section. No kennel shall be maintained in the Town. Penalty, see § 10.99.

(F) USE OF SHELTER. The Town Council may arrange for access to the service of an animal pound or shelter. The Town Council is authorized to enter into contracts for fulfillment of its duties hereunder and to make payments thereunder in amounts not to exceed monies appropriated for such purposes by the Town Council.

(G) CARE REQUIRED. No owner shall fail to provide his or her animals with sufficient food and water, protection from the weather, and reasonable care as maybe necessary to prevent suffering. Penalty, see § 10.99.

(H) MISTREATMENT PROHIBITED. Except as authorized by law, no person shall intentionally or wantonly:

1. Subject any animal to or cause cruel or injurious mistreatment through abandonment, causing it to fight for pleasure or profit, mutilation, beating, torturing, tormenting,

failing to provide adequate food, drink, space or health care, or by any other means; or

2. Subject any animal in his custody to cruel neglect; or
3. Kill any animal.

Nothing in this Section shall apply to the killing of animals:

1. pursuant to a license to hunt, fish or trap;
2. incident to the processing as food or for other commercial purposes;
3. for humane purposes; or
4. for any other purpose authorized by law.

Penalty, see § 10.99

(I) **ABANDONMENT PROHIBITED.** It shall be unlawful for any owner of any dog, cat or other animal to abandon the same within the Town. Penalty, see § 10.99.

(J) **POISONING PROHIBITED.** It shall be unlawful for any person to throw or deposit any poisonous substance in any of the streets, alleys, parks, commons, yards or other places, whether public or private, within the town, so that the same shall be liable to be consumed by any animal; provided, that it shall not be unlawful for a person to expose on his or her own property common rat poison mixed only with vegetable substances. Penalty, see §10.99.

(K) **OWNER RESPONSIBLE FOR ANIMAL WASTE.** The owner of every animal shall be responsible for the prompt removal of any feces deposited by his or her animal on public areas or on the private property of another and shall not permit defecation on private property other than his or her own. Penalty, see § 10.99

Whenever the Town Marshal receives verified Animal Nuisance Complaint Form, and finds it valid, that animal feces has accumulated to nuisance level, a notice of violation shall be sent in the manner described in §90.05.

(L) **HUMANE OFFICER.**

1. It shall be the duty of the Town Marshal, humane officer or their designee to apprehend and kennel any dog, cat or any other animal or fowl:

- a. Found doing any of the following, except as herein provided:
  - i. Running at large;
  - ii. Being abandoned;
  - iii. Being unconfined; or
  - iv. Frequently, habitually barking; or

2. It shall be a violation of this chapter to interfere with the Town Marshal, humane officer or their designee, in the performance of his or her duties. Penalty, see § 10.99.

(M) **DISPOSITION OF ANIMALS.** All dogs, cats or other animals kenneled under this chapter and not redeemed within eight hours after giving notice to the owner, or, within the time fixed by the court under § 90.02(M)(1)(d), or any dog, cat or other animal which appears to be suffering from rabies (hydrophobia), mange or other infectious or contagious disease shall be released to a Humane Society or similar organization to be disposed of by the organization in a humane manner. Any animal destroyed by a Humane Society or similar organization, that is believed to be suffering from rabies (hydrophobia), mange or other infectious disease shall be forthwith reported by the Humane Society or similar organization to the County Board of Health.

(N) INOCULATION. It is hereby declared to be a nuisance and unlawful to keep within the Town any dog not properly immunized against rabies or properly licensed, any cat not properly licensed, or to fail to display on demand proof of such immunization or license.

(O) Enforcement, see Section 91.05(A).

§ **91.03 REAL ESTATE NUISANCES.**

(A) PESTS. Permitting buildings or premises to become infested by insects, rodents or other pests is prohibited, and constitutes a public nuisance. Any such building or premises shall be promptly exterminated by acceptable processes which will not be injurious to human health. After extermination, proper precautions shall be taken to prevent infestation. Penalty, see §10.99.

(B) ENVIRONMENTAL PUBLIC NUISANCES AND PUBLIC HEALTH NUISANCES. Permitting or causing an environmental public nuisance or a public health nuisance, as defined herein, on public or private property, is prohibited and constitutes a public nuisance. Penalty, see §10.99.

(C) JUNK. The following activities or conditions constitute a public nuisance and are prohibited:

1. It shall be unlawful for any person, firm or business to allow the accumulation of trash, junk or refuse on any property under his/her/its control, except as may be placed in properly controlled containers or enclosures to be picked up by the regular trash collection service operated by the Town, and it shall further be unlawful for any person, firm or business to allow papers placed out for collection or disposal to blow or be blown onto or about adjacent properties. No person shall be in violation of this provision until notice has been served upon the owner or occupier of the premises of the act or condition constituting a violation of this provision and five (5) days have been granted to the offender to correct such acts.

2. It shall be unlawful for any resident or non-resident persons or businesses to place or deposit any garbage, debris or refuse, including, but not limited to construction material or structural debris, rock, earth or sod, grass clippings, shrub clippings, leaves, vines, small trees, brush, limbs, burn barrels, tires, animal carcasses or parts thereof, appliances, and hazardous waste, whether generated by households or business; in or around any parks, or at any other location in or around the Town. (Ordinance No. 2000-320)

3. Penalty, see §10.99

(D) WEEDS AND RANK VEGETATION; TALL GRASS. It shall be unlawful for any property owner in the Town to permit weeds, grasses, plants, or vegetation, other than bushes, trees, flowers, ornamental plants or garden plants to grow to a height of more than six (6) inches within the Town boundaries. Any such weeds and rank vegetation or grass shall be considered a nuisance. (Ordinance No. 2004- , passed July 19, 2004; amending Ordinance No. 2003-317, passed ; amending Ordinance No. 1998-12, passed October 19, 1998; amending Article 6-1-4 of the 1985 Goodland Town Code) (Indiana Code 36-7-10.1-3)



(E) OBSTRUCTION OF RIGHTS-OF-WAY.

1. It is unlawful to erect, place, use, maintain, or construct any receptacle, advertising unit, decorative item, or barricade between the sidewalk and the curb of any street within the corporate boundaries of the Town, excepting therefrom garbage containers on trash collection dates, and United States Postal Boxes. Penalty, see §10.99

2. Any variance from this prohibition shall not be possible without written consent from the Town Council. All requests for any variance must be given to all members of the Board at least 5 days prior to placing of said items.

3. The Town Council shall base its decision on whether it believes the said item can be determined to be hazardous, injurious to the public, obstructive to a public use, or a nuisance.

4. It will be unlawful for any person to allow garbage, used food containers, tin cans and discarded food receptacles of any nature whatsoever to be stored, thrown or placed where the same is exposed to flies. All garbage, containers, discarded food receptacles, and tin cans will be kept in closed containers until disposed of by the owner.

5. Upon notice from the Town Council that any item is hazardous, injurious to the public, obstructive to a public use, or a nuisance, the person or persons who placed said item, shall remove said item immediately. This prohibition shall not apply to any barricade for emergency purposes. (1977, amended 1984)

(F) BURNING.

1. Open fires, also called outdoor fires, are prohibited within the Town except as specifically permitted by this Section.

2. A person may open burn as follows:

a. On residentially-zoned real estate, when contained in a fire pit with a metal or gravel bottom, or similar structure no more than five (5) feet in diameter, or within a non-combustible container with a screen cover, in which only clean (uncoated or unpainted) wood or wood products are burned.

b. For maintenance purposes a person may open burn vegetation from a farm, orchard, nursery, tree farm, or a drainage ditch, as permitted by Indiana law.

c. The Town Street Department may burn vegetation and wood products derived from pruning or clearing a roadside.

d. For recreational, social, or religious purposes, a person may open burn for cooking, celebration, religious or social ceremonies, or personal comfort, provided that such fires comply with the following:

i. Only clean wood products, paper, charcoal, or clean petroleum products may be burned;

ii. The nearest local fire department must be notified at least 24 hours prior to any burning where the size of the pile being burned is more than 125 cubic feet;

iii. Fires shall not be ignited prior to two hours before the activity or meeting is to take place and shall be extinguished upon the conclusion of the activity or meeting; and

iv. No fire shall be used for refuse disposal purposes.

e. For special circumstances approved by the Town Council, including but not limited to:

i. Environmentally prescribed burning;

- ii. Burning of vegetation by fire departments and firefighters to create fire breaks or for training;
  - iii. When a variance from 326 IAC 4-1 has been approved by the state's Department of Environmental Management; and
  - iv. Emergency burning following natural disasters.
- f. Any open burning is subject to the following conditions:
- i. A person shall extinguish the fire if the fire creates:
    - A. A pollution problem;
    - B. A threat to public health;
    - C. A nuisance; or
    - D. A fire hazard.
  - ii. Burning may not be done during unfavorable meteorological conditions such as high winds, temperature inversions or air stagnations.
  - iii. All fires must be attended at all times during burning until completely extinguished.
  - iv. No non-wood building materials, including asbestos, may be burned.
  - v. Burning may not be commenced before sunrise or added to after sunset, and must be extinguished by one hour after sunset.
  - vi. Burning shall be more than 20 feet from any structure owned by the person performing the burn, a road, or a power line; and 100 feet from any fuel storage area, pipeline, or structure not owned by the person.
3. The following burning is prohibited:
- a. Burning of any material is prohibited on any real estate zoned other than residential or agricultural.
  - b. Burning of any substance other than those permitted in this section is prohibited.
  - c. Burning that causes annoyance or creates a condition which interferes with the health or well-being of any individual in his or her home or place of employment or recreation, or which interferes with normal use and enjoyment of any such place.
  - d. Burning on a paved street or surface any leaves that have fallen from trees or shrubs, non-woody plant matter, weeds, grass clippings, or other material that can be composted is prohibited.
4. In addition to any penalty imposed in §10.99, the offender shall be responsible for all costs of abatement and the recording and administrative fees as set forth above, and for any legal costs incurred by the town to collect any such abatement costs, administrative fees, or penalties. (Penalties, see §10.99)

(G) **OFFENSIVE ODORS.** It is unlawful to erect, use, or maintain any building, structure or place for the exercise of any trade, employment or business, or for the keeping or feeding of any animals, animals or fowls which by occasioning noxious exhalations or noisome or offensive smells, becomes injurious to the health, comfort or property of individuals or the public; or whoever causes or suffers any filth or noisome substance to be collected or to remain in any place to the damage, prejudice, or discomfort of others or the public; or whoever obstructs or encumbers by fences, structures or otherwise continues or maintains any obstruction or essentially to interfere with the comfortable enjoyment of life, will upon a five-day written

notice from the Council to abate such nuisance. (1964)

(H) NOISE POLLUTION. It shall be unlawful to disturb the peace and quiet of the citizens of the Town by making any unnecessary, loud and unusual noises, or to mischievously injure any structure, real estate or other personal property, or to foul the air with any noise or odor which offends the citizens of the Town.

(I) UNSAFE BUILDINGS AND UNSAFE PREMISES.

1. The Town Council adopts and incorporates by reference the provisions of Indiana Code 36-7-9, et. seq., as that law may be amended from time to time (hereinafter, “the Indiana Unsafe Building Law”), as the Town of Goodland’s Unsafe Building Law. All proceedings within the Town of Goodland for the inspection, repair and removal of unsafe buildings, structures and premises shall be governed by said law and the provisions of this Section. In the event that the provisions of this Section conflict with the provisions of the Indiana Unsafe Building Law, the provisions of that law shall control.

2. Under the Town’s Unsafe Building Law, the following entities are identified and designated:

a. The “Department” described in I.C. 36-7-9-3, as that section may be amended from time to time, shall mean the Town Council.

b. The “Enforcement Authority” shall mean the Town of Goodland Building Inspector, who is designated to be the Goodland Unsafe Building Inspector, for purposes of enforcing this Section as it pertains to real estate within the Town boundaries. Further, these designated Unsafe Building Inspectors are authorized to administer and to proceed under the provisions of the Indiana Unsafe Building Law in ordering actions relating to unsafe buildings and unsafe premises, in the designated territories, as those terms are described in I.C. 36-7-9-4, as that section may be amended from time to time.

c. The “Hearing Authority” shall mean the Town Council.

3. The Town Council specifically adopts by reference the definition of “substantial property interest” as that definition is defined at Indiana Code 36-7-9-2, as that section may be amended from time to time.

Enforcement, for Sections 90.03(A), (B), (C), (E) and (F), see Section 90.05(B). For Section 90.05(D), see Section 90.05(C). For Section 90.05(G), see Section 90.05(D). Penalty, see §10.99

(J) TRASH CONTAINERS. Trash containers shall be placed at the curb and not in alleys. Containers shall not be placed out earlier than 4:00 p.m. on the day before pick up and generally removed within thirty-six (36) hours of being placed out for pick-up and, in no event, shall they be left out between scheduled pick-ups. Violation of this Section shall be declared a nuisance. Penalty, see § 10.99.

(K) ABANDONED BUILDINGS.

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

a. Abandoned Building. A building or structure on a parcel of real property in the Town of Goodland, Indiana:

i. Which is vacant for more than ninety (90) days;

ii. Which is also submitted to and order issued pursuant to the Town of Goodland's Unsafe Building Ordinance; and

iii. Upon which the condition which has generated the order has existed for at least thirty (30) days and has not been remedied.

b. Owner. Any person having a legal or equitable title in the real estate or premises.

c. Owner's Representative. A person hired by the owner to represent and/or advocate on the owner's behalf.

d. Person. Any entity including any of the following: individual, firm, corporation, association, partnership, or limited liability corporation/company. References in the masculine gender include the feminine and the neuter, in the present tense includes the future, and the singular includes the plural.

e. Property Manager. An individual or company responsible for the day-to-day functioning of a piece of real estate.

f. Vacant Building. A building or structure on a parcel of real property which lacks the habitual presence of human beings or beings who have a legal right to be on the premises, or at which substantially all lawful business operations or residential occupancy has ceased for a period of at least thirty (30) days. A vacant building shall not include a seasonally occupied residence or a residence owned by an individual actively serving in the military.

## 2. Continuing Maintenance Mandatory.

a. Upon finding a building vacant and abandoned, Building Inspector, or his or her designee, may issue to the owner an order for continuing maintenance pursuant to the Unsafe Building Act, IC 36-7-9, as may be amended from time to time or pursuant to similar authority granted by state statute or this chapter, or other ordinances and regulations.

b. The owner of a building at that is abandoned shall register the abandoned property with the Building Inspector pursuant to Section (D).

## 3. Property Manager.

a. The owner of a building required to be registered pursuant to this article must appoint a Property Manager residing within fifty (50) miles of the property. The failure to appoint a Property Manager is a violation of this section. The Property Manager may be an owner or agent of the owner.

b. An agent acting as the Property Manager must be at least eighteen (18) years of age.

c. The Property Manager must be available to government officials by telephone twenty-four (24) hours a day. The owner's failure to make certain that such a Property Manager is available and maintains the property is a violation of this article.

## 4. Registration of Buildings and Structures.

a. The owner of a building that is vacant and abandoned shall register the property with the Building Inspector upon receipt of an order for registration. Registration shall be on a form provided by the Building Inspector, shall be verified under penalties of perjury, and shall include the following:

i. Street address of the affected property;

ii. The name(s), mailing address(es) and telephone number(s) of the owner(s) or entities which hold an ownership, land contract, mortgage, or other lien interest in the property, and all beneficiaries of any land trust which owns the property.

iii. A copy of the most recently executed deed used to transfer title to the property and the most recently prepared sales disclosure form, if available to the owner.

iv. The name(s) and residential and business addresses and telephone numbers of the Property Manager.

v. Name of insurance company providing insurance coverage for the building or structure requiring registration, including the representing agent's name, address and telephone number that provides 24-hour access.

vi. A written plan for maintenance and repair of the property, including a schedule within which the owner anticipates completion of all repairs required to bring the building and property into compliance with this chapter and other property maintenance ordinances. The schedule shall not exceed 30 days unless it is demonstrated to the Building Inspector that additional time is necessary to avoid undue hardship to the owner due to the quantity of work required. The owner's request for additional time shall be supported by relevant documentation, including, but not limited to, bids, quotes for the work, and the owner's financial statement, based upon a financial disclosure statement.

A. The owner's schedule of plan does not relieve the owner of any order issued pursuant to the Unsafe Building Ordinance

B. The Building Inspector's receipt of the plan does not constitute approval of the owner's plan.

b. The owner is responsible for providing an updated registration form to the Building Inspector within five business days of any change in ownership or any information contained on the registration form. The failure of the owner to provide updated information within five business days of any change in the registration is a violation of this chapter.

#### 5. Standards for Maintenance.

a. At least once every two (2) weeks, the owner or property manager of the property required to be registered under this chapter shall ensure that the property is inspected and secured against unlawful entry, that the property is cleaned, vegetation is mowed, and that walkways are cleared of snow and ice. Records of such inspections shall be provided to the Building Inspector upon request.

b. Door and window openings of all buildings or structures on the property shall be secured against unlawful entry by the use of locks designed for such use.

c. To protect the building against unlawful entry or vandalism while vacant, the Building Inspector may order the owner to secure the doors and windows of the building by the use of boarding.

d. Boarding of a vacant or abandoned building or structure is to be considered temporary and not a long-term method of securing the building or structure. Boarding used to secure doors and/or windows for more than thirty (30) days shall be surface coated with an exterior grade paint matching the exterior of the building or structure to reduce blighting effect on the neighborhood.

#### 6. Registration Fee.

a. The owner of any building or structure required to be registered under this chapter shall pay an annual registration fee to the Town, upon registration.

b. Fees shall be as follows:

i. Buildings or structures used or zoned for residential purposes and contains no more than two dwelling units, the registration fee shall be \$100.

ii. Buildings or structures used or zoned for non-residential purposes, the registration fee shall be \$250 for the first year and \$500 for each subsequent year.

c. The registration fee is to reimburse the Building Inspector, Fire Chief, or Town Marshal for the costs of monitoring the buildings or structures and the additional costs of responding to emergencies and any property maintenance cost incurred by the Town for the vacant and abandoned building or structure not covered by any other statute, law or ordinance.

d. The Building Inspector shall have the limited authority to waive accrued fees on a case by case basis when those costs are determined to impede positive action on an individual property to rehabilitate it for public benefit.

e. Any property that has been repaired; occupied, secured and has its utilities turned on; demolished; or, has been placed under contract for demolition prior to December 31<sup>st</sup> of each calendar year shall not be required to register and pay the annual registration fee.

7. Liability Insurance.

a. The owner of any building or structure required to be registered by this chapter shall maintain a policy of liability insurance for the building or structure. A copy certificate or the liability insurance policy shall be provided to the Building Inspector. The minimum coverage required shall be \$100,000 per occurrence and \$100,000 in the aggregate.

b. The insurance policy shall require the agent or earner to provide a minimum of fifteen (15) business days' advance notice of cancellation to the Building Inspector.

8. Exemptions. The Building Inspector may grant an exception for properties to register if the property is the subject of an open probate estate; or has suffered extensive fire or catastrophic damage within the past ninety (90) days. Any exemption granted shall be for a specific period of time, not to exceed ninety (90) days. However, exemption from the registration requirement shall not constitute approval of any violation of this chapter, or the Unsafe Building Section.

9. Penalty.

a. An owner of a property that remains vacant or abandoned for at least ninety (90) consecutive calendar days may be liable for a civil penalty in the amount of \$250 per vacant or abandoned building or structure, not to exceed \$5,000 per building or structure per year, unless:

i. Documentation has been filed and approved by the Building Inspector that indicates the owner's intent to eliminate the vacant or abandoned building or structure status of the property;

ii. The owner is current on all property taxes/special assessments; and

iii. At least one of the following applies:

A. The structure is the subject of a valid building permit for repair or rehabilitation and the owner is proceeding diligently and in good faith to complete the repair or rehabilitation of the building or structure as defined in the enforcement order issued by the Building Inspector.

- B. The structure is maintained in compliance with this chapter and other application statutes, laws or ordinances and actively being offered for sale, lease, or rent.
- C. The owner can demonstrate that a diligent and good faith effort to implement actions approved by the Building Inspector.

b. If the building or structure continues to remain vacant or abandoned beyond the initial ninety (90) days described in division (1) and the owner does not meet any of the exceptions set forth in this section, the Building Inspector may continue to assess penalties each year on each building or structure in the following amounts:

i. \$1000 for each second ninety (90) calendar day period each building or structure remains vacant or abandoned.

ii. \$1500 for the third ninety (90) calendar day period each building or structure remains vacant or abandoned.

iii. \$2000 for the fourth and each subsequent ninety (90) calendar day period thereafter for each building or structure that remains a vacant or abandoned.

c. A civil penalty under this section may not exceed \$5,000 per building or structure per year.

#### § 90.04 VEHICLE NUISANCES.

(A) ABANDONED VEHICLES. The following activities or conditions constitute a public nuisance and are prohibited:

1. Allowing abandoned vehicles, unpermitted vehicles, unlicensed and uninsured vehicles, junk cars or mechanically inoperable vehicles, whether covered, tarped or uncovered, to be placed or stored in any place other than inside a building on any residential property under a person's control;

2. Repairing, restoring, servicing, painting or salvaging vehicles for a commercial purpose on any residential property under a person's control in a zoning district which does not permit such activities, or without the necessary restoration permit, if such activities would be allowed with such a permit;

3. Residing in a camper for more than fourteen (14) days while parked on a residential property; and

4. With the exception of campers and recreational vehicles, parking vehicles in yard of residential properties, unless such parking area is graded and surfaced with some form of durable material. Parking vehicles in the yard of residential properties shall be permitted for non-recurring special events for no more than forty-eight (48) hours or for weather events, such as snow emergencies. Penalties, see §10.99

(B) TAGGING. The Town Marshal or his deputies shall tag abandoned vehicles as set forth in I.C. 9-22-1-11. If the vehicle isn't removed with the time permitted by I.C. 9-22-1-11, the officer shall prepare a vehicle report as described in I.C. 9-22-1-12 and photograph the abandoned vehicle. Copies of the vehicle report and photographs shall be provided to the storage yard or towing service when the officer complies with I.C. 9-22-1-13 and 9-22-1-14.

(C) RESTORATION PERMITS.

1. It shall be unlawful to maintain upon property within the Town, a junk motor vehicle, which is visible from a public place, without a Restoration permit, provided for in this Ordinance. For purposes of this Ordinance, a junk vehicle covered by a tarpaulin or other plastic, vinyl, rubber, cloth, or textile covering is considered to be visible. It shall be per se evidence that a vehicle is inoperable, if: (a) upon the request of a Town Marshal, a property owner is unable within a reasonable period of time to demonstrate to the Town Marshal the ability of the vehicle's engine to be started and, in the case of a motor vehicle, to be driven upon the roadway or driveway, or (b) the engine, transmission, or differential has been removed or otherwise partially dismantled.

2. Restoration permits may be obtained upon payment of the sum of \$500.00. Said restoration permit shall be valid for a period of one (1) year from and after the date of issuance by the Clerk-Treasurer. The applicant must further agree to completely cover the machinery and place it parallel to, and within ten (10) feet of, a building, in a manner which does not create a visual nuisance on the premises. Such permit fee shall be refundable after such vehicle is restored during the one (1) year period or subsequent one (1) year period described below. A vehicle shall be considered "restored" when it is able to be driven and licensed.

3. One (1) subsequent restoration permit may be issued for an additional sum of \$500.00 after the initial restoration permit for the same vehicle, upon a showing to the Town Marshal of substantial restoration or reconditioning since the date of issuance of the initial permit and payment of the above fee. It is in the Town Marshal's sole discretion as to whether to authorize the issuance of a subsequent restoration permit based on the restoration or reconditioning completed. A restoration permit shall relate to a specific vehicle. However, a vehicle that has been lawfully licensed, insured, and operated upon public roads regularly for a period of at least one (1) year may obtain future restoration permits without violating this provision.

4. Each property is only allowed one (1) active restoration permit at any time.

5. A person who obtains a restoration permit, expressly agrees, for the duration of the permit, to the inspection of the permitted vehicle, by the Town Marshal and to the entry of the Town Marshal upon the property for the purposes of such inspections. A person who denies the Town Marshal an opportunity to inspect the vehicle violates this provision. (Ordinance No. 2017-5, passed March 20, 2017) (Ordinance No. 2000-417; amending Ordinance No. 1998-12)

(D) Enforcement, see Section 91.05(B). Penalty, see §10.99

§ **90.05 NUISANCE ENFORCEMENT**

(A) Enforcement of §90.02 Animal Nuisances.

1. For violations witnessed by members of the Police Department, the responsible party may be issued a citation for the code violation, in the officer's discretion.

2. Alternatively, after witnessing a violation, or after receiving a complaint of an animal nuisance, inspecting the alleged violation and agreeing that a code violation has occurred, the Police Department should:



a. Document the condition violating the Town Code and identify the responsible party (e.g., owner of animal, owner of real estate, tenant or occupant).

b. Prepare a Notice of Violation to the responsible party, identifying the date, time and place of violation, the Code section(s) violated, and the date by which the responsible party must correct the violation, allowing no less than ten (10) days after mailing or service. The Notice of Violation shall be sent by first class mail, delivered personally to the responsible party, leaving a copy at the responsible party's residence, or by electronic service at an email address provided by the responsible party.

c. After the time for correction has passed, the Police Department shall re-inspect the alleged violation and document the condition violating the Town Code. If the violation has not been corrected or abated, the Police Department shall issue a citation to the responsible party. The citation shall identify the date, time and place of violation, the Code section(s) violated, the per-day penalties under Section 10.99 associated with the violation, which shall commence on the date of the citation, and explain that the violation may be admitted, corrected and paid before the Clerk-Treasurer within thirty (30) days after mailing the citation, or if not, it will be filed with the appropriate court as an ordinance violation. The citation shall be sent by first class mail, delivered personally to the responsible party, leaving a copy at the responsible party's residence, or by electronic service at an email address provided by the responsible party.

d. If the citation is not admitted, corrected and paid to the Clerk-Treasurer's Office within thirty (30) days, the citation shall be filed with the appropriate court as an ordinance violation and a copy will be sent to the Town Attorney.

(B) Enforcement of §90.03(A), (B), (C), (E) and (F) Real Estate Nuisances and §90.04 Vehicle Nuisances.

1. For violations witnessed by members of the Police Department, the owner and parties with substantial interests of record (the "Owners") (e.g., owner, contract purchaser, tenant, mortgagee, and lienholders) may be issued a citation for the code violation, in the officer's discretion.

2. Alternatively, after witnessing a violation, or after receiving a complaint of a real estate nuisance, inspecting the alleged violation and agreeing that a code violation has occurred, the Police Department should:

a. Document the condition violating the Town Code and identify the Owners.

b. Prepare a Notice of Violation to the Owners identifying the date, time and place of violation, the Code section(s) violated, and the date by which the Owners must correct the violation, allowing no less than ten (10) days after mailing or service. The Notice of Violation shall be sent by (1) certified mail or personal delivery to each of the Owners and by (2) first class mail to each of the Owners, leaving a copy at each of the Owners' residences or by electronic service at email addresses provided by all the Owners.

c. After the time for correction has passed, the Police Department shall re-inspect the alleged violation and document the condition violating the Town Code. If the violation has not been corrected or abated, the Police Department shall issue a citation for the violation to the Owners. The citation shall identify the date, time and place of violation, the Code section(s) violated, the per-day penalties under Section 10.99 associated with the violation, which shall commence on the date of the citation, the date by which the Owners must correct the

violation, allowing no less than ten (10) days after mailing or service, and explain that Town employees or contractors will thereafter correct the violation and issue a bill for the costs associated with bringing the real estate into compliance. The citation shall specify that in the event the Owners wish to appeal the citation, the Owners must notify the Clerk-Treasurer within seven (7) days of receipt and request to be placed on the agenda of the next Town Council meeting, or at a later meeting at the option of the Clerk-Treasurer. At the meeting the Town Council members present shall vote for or against the appeal and the majority shall prevail. If the Town Council denies the appeal, the owner shall have seven (7) days to comply with the citation. The citation shall be sent by (1) certified mail or personal delivery to each of the Owners and by (2) first class mail to each of the Owners, leaving a copy at each of the Owners' residences or by electronic service at email addresses provided by all the Owners.

d. If the violation isn't corrected within the time permitted in the citation, and no appeal is taken, or if an appeal is taken and denied and the violation isn't corrected within the time permitted, the Town or its contractors may enter the property and abate the real estate nuisance pursuant to I.C. 36-1-6, et seq. The Town employees or the contractor shall submit a statement of costs to the Clerk-Treasurer's Office upon completion, and the Clerk-Treasurer's Office shall issue a Notice of Abatement Costs letter, which includes administrative expenses of Clerk time spent generating notices and mailing costs, to the Owners by (1) certified mail or personal delivery to each of the Owners and by (2) first class mail to each of the Owners, leaving a copy at each of the Owners' residences or by electronic service at email addresses provided by all the Owners.

e. The Notice of Abatement Costs shall specify that in the event the Owners wish to appeal the Notice, the Owners must notify the Clerk-Treasurer within seven (7) days of receipt and request to be placed on the agenda of the next Town Council meeting, or at a later meeting at the option of the Clerk-Treasurer. At the meeting the Town Council members present shall vote for or against the appeal and the majority shall prevail. If the Town Council denies the appeal, the recipient shall have seven (7) days to pay the abatement costs. If the abatement costs aren't paid within the time permitted in the Notice of Abatement Costs, and no appeal is taken, or if an appeal is taken and denied and the abatement costs aren't paid within the time permitted, the Clerk-Treasurer's Office shall complete and record a Notice of Lien with the County Recorder, pursuant to IC §36-1-6-2, so that the Auditor places the costs on the tax duplicate for the property to be collected as delinquent taxes are to be collected.

(C) Enforcement of §90.03(D) Weeds and Rank Vegetation; Tall Grass

1. The Town Council shall be responsible for the administration of §90.03(D), the Clerk-Treasurer's Office shall be responsible for the provision of all mailings and filings required as set forth below, and the Police Department shall be responsible for personal service of notices.

2. When the town officials become aware of the existence of a violation of Section 90.03(D), a Notice of Violation shall be sent by (1) certified mail or personal delivery and by (2) first class mail, leaving a copy at the residence or by electronic service at email addresses provided, to the owner of record of real property with a single owner, or at least one of the owners of real property with multiple owners, at the last address of the owner for the property as indicated in the records of the County Auditor on the date of the notice. Unless personal delivery is made, if the notice is mailed and returned undelivered, the notice must be given by personally delivering the notice to the owner, leaving a copy at the residence of the owner,

sending the notice by first class mail to the last known address of the owner, or serving the agent of the owner as described in IC §1-1-7-1(b)(4).

3. If an initial Notice of Violation was provided by first class mail, certified mail, personal service or by leaving a copy at the residence of the owner, a continuous abatement notice may be posted at the property at the time of abatement instead of being sent by first class mail, certified mail, personal service or by leaving a copy at the residence of the owner. A continuous abatement notice serves as notice to the owner that each subsequent violation during the same year for which the initial notice of the violation was provided may be abated by the Town, or its contractors, without further notice.

4. The order shall inform the owner of the following, which are the procedures hereby adopted for giving the owner notice, abating the nuisance and billing and collecting any sums due therefrom:

a. There appears to be weeds and rank vegetation, including grass, growing on your property exceeding six inches, contrary to Section 90.03(D);

b. The owner has seven (7) days from the date of the posting or mailing of the notice to cause the property to be brought into compliance with this section;

c. In the event that the property is not in compliance within seven (7) days of the posting or mailing of the notice, the Town or its contractors will enter the property and use their own equipment and personnel to mow the property to abate the violation;

d. The owner will be billed following the provision of these services in the minimum sum of \$250 which, depending on the administrative costs, actual hours of labor expended and costs of postage for notices, may be higher. That in the event that the bill is not paid within 30 days of its mailing to the owner, the bill will be deemed delinquent. Delinquent weeds and rank vegetation abatement billings and tall grass billings shall be collected by billing, by filing a civil action which will include reasonable attorneys fees, by having the Clerk-Treasurer certify the amount of the bill, plus any additional administrative costs incurred in certification, in a Notice of Lien with the County Auditor pursuant to I.C.36-7-10.1-4 or by foreclosing a lien.

e. That in the event the owner wishes to appeal the Notice of Violation or bill, the owner must notify the Clerk-Treasurer within seven (7) days of receipt and request to be placed on the agenda of the next Town Council meeting, or at a later meeting at the option of the Clerk-Treasurer. At the meeting the Town Council members present shall vote for or against the appeal and the majority shall prevail. If the Town Council denies the appeal, the owner shall have seven (7) days to make payment. In the event the bill is not paid within (7) days of the decision of the Town Council, it is delinquent and shall be collected as set forth above.

(D) Enforcement of §90.03(D) Unsafe Buildings and Premises. Violations of §90.03(D) and the Indiana Unsafe Building law, IC 36-7-9, et seq., shall be enforced as set forth in IC 36-7-9, et seq. by the Town's Unsafe Building Inspector.

(E) Additional Enforcement Provisions

1. In addition to fines for violations of this chapter, the Town Council may:
  - a. Declare the premises to be unsafe;
  - b. Issue an emergency order where immediate action is required to protect the health and safety of the public or of the occupants of the premises; and
  - c. Seek any of the additional relevant remedies provided by state law

or local ordinance.

2. Civil Action or Foreclosure for Nonpayment

a. If the costs incurred by the Town for the correction of the public nuisance are not paid to the Town as herein provided and become delinquent, then the amount due the Town for such corrective action, the penalty thereon and all costs of collection thereof, including a reasonable attorney's fee, may be recovered by the Town in a civil action brought in the name of the Town against the owner of the premises responsible for payment thereof.

b. If the costs incurred by the Town for the correction of a public nuisance is not paid to the Town as herein provided and becomes delinquent, the Town, as an additional or alternative remedy, may foreclose the lien created by this chapter as a means of collecting the amount due the Town for sale of the premises be made without relief from valuation and appraisal laws.

c. In addition to the enforcement remedies provided by this subchapter, the Town may enforce the provisions of this subchapter, by all other legal remedies, including but not limited to, the use of a mandatory injunction to required abatement of any public nuisances within the Town by the owner or occupant of the affected premises. In all such actions brought by the Town to enforce the provisions of this subchapter, the Town is entitled to recover all cost of such litigation, including reasonable attorney fees and all costs of collection.

d. Transfer of Ownership. It shall be unlawful and a violation of this Chapter for the owner of any premises who has received a Notice of Violation to sell, transfer, mortgage, lease or otherwise dispose of the premises to another until the provisions of the notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee, or lessee a true copy of any notice of violation and shall furnish the Town a signed and notarized statement from the grantee, transferee, mortgagee, or lessee acknowledging the receipt of such notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by the notice of violation.

e. Continuous Enforcement Order. Any property owner who fails to abate any nuisance described in Section 90.03, shall be deemed to be in violation of this section and may be issued a continuous enforcement order as set forth in this Section. Notice of violations by the Town Council or its designee, shall be mailed to the owner and parties with substantial interests of record (the "Owners") (e.g., owner, contract purchaser, tenant, mortgagee, and lienholders) by (1) certified mail or personal delivery to each of the Owners and by (2) first class mail to each of the Owners, leaving a copy at each of the Owners' residences or by electronic service at email addresses provided by all the Owners. One letter within a calendar year shall be deemed sufficient notice for each and every lot, parcel, and lands owned by the offender within the corporate limits of the Town. The Town shall have the right to abate any real estate nuisance upon the Owner's failure to do so within ten (10) days. A continuous enforcement order may be posted at the property at the time of abatement in the event the Town initially obtains service upon the property owner as required by IC 36-7-10.1-3. The continuous enforcement order shall serve as notice to the real property owner that each subsequent violation during the same calendar year for which the initial notice of the violation was provided may be abated by the Town or its contractors.

## CHAPTER 91: YARD SALES

### Section

#### 91.01 Yard Sales

### § 91.01 YARD SALES

#### (B) Definitions

1. "Yard Sale" shall mean: all general sales, regardless of how titled, open to the public, conducted from or on a residential premise in any residential zone, as defined by the zoning ordinance, or at any residence located in any nonresidential zone, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "yard," "attic," "porch," "room," "backyard," "patio," "flea market" or "rummage" sale.

2. "Personal Property" shall mean: property which is owned, utilized and maintained by an individual or members of his residence and acquired in the normal course of living in or maintaining a residence. It DOES NOT include merchandise, which was purchased for resale or obtained on consignment.

#### (C) Restrictions.

1. Yard sales may be held on a lot or parcel of land upon which there is situated a house, apartment or other structure which is utilized primarily for residential purposes. Yard sales are prohibited upon vacant lots, upon Town property (Park), and upon lots where there is situated a structure that is utilized primarily for any use other than residential purposes.

2. Up to three (3) garage sales may be conducted in any calendar year with no more than one (1) held in a month, which includes participation in a Town-Wide Yard Sale.

3. A yard sale shall not be conducted for more than two (2) consecutive days, only during daylight hours, and not on Sundays.

4. All outdoor evidence indicating that a garage sale has been conducted shall be removed within two (2) hours of dusk on the 2nd day.

#### (D) Penalty, see §10.99.

(Ordinance No. 2011-13, passed October 17, 2011)

## **CHAPTER 92: DUMPING PROHIBITED**

### Section

92.01 Dumping at Sewer Plant

### **§ 92.01 DUMPING AT SEWER PLANT**

(A) No person or business may dump trash, junk or construction debris at the Town Sewer Plant. Town residents may deposit brush, limbs and lawn debris.

(B) Penalty, see §10.99.

(Ordinance No. 2018-1217C, passed December 17, 2018)

## CHAPTER 93: TREES

### Section

93.01 Trees

### § 93.01 TREES

(A) All persons owning real estate fronting upon or being contiguous to any street used as a thoroughfare by pedestrians shall keep all trees on the real estate properly trimmed at least eight (8) feet either vertically or horizontally from any sidewalk or street sign on the street, so as not to interfere in any way with, or become an annoyance or nuisance to pedestrians. Upon discovery, of a violation of this Section, the Town Council shall give the owners of said real estate five (5) days notice to trim the trees.

(B) Penalty, see §10.99.

(1889, amended by 1945 Code, amended by Chapter 10-1, 1984 Code)

**TITLE XI: BUSINESSES**

**110. ITINERANT MERCHANTS**



## CHAPTER 110: ITINERANT MERCHANTS

### Section

#### 110.01 Itinerant Merchants

### § 110.01 SOLICITATIONS

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

1. **BUSINESS:** The business carried on by any person who is an itinerant merchant, peddler, or solicitor as defined in this section.

2. **CHARITY or CHARITABLE ORGANIZATION:** An organization recognized by the Internal Revenue Service and/or Indiana Department of Revenue as a not-for-profit organization or a charity, including those exempted under 26 USC § 501.

3. **FOOD VENDOR:** A peddler engaged in the sale of food, who is required to be licensed by the Indiana State Department of Health or by the Newton County Health Department, pursuant to any federal, state, or local laws or codes, or who sells food from a cart, trailer, tent, stand, or other temporary structure or from a permanent structure for a period of thirty (30) days or less, but excludes the sale of commercially-packaged foods such as cookies, candies, popcorn, and the like, through door-to-door sales. This does not include a restaurant, convenience store, or other food service facility that operates a permanent business at a fixed location.

4. **GOODS:** Merchandise of any description whatsoever, and includes, but is not restricted to, wares and foodstuffs.

5. **ITINERANT MERCHANT:** Any person, whether as owner, agent, or consignee, who engages in a temporary business of selling goods within the Town and who, in the furtherance of such business, uses any building, structure, vehicle, or any place within the Town.

6. **PEDDLER:** (1) Any person, whether as owner, agent, or consignee, who engages in the business of selling goods within the Town and who, in the furtherance of such business, uses any building or structure that is not their own, or any vehicle, or any other place within the Town, on a sporadic, short term, seasonal or temporary basis; (2) Any person who travels from place to place or door-to-door, by any means carrying or offering goods for sale, or making sales, estimates, or quotes, or making deliveries; (3) Any person who, without traveling from place to place, sells or offers for sale, goods or services for sale from any public place or upon private property, excluding their own, within the Town; or (4) Any person who travels by any means from place to place, taking or attempting to take orders for sale of goods to be delivered in the future or for services to be performed in the future.

7. **PEDDLE:** To engage in any of the conduct, defined above, which would render one a peddler.

8. **SERVICE:** The act of performing work or tasks for another in exchange for payment, donations, or other goods/service.

(B) No person, partnership or corporation shall solicit, peddle, sell or promote any good, item, merchandise, service or distribute advertising material, within the Town, whether for pay or voluntary donation, except in compliance with this Section. This prohibition shall include distributing handbills, flyers, or advertising by a Peddler.

(C) The requirement to obtain a license under this Section shall not apply to any of the following:

1. Any businesses who regularly visit pre-established customers at their residences, or who are invited onto a homeowner's premises (e.g., Culligan, Schwan's, etc.).

2. A person under the age of eighteen (18) years ("Juvenile"), engaged in conduct regulated by this Section for a charitable organization, is not required to obtain an individual permit, so long as an adult: (1) complies with all provisions of this Section, including obtaining a permit; (2) agrees to be responsible for the juvenile's actions; (3) remains at all times within twenty-five (25) feet of the juvenile in an open and visible location; and (4) upon request, the juvenile identifies the adult to the requesting party.

3. A person, business, entity, or organization, which owns, leases, or rents at a building or structure, open to the public, within the Town, for a period of at least thirty (30) continuous days prior to engaging in the conduct regulated by this Section.

4. A federal, state, or local municipal police department, fire department, or municipality, or one acting on behalf of any of the aforementioned; a census taker; person seeking election to an office in which residents of the Town may vote or any person or entity, which the Town Council may deem as exempt on a case-by-case basis, are exempt from this Section.

(D) Limitations on Licenses

1. No license issued under this Section shall be transferable.

2. All licenses issued shall expire ninety (90) days after issuance.

3. No person may be issued a permit who has been convicted of a felony under: I.C. § 35-42 (Crimes Against a Person), I.C. § 35-42-2 (Burglary), I.C. § 35-42-3 (Robbery) or any crime under:

a. I.C. § 35-43-5-3 (Deception)

b. I.C. § 35-43-5-4 (Fraud)

c. I.C. § 35-43-5-4.3 (Card Skimming Device)

d. I.C. §35-43-5-15 (Fraudulent sales document manufacturing device)

e. I.C. § 35-43-5-15 (Making false sales document)

f. I.C. § 35-43-6 (Home Improvement Fraud)

(E) The following shall apply to any person or entity who engages in any business by or through a peddling place to place or door to door:

1. A person may not peddle in areas or premises within the Town in which "No Trespassing" or "No Soliciting" signs are posted;

2. Between the hours of 8:00 p.m. and 9:00 a.m., no Peddlers may engage in conduct regulated by this Section, whether place to place or door-to-door, but may continue to engage in such from a fixed location.

(F) Applications

1. An application shall be signed by the applicant if an individual, or a duly authorized officer or agent if an entity. Applications should be made on forms available in the office of the Clerk-Treasurer. The application shall state:

a. The name and address of the applicant;

b. The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the

municipality:

- i. The local address of such individual;
- ii. The permanent address of such individuals;
- iii. The capacity in which such individual will act;
- b. The name and address of the person, if any, for whose purpose the business will be carried on, and, if a corporation, the state of incorporation, and the taxpayer identification number (EIN/SSN) of the applicant or party responsible for or exempt from, paying income taxes and collecting sales tax;
- c. The time period or periods during which it is proposed to carry on applicant's business;
- d. The nature, character, and quality of the goods to be offered for sale or delivered;
  - i. If goods, their invoice value and whether they are to be sold by sample as well as from stock;
  - ii. If goods, where and by whom such goods are manufactured or grown, and where such goods are at the time of application;
- e. The nature of the advertising proposed to be done for the business;
- f. Whether or not the applicant has been convicted of any crime or misdemeanor and, if so, the nature of each offense and the penalty assessed for each offense;
- g. If other than an individual, proof the entity is registered with the Indiana Secretary of State;
- h. If the business is a charitable organization, proof of such;
- i. an unexpired government issued photo identification for each individual peddler (if a minor will be peddling, then that of the adult supervising the minor);
- j. A description of any vehicle proposed to be used in the business, including its registration number, if any; and
- k. If required by the Clerk-Treasurer, copies of all printed advertising proposed to be used in connection with the applicant's business.

(G) The Clerk-Treasurer shall have the authority to make a determination as to whether an applicant has complied with this Code and should be issued a permit. If a person is denied a permit, the applicant may appeal a denial to the Town Council.

- (H) As a condition of receiving a permit, each peddler shall:
1. keep a copy of the permit issued by the Town and the peddler's government issued photo ID on their person at all times in which the applicant or individual is doing business in the Town and provide upon request of any person being solicited or any law enforcement officer;
  2. adhere to all federal, state, and local laws while doing business within the Town;
  3. Be respectful and courteous to persons the peddler interacts with and at all times comply with all federal, state, and local laws;
  4. Upon request to any person or entity who purchases the peddler's goods and services, provide a receipt, bearing the taxpayer identification number, name, and address and copy of any contract signed;

5. A permit shall expire thirty (30) days after the date the activities will first commence.

(I) Food Vendors. Persons vending food shall be required to register at the Town Hall. At the time of registration, the food vendor shall comply with the following:

1. An application described in Section (F);

2. The application shall have attached to it proof of permits/licenses issued and required by the state and local health departments and the applicant shall comply with all applicable laws and codes.

3. The application shall have attached to it proof of commercial general liability insurance for food sales in an amount of at least \$1,000,000.00, naming the Town as an additional insured. This provision is not applicable if the commodity being sold is a fruit, vegetable or nut, marketed in its natural and unprepared state, such as produce stands, farmer's market, or the like, selling such items in a substantially unaltered condition from their natural state.

(J) Penalty, see §10.99.

(Ordinance No. 2016-4, passed June 20, 2016)

**TITLE XIII: GENERAL OFFENSES**

- 130. CURFEW**
- 131. WEAPONS**
- 132. DRUGS AND ALCOHOL**

## CHAPTER 130: CURFEW

### Section

#### 130.01 Curfew

### § 130.01 CURFEW

(A) It is a curfew violation for a child 15, 16 or 17 years of age to be in a public place:

1. between 11:00 P.M. Friday and 5:00 A.M. Saturday and between 11:00 P.M. Saturday and 5:00 A.M. Sunday.

2. after 10:00 P.M. on Sunday, Monday, Tuesday, Wednesday or Thursday;

3. before 5:00 A.M. on Monday, Tuesday, Wednesday, Thursday or Friday.

(B) It is a curfew violation for a child under 15 years of age to be in a public place after 10:00 P.M. or before 5:00 A.M. on any day.

(C) It is a defense to a violation under this chapter and section that the child was emancipated:

1. under IC 31-37-19-27 or IC 31-6-4-15.7 (before its repeal);

2. by virtue of having married; or

3. in accordance with the laws of another state or jurisdiction;

at the time that the child engaged in the prohibited conduct.

(D) It is a defense to a violation under this chapter and section that the child engaged in the prohibited conduct while:

1. accompanied by the child's parent, guardian, or custodian;

2. accompanied by an adult specified by the child's parent, guardian, or custodian;

3. participating in, going to, or returning from:

- a. lawful employment;

- b. a school sanctioned activity;

- c. a religious event;

- d. an emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;

- e. an activity involving the exercise of the child's rights protected under the First Amendment to the United States Constitution or Article 1, Section 31 of the Constitution of the State of Indiana, or both, such as freedom of speech and the right of assembly;

- f. an activity conducted by a nonprofit or governmental entity that provides recreation, education, training, or other care under the supervision of one (1) or more adults; or

- g. engaged in interstate or international travel from a location outside Indiana to another location outside Indiana.

(E) Any police officer, based upon probable cause, may stop and question any minor suspected of violating this chapter's provisions and may take the minor into custody when found violating any provisions of this Code. The officer shall take the minor to the County Jail where the

name of the minor's parent, guardian or person having legal custody of the minor shall be ascertained.

The parent, guardian or person having legal custody shall be notified or summoned by the investigating officer to appear at the County Jail to complete the investigation.

The investigating or apprehending officer, if satisfied that a violation has occurred, shall cause a citation for the violation of this Code to be issued to the offending parent, guardian or custodian.

(F) Penalty, see §10.99. In addition, any minor violating any provision of this ordinance may be referred to the Newton County Juvenile Probation Department, the Newton County Prosecutor's Office Juvenile Division, and/or to the Newton County Circuit Court, which court has juvenile jurisdiction, for further proceedings regarding the juvenile's curfew violation.

(Town Code § 8-2, passed 1966, amended 1983; amended by Ordinance No. 1998-6, passed June, 1998; amended by Ordinance No. 1998-11, passed June \_\_\_\_, 1998; amended by Ordinance No. 2000-12-1, passed December 18, 2000)

## CHAPTER 131: WEAPONS

### Section

131.01 Guns

132.02 Dangerous Devices

### § 131.01 GUNS

(A) It shall be unlawful for any person or persons to discharge any gun, pistol, target gun, toy gun or the using of any slingshot or throwing any stone, or other missiles, within the Town.

(B) No part of this prohibition shall be so constructed as to prevent the use of any of the aforementioned firearms in the protection and defense of the person and property of the inhabitants of the Town.

(1890, amended by Section 8-2, 1984 Code, Section 8-2)

### § 131.01 DANGEROUS DEVICES

#### (A) Definitions

1. "Authorized Individual" means (1) a member of the Town Council, Clerk-Treasurer, Town Marshal, Street Superintendent, Sewer Superintendent, Chief of the Fire Department; (2) any deputies of those persons; (3) any person designed by the Town Council, Clerk-Treasurer, or Town Marshal to perform searches under this Section; and (4) any law enforcement officer.

2. "Dangerous Device" means a firearm, explosive, or regulated weapon.

3. "Explosive" means any regulated explosive included in I.C. § 35-47.5-3-1 or a Hoax Device, as described by I.C. § 35-47.5-2-8.

4. "Firearm" means any weapon that is capable of or designed to or that may readily be converted to expel a projectile by means of an explosion.

5. "Town Hall and Community Center" includes the building and lot upon which the structure is located, or any part thereof.

6. "Regulated Weapon" means an electronic stun gun, taser, or stun gun, as defined by I.C. § 35-47-8.

#### (B) Provisions.

1. The provisions of this Section do not apply to a law enforcement officer, as defined by I.C. § 35-41-1-17.

2. No person shall possess a Dangerous Device within the Town Hall and Community Center, without prior written consent of the Town Council.

3. All persons who desires to enter the Town Hall and Community Center may be searched without cause, including their person, packages, luggage, containers, wallets, purses, and the like, for the presence of items regulated by these provisions.

4. Any packages, luggage, or other containers located at the Town Hall and



Community Center are subject to search by an Authorized Individual.

5. An Authorized Individual who is denied permission to search for Dangerous Devices, shall immediately direct the person to leave the premises and shall notify a law enforcement officer.

6. Any packages, luggage, or other containers located at the Town Hall and Community Center are subject to search, by a member of the Town Council, Clerk-Treasurer, Town Marshal, Street Superintendent, Sewer Superintendent, Chief of the Fire Department, any of their deputies or any person authorized by them to conduct searches pursuant to these provisions, or by any law enforcement officer.

7. If an Authorized Individual locates a Dangerous Device, they may either escort the person from the property and return the items, or seize the items and immediately contact a law enforcement officer to take possession of the Dangerous Device.

8. A notice shall be posted at the main entrance to the Town Hall and Community Center, which advises the public of these provisions.

(C) Penalty, see § 10.99.

(Ordinance No. 2005-3, passed January 17, 2005)

## **CHAPTER 132: DRUGS AND ALCOHOL**

### Section

- 132.01 Alcoholic Beverages
- 132.02 Tobacco Use at Baseball Diamond

### **§ 132.01 ALCOHOLIC BEVERAGES**

The consent of the Town be and the same is hereby given and granted to the proper legal authorities of the State, to issue liquor retailer's permits for the sale of alcoholic, spirituous beverages to applicants otherwise duly qualified to premises within the Town, all agreeable to the provisions of Section Eighteen (18) of an Act of the General Assembly of the State of Indiana, entitled "An Act concerning alcoholic beverages, liquids and substances, and to promote temperance, repealing laws and parts of laws and declaring an emergency".

(1935, amended by Article 1, 1984 Code)

### **§ 132.02 TOBACCO USE AT BASEBALL DIAMOND**

No person may light, burn, inhale or otherwise smoke a cigarette, cigar, pipe, or other form of smoke tobacco or vape within fifty (50) feet of the Town's baseball diamond(s) so as to ensure tobacco smoke does not enter into the designated recreational area.

(Ordinance No. 2018-12-17A, passed December 17, 2018)

**TITLE XV: LAND USE**

- 150. BUILDING REGULATIONS**
- 151. FLOOD HAZARD AREAS**

## CHAPTER 150: BUILDING CODE

### Section

150.01	Title
150.02	Purpose
150.03	Authority
150.04	Scope
150.05	Adoption of Rules by Reference
150.06	Permits, Applications
150.07	Permit Required
150.08	Fees and Required Inspections
150.09	Entry
150.10	Stop Orders
150.11	Certificates of Occupancy
150.12	Workmanship
150.13	Violations
150.14	Right of Appeal
150.15	Remedy
150.16	Fair Housing

### § **150.01 TITLE**

This Chapter and all ordinances supplemental or amendatory hereto, shall be known as the “Building Code of the Town of Goodland, Indiana.”

### § **150.02 PURPOSE**

The purpose of the Building Code is to provide minimum standards for the protection of life, health, environment, public safety and general welfare, and for the conservation of energy in the design and construction of buildings and structures.

### § **150.03 AUTHORITY**

The Building Commissioner is hereby authorized and directed to administer and enforce all of the provisions of the Building Code. Whenever, in this Chapter, it is provided that anything must be done to the approval of or subject to the direction of the Building Commissioner of the Town, this shall be construed to give such officer only the discretion of determining whether this Chapter has been complied with; and no such provision shall be construed as giving any officer discretionary powers as to what this Chapter shall be, or power to require conditions not prescribed by ordinances or to enforce this Chapter in an arbitrary or discriminatory manner. Any variance from adopted building rules are subject to approval under I.C. 22-13-2-7(b).

§ **150.04 SCOPE**

The provisions of this Chapter apply to the construction, alteration, repair, use, occupancy and addition to all buildings and structures, other than industrialized building systems or mobile structures certified under I.C. 22-15-4, in the Town.

§ **150.05 ADOPTION OF RULES BY REFERENCE**

(A) Building rules of the Indiana Fire Prevention and Building Safety Commission as set out in the following articles of I.A.C. Title 675 are hereby incorporated by reference in this Chapter and shall include later amendments to those articles as the same are published in the Indiana Register or the Indiana Administrative Code with effective dates as fixed therein:

1. Article 13- Building Codes:
  - a. Fire and Building Safety Standards;
  - b. Indiana Building Codes; and
  - c. Indiana Building Code Standards.
2. Article 14- One- and Two-Family Dwelling Code; Indiana One- and Two-Family Dwelling Code;
3. Article 16- Plumbing Code Indiana Plumbing Code;
4. Article 17- Electrical Codes:
  - a. Indiana Electrical Code; and
  - b. Safety Code for Health Care Facilities.
5. Article 18- Mechanical Code Indiana Mechanical Code;
6. Article 19- Energy Conservation Codes:
  - a. Indiana Energy Conservation Code; and
  - b. Modifications to the Model Energy Code.
7. Article 20 - Swimming Pool Code Indiana Swimming Pool Code.

(B) Copies of adopted building rules, codes and standards are on file in the office of the Building Commissioner.

§ **150.06 PERMITS; APPLICATION**

(A) No building permit shall be issued for the foregoing purposes, unless the application for a permit is accompanied by a plat or sketch of the proposed location showing lot boundaries, and by plans and specifications showing the work to be done.

(B) A permit shall be obtained before beginning new construction, alteration or repair of any building or structure adding additional square footage, changing a load bearing wall or any roofing or recovering of any existing roof, and for any building project exceeding \$1,500 in cost, excluding costs of interior finishes, trim or cabinetry and exterior cosmetic finishes, using forms furnished by the Building Commissioner. All fees required by this Chapter shall be paid to the Town.

§ **150.07 PERMIT REQUIRED**

A permit shall be obtained for the following. All permits shall be issued by the Building Commissioner, and all fees required therefore shall be paid to the Town.

- (A) A building permit shall be obtained for:
1. Construction of new residential dwelling units and non-residential buildings;
  2. Construction of additions to new residential dwelling units and non-residential buildings including, but not limited to, rooms, porches, or decks;
  3. Location or construction of accessory structures to residential dwelling units or non-residential buildings including, but not limited to, garages, carports, sheds, storage buildings, or satellite dishes;
  4. Replacement of any existing structure which, if new, would require a building permit under this section;
  5. Construction of new roof projections or structural changes to a roof;
  6. Location of a manufactured home outside of a licensed mobile home park;
- and
7. Work which requires State design release, including but not limited to, interior commercial renovation.

(B) All work done under any permit shall be in full compliance with all other ordinances pertaining thereto, and in addition to the fees for permits, there shall be paid the fees prescribed in such ordinances. Unless the context clearly indicates a contrary meaning words and phrases used in this Chapter are to be defined by reference to the Town's Zoning Code as now or hereafter amended.

- (C) Prior to the issuance of any building permit, the Building Commissioner shall:
1. Review all building permit applications to determine full compliance with the provisions of this subchapter;
  2. Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding;
  3. Review building permit applications for major repairs within the floodplain area having special flood hazards to determine that the proposed repair:
    - a. Uses construction materials and utility equipment that are resistant to flood damage; and
    - b. Uses construction methods and practices that will minimize flood damage.
  4. Review building permit applications for new construction or substantial improvements within the floodplain area having special flood hazards to assure that the proposed construction (including prefabricated and mobile homes):
    - a. Is protected against flood damage;
    - b. Is designed (or modified) and anchored to prevent flotation, collapse or lateral movement of the structure, flood damage; and

c. Uses construction methods and practices that will minimize flood damage.

§ **150.08 FEES AND REQUIRED INSPECTIONS**

(A) Permits required by this Chapter shall be issued upon prior payment of inspection fees according to the following schedule:

<i>Type of Construction</i>	<i>Required Inspection</i>
1- or 2-family dwelling, detached	\$100.00
Accessory buildings (residential use)	\$25.00
Additions/alterations (all occupancies)	\$50.00
Commercial structures	\$200.00

After the issuance of any building permit hereunder, the Building Commissioner shall make, or shall cause to be made, such inspections of the work being done under such permit as in the inspector's judgement are warranted.

§ **150.09 ENTRY**

Upon presentation of proper credentials, the Building Commissioner or his duly authorized representatives may enter at reasonable times any building, structure or premises in the town to perform any duty imposed upon him by this Chapter.

§ **150.10 STOP ORDERS**

Whenever any work is being done contrary to the provisions of this Chapter, the Building Commissioner may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Building Commissioner to proceed with the work.

§ **150.11 CERTIFICATE OF OCCUPANCY**

(A) No certificate of occupancy for any building or structure constructed after the adoption of this Chapter shall be issued unless such building or structure was constructed in compliance with the provisions of this Chapter.

(B) It shall be unlawful to occupy any such building or structure unless a full, partial or temporary certificate of occupancy has been issued by the Building Commissioner.

§ **150.12 WORKMANSHIP**

All work on the construction, alteration and repair of buildings and other structures shall be performed in a good and workmanlike manner according to accepted standards and practices in the trade.

§ **150.13 VIOLATIONS**

It shall be unlawful for any person, firm or corporation, whether as owner, lessee, sub-lessee or occupant, to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure, other than fences, in the zoning jurisdiction of the Town or cause or permit the same to be done, contrary to or in violation of the provisions of this Chapter.

§ **150.14 RIGHT OF APPEAL**

All persons shall have the right to appeal any order of the Building Commissioner first through the Town's Board of Zoning Appeals and then to the Fire Prevention and Building Safety Commission of the State in accordance with the provisions of I.C. 22-13-2-7 and I.C. 4-21.5-3-7.

§ **150.15 REMEDIES**

The Building Commissioner shall in the name of the Town bring actions in the Circuit or Superior Courts of the County for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders made by the Building Commissioner, and any such action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this Chapter.

§ **150.16 FAIR HOUSING**

(A) 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.

(B) The definitions set forth in this Section shall apply throughout this Chapter:  
1. "Dwelling" means 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 (1) 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 (1) or more families (I.C. 22-9.5-2-8).

2. "Family" includes a single individual (I.C. 22-9.5-2-9), with the status of such family being further defined in subsection (8) of this Section.

3. "Person" (I.C. 22-9.5-2-11), includes one (1) 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.

4. "To Rent" (I.C. 22-9.5-2-13), includes to lease, to sublease, to let and otherwise to grant for a consideration the rights to occupy the premises owned by the occupant.

5. "Discriminatory Housing Practice" means an act that is unlawful under Sections 4,5,6,7 or 8 of this Section or I.C. 22-9.5-5.

6. "Handicap" means, with respect to a person:

a. a physical or mental impairment which substantially limits one or more of such person's major life activities;

b. a record of having such an impairment; or

c. being regarded as having such an impairment;

d. an impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990;

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

f. 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 (I.C. 22-9.5-2-10(b)); nor does the term "handicap" include an individual solely because that individual is a transvestite (I.C. 22-9.5-2-10(c)).

7. "Aggrieved Person" includes any person who (I.C. 22-9.5-2-2):

a. claims to have been injured by discriminatory housing practice; or

b. believes that such person will be injured by a discriminatory housing practice that is about to occur.

8. "Familial Status"

a. Means 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;

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

9. "Commission" (I.C. 22-9.5-2-3) means the Indiana Civil Rights Commission created pursuant to I.C. 22-9-1-4, et. seq.

10. "Complainant" (I.C. 22-9.5-2-4) means a person, including the Commission, who files a complaint under I.C. 22-9.5-6.

11. "Town Council" means the Town Council for the Town of Goodland, Indiana, or any person designated by them to act with their authority pursuant to this Ordinance.

(C) Subject to the provisions of subsection (C)(2) of this Section, Section (I) of this Section and Title 22-9.5-3 of Indiana Code, the prohibitions against discrimination in the sale or rental of housing set forth in Title 22-9.5-5-1 of Indiana Code and in Section (D) of this Section shall apply to:

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

2. Other than the provisions of subsection (C)(3) of this Section, nothing in Section (D) shall apply to:

a. Any single-family house sold or rented by an owner where the private individual owner does not own more than three (3) such single-family houses at any one (1) 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 (1) such sale within any twenty-four (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 (3) such single-family houses at any one time. The sale or rental of any such single-family house shall be excepted from application of this section only if such house is sold or rented:

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

ii. without the publication, posting or mailing, after notice of advertisement or written notice in violation of Section (D)(3) of this Section, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other such professional assistance as necessary to perfect or transfer this title.

b. rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one (1) of such living quarters as his residence.

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

a. he has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein; or

b. he has, within the preceding twelve (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 (2) or more transaction involving the sale or rental of any dwelling or any interest therein; or

c. he is the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five (5) or more families.

(D) As made applicable by Section (C) and except as exempted by Section (C)(2), it shall be unlawful:

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

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

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

discrimination.

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

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

6. With regards to sale or rental properties, the following shall be unlawful:

a. 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:

- i. that buyer or renter;
- ii. a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
- iii. any person associated with that person.

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 with such dwelling, because of a handicap of:

- i. that person; or
- ii. a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
- iii. any person associated with that person.

c. For purposes of this subsection, discrimination includes:

i. 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;

ii. 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

iii. 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:

1. the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;
2. 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
3. all premises within such dwellings contain the following features of adaptive design:
  - a. an accessible route into and through the dwelling;
  - b. light, switches, electrical outlets,

- c. thermostats, and other environmental controls in accessible locations;
- c. reinforcements in bathrooms such that an individual in a wheelchair can maneuver about the space;
- d. compliance with the appropriate requirement Americans with Disabilities Act of 1990 and of the American National Standard for Buildings and Facilities providing accessibility an usability for physically handicapped people suffices to satisfy the requirements of paragraph (3)(C)(iii);
- e. Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health of safety of other individuals of whose tenancy would result in substantial physical damage to the property of others.

(E) Discrimination in Residential Real Estate-Related Transactions

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

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

- a. The making/purchasing of loans or providing financial assistance:
  - i. for purchasing, constructing, improving, repairing, or maintaining a dwelling; or
  - ii. secured by residential real estate.
- b. The selling, brokering, or appraising of residential real property.

3. Nothing in this 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.

(F) 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.

(G) 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 C, D, E or F of this Section.

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

1. Any person because of his 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

2. 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:

a. participating, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any activities, services, organizations or facilities; or

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

3. 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 subsection (H)(1), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined according to local, state and federal law; and if bodily injury results shall be fined not more than \$10,000 or imprisoned not more than ten (10) years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

(I) Exemptions

1. Exemptions defined or set forth under Indiana Code 22-9.5-3 et. seq. of shall be exempt from the provisions of this Chapter to include those activities or organizations set forth under subsections (2) and (3) of this Section.

2. Nothing in this Section 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.

3. Nothing in this Section regarding familial status shall apply with respect to housing for older persons. As used in this Section, "housing for older persons" means housing:

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

b. intended for, and solely occupied by, person 62 years of age or

older; or

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

(J) Administrative Enforcement

1. The authority and responsibility for properly administering this Section and referral of complaints hereunder to the Commissioner as set forth in subsection (2) hereof shall be vested in the Town Council.

2. Notwithstanding the provisions of I.C. 22-9.5-4-8, the Town, because of lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under the Section, herein elects to refer all formal complaints of violation of the articles of this Section by complainants to the Indiana Civil Rights Commission for administrative enforcement actions pursuant to I.C. 22-9.5-6 and the Town Council shall refer all said complaints to the Commission as provided for under subsection (A) of this Section to said Commission for purposes of investigation, resolution and appropriate relief as provided for under I.C. 22-9.5-6.

3. All executive departments and agencies of the Town shall administer their departments, programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this Section and shall cooperate with the Town Council and the Commission to further such purposes.

4. The Town Council or their designee, shall provide information on remedies available to any aggrieved person or complainant requesting such information.

(K) If any provision of this Section or the application thereof to any person or circumstances shall be determined to be invalid, the remainder of the Section and the application of its provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

(Ordinance No. 2020-0702B, passed July 2, 2020)

## CHAPTER 151: FLOOD HAZARD AREAS

### Section

151.01 Flood Hazard Areas

### § 151.01 FLOOD HAZARD AREAS

*Statutory Authorization, Findings of Fact, Purpose, and Objectives.*

(A) The Indiana Legislature has in IC 36-7-4 and IC 14-28-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Town Council does hereby adopt the following floodplain management regulations.

(B) The flood hazard areas of the Town are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

(C) It is the purpose of this Section to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.
4. Control filling, grading, dredging, and other development which may increase erosion or flood damage.
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
6. Make federally-subsidized flood insurance available for structures and their contents in the County by fulfilling the requirements of the National Flood Insurance Program.

(D) The objectives of this Section are:

1. To protect human life and health.
2. To minimize expenditure of public money for costly flood control projects.

3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
4. To minimize prolonged business interruptions.
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.
6. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas.

### *Definitions*

(A) Unless specifically defined below, words or phrases used in this Section shall be interpreted so as to give them the meaning they have in common usage and to give this Section its most reasonable application.

1. A zone means portions of the Special Flood Hazard Area (SFHA) in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a Flood Insurance Rate Map (FIRM). The definitions are presented below:

a. Zone A. Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.

b. Zone AE and A1-A30. Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A 1-A30.)

c. Zone AO. Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

d. Zone AH. Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

e. Zone AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.

f. Zone A99: Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

2. Accessory structure (appurtenant structure) means a structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory



structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

3. Addition (to an existing structure) means any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

4. Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this Section.

5. Area of shallow flooding means a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

6. Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year.

7. Base Flood Elevation (BFE) means the elevation of the one-percent annual chance flood.

8. Basement means that portion of a structure having its floor sub-grade (below ground level) on all sides.

9. Boundary River means the part of the Ohio River that forms the boundary between Kentucky and Indiana.

10. Boundary River Floodway means the floodway of a boundary river.

11. Building - see "Structure."

12. Community means a political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

13. Community Rating System (CRS) means a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

14. Critical facility means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

15. D Zone means unstudied areas where flood hazards are undetermined, but flooding is possible. Flood insurance is available in participating communities but is not required by regulation in this zone.

16. Development means any man-made change to improved or unimproved real estate including but not limited to:

a. construction, reconstruction, or placement of a structure or any addition to a structure;

b. installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;

c. installing utilities, erection of walls and fences, construction of roads, or similar projects;

d. construction of flood control structures such as levees, dikes, dams,

channel improvements, etc.;

operations;

e. mining, dredging, filling, grading, excavation, or drilling

f. construction and/or reconstruction of bridges or culverts;

g. storage of materials; or

h. any other activity that might change the direction, height, or

velocity of flood or surface waters.

i. "Development" does not include activities such as the maintenance of existing structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

17. Elevated structure means a non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

18. Elevation Certificate is a certified statement that verifies a structure's elevation information.

19. Emergency Program means the first phase under which a community participates in the National Flood Insurance Program (NFIP). It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

20. Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

21. Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

22. FEMA means the Federal Emergency Management Agency.

23. Flood means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

24. Flood Boundary and Floodway Map (FBFM) means an official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

25. Flood Hazard Boundary Map (FHBM) means an official map of a community, issued by FEMA, where the boundaries of the areas of special flood hazard have been identified as Zone A.

26. Flood Insurance Rate Map (FIRM) means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

27. Flood Insurance Study (FIS) is the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

28. Flood Prone Area means any land area acknowledged by a community as

being susceptible to inundation by water from any source. (See "Flood")

29. Flood Protection Grade (FPG) is the elevation of the regulatory flood plus two feet at any given location in the SFHA. (see "Freeboard")

30. Floodplain means the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

31. Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

32. Floodplain management regulations means this Chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

33. Floodproofing (dry floodproofing) is a method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

34. Floodproofing certificate is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.

35. Floodway is the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

36. Freeboard means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

37. Fringe is those portions of the floodplain lying outside the floodway.

38. Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

39. Hardship (as related to variances of this Chapter) means the exceptional hardship that would result from a failure to grant the requested variance. The Town Board of Zoning Appeals require that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems

can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

40. Highest adjacent grade means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

41. Historic structure means any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

42. Increased Cost of Compliance (ICC) means the cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

43. Letter of Final Determination (LFD) means a letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

44. Letter of Map Amendment (LOMA) means an amendment to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation date. A LOMA is only issued by FEMA.

45. Letter of Map Revision (LOMR) means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

46. Letter of Map Revision Based on Fill (LOMR-F) means an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

47. Lowest adjacent grade means the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

48. Lowest floor means the lowest of the following:

- a. the top of the lowest level of the structure;
- b. the top of the basement floor;
- c. the top of the garage floor, if the garage is the lowest level of the structure;
- d. the top of the first floor of a structure elevated on pilings or pillars;
- e. the top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:
  - i. the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls having a total net area of one (1) square inch for every one square foot of enclosed area. The bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,

ii. such enclosed space shall be usable solely for the parking of vehicles and building access.

49. Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

50. Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

51. Market value means the building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value) or adjusted assessed values.

52. Mitigation means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.

53. National Flood Insurance Program (NFIP) is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

54. National Geodetic Vertical Datum (NGVD) of 1929 as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

55. New construction means any structure for which the "start of construction" commenced after the effective date of the community's first floodplain ordinance.

56. New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.

57. Non-boundary river floodway means the floodway of any river or stream other than a boundary river.

58. North American Vertical Datum of 1988 (NAVO 88) as adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

59. Obstruction includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

60. One-percent annual chance flood is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Regulatory Flood".

61. Physical Map Revision (PMR) is an official republication of a community's FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

62. Public safety and nuisance means anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

63. Recreational vehicle means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

64. Regular program means the phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

65. Regulatory flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Article 3 (B) of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

66. Repetitive loss means flood-related damages sustained by a structure on two separate occasions during a 10-year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market value of the structure at the time of each such flood event.

67. Section 1316 is that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

68. Special Flood Hazard Area (SFHA) means those lands within the jurisdiction of the Town subject to inundation by the regulatory flood. The SFHAs of the Town of Goodland are generally identified as such on the Newton County, Indiana and Incorporated Areas Flood Insurance Rate Map, dated December 16, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1 - A30, AH, AR, A99, or AO).

69. Start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not

that alteration affects the external dimensions of the building.

70. Structure means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

71. Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

72. Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "repetitive loss" or "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

73. Suspension means the removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

74. Variance is a grant of relief from the requirements of this Chapter, which permits construction in a manner otherwise prohibited by this Chapter where specific enforcement would result in unnecessary hardship.

75. Violation means the failure of a structure or other development to be fully compliant with this Chapter. A structure or other development without the elevation, other certification, or other evidence of compliance required in this Chapter is presumed to be in violation until such time as that documentation is provided.

76. Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

77. X zone means the area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 percent chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.

78. Zone means a geographical area shown on a FIRM that reflects the severity or type of flooding in the area.

79. Zone A (see definition for A zone)

80. Zone B, C, and X means areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B/C.)

### *General Provisions*

- (A) General Provisions.

1. This Chapter shall apply to all SFHAs and known flood prone areas within the jurisdiction of the Town of Goodland.

2. This Chapter's protection standard is the regulatory flood. The best available regulatory flood data is listed below.

a. The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the Town of Goodland shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Newton County, Indiana and Incorporated Areas dated December 16, 2014 and the corresponding Flood Insurance Rate Map dated December 16, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.

b. The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the Town of Goodland, delineated as an "A Zone" on the Newton County, Indiana and Incorporated Areas Flood Insurance Rate Map dated December 16, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.

c. In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.

d. Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

3. A Floodplain Development Permit shall be required in conformance with the provisions of this Chapter prior to the commencement of any development activities in areas of special flood hazard.

4. No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this Chapter and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this Chapter and other applicable regulations.

5. This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

6. Discrepancy between Mapped Floodplain and Actual Ground Elevations.

a. In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.

b. If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.

c. If the elevation (natural grade) of the site in question is above the



base flood elevation, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner should be advised to apply for a LOMA.

7. In interpretation and application of this ordinance all provisions shall be:

- a. Considered as minimum requirements.
- b. Liberally construed in favor of the governing body.
- c. Deemed neither to limit nor repeal any other powers granted under

state statutes.

8. The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this Chapter does not create any liability on the part of the Town of Goodland, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this Chapter or any administrative decision made lawfully thereunder.

9. Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this Chapter. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the Town of Goodland. All violations shall be punishable by a fine of ten dollars (\$10.00) per day not exceeding five hundred dollars (\$500.00) per day.

a. A separate offense shall be deemed to occur for each day the violation continues to exist.

b. The Town Council shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

c. Nothing herein shall prevent the Town from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

(B) Administration.

5. The Town Council hereby appoints the Goodland Building Inspector to administer and implement the provisions of this Chapter and is herein referred to as the Floodplain Administrator.

6. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- a. Application stage
  - i. A description of the proposed development
  - ii. Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams.
  - iii. A legal description of the property site.
  - iv. A site development plan showing existing and proposed development locations and existing and proposed land grades.
  - v. Elevation of the top of the lowest floor (including

basement) of all proposed buildings, Elevation should be in NAVO 88 or NGVD.

vi. Elevation (in NAVO 88 or NGVD) to which any non-residential structure will be floodproofed.

vii. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision.

b. Construction stage.

i. Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it shall be the duty of the applicant to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. The Floodplain Administrator shall review the lowest floor elevation survey data submitted. The applicant shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project. Any work undertaken prior to submission of the elevation certification shall be at the applicant's risk.

ii. Upon establishment of the floodproofed elevation of a floodproofed structure, it shall be the duty of the applicant to submit to the Floodplain Administrator a floodproofing certificate. Certification shall be prepared by or under the direct supervision of a registered professional engineer and certified by same. (The Floodplain Administrator shall review the floodproofing certification submitted.) The applicant shall correct any deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the floodproofing certification or failure to make correction required shall be cause to issue a stop-work order for the project.

c. Finished Construction. Upon completion of construction, an elevation certification which depicts the "as-built" lowest floor elevation is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, floodproofing certification is required to be submitted by the applicant to the Floodplain Administrator.

7. The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this Chapter. The administrator is further authorized to render interpretations of this Chapter, which are consistent with its spirit and purpose. Duties and Responsibilities of the Floodplain Administrator shall include, but not be limited to:

a. Review all floodplain development permits to assure that the permit requirements of this Chapter have been satisfied.

b. Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations.

c. Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to this Chapter and maintain a record of such authorization (either copy of actual permit or floodplain analysis/regulatory assessment).

d. Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits are to be maintained on file with the floodplain development permit.

- e. Maintain and track permit records involving additions and improvements to residences located in the floodway.
- f. Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse and submit copies of such to FEMA.
- g. Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this Chapter.
- h. Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
- i. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- j. Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Article 4 Section 8.
- k. Verify and record actual elevation to which new or substantially improved structures have been floodproofed.
  - l. Review certified plans and specifications for compliance.
  - m. Perform a minimum of three inspections to ensure that all applicable Chapter and floodplain development requirements have been satisfied. The first upon the establishment of the Flood Protection Grade reference mark at the development site; the second upon the establishment of the structure's footprint/establishment of the lowest floor; and the final inspection upon completion and submission of the required finished construction elevation certificate. The Goodland Building Inspector shall have the right to enter and inspect properties located in the SFHA
- n. Stop Work Orders
  - i. Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this Chapter shall immediately cease.
  - ii. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.
- o. Revocation of Permits
  - i. The floodplain administrator may revoke a permit or approval, issued under the provisions of the Chapter, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
  - ii. The floodplain administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this Chapter.

(C) Provisions for Flood Hazard Reduction.

- 1. In all SFHAs and known flood prone areas the following provisions are

required:

a. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

b. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

c. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.

d. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.

e. Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.

f. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

g. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

h. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

i. Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this Chapter shall meet the requirements of "new construction" as contained in this Chapter.

j. Parking lots, driveways, and sidewalks within the SFHA shall be constructed with permeable materials.

k. Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure.

i. The excavation shall take place in the floodplain and in the same property in which the authorized fill or structure is located.

ii. Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory flood water, will not be subject to ponding when not inundated by flood water, and that it shall not be refilled.

iii. The excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by flood water.

iv. The fill or structure shall not obstruct a drainage way leading to the floodplain.

v. The grading around the excavation shall be such that the excavated area is accessible to the regulatory flood water.

vi. The fill or structure shall be of a material deemed stable

enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement.

vii. Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work. Once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this Chapter.

2. In all SFHAs, the following provisions are required:

a. In addition to the requirements above, all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

i. Construction or placement of any new structure having a floor area greater than 400 square feet.

ii. Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).

iii. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.

iv. Installing a travel trailer or recreational vehicle on a site for more than 180 days.

v. Installing a manufactured home on a new site or a new manufactured home on an existing site. This Chapter does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.

vi. Reconstruction or repairs made to repetitive loss structure.

vii. Addition or improvement made to any existing structure with a previous addition or improvement constructed since the community's first floodplain ordinance.

b. New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided.

c. New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided. Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:

i. A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic

pressures, and impacts from debris or ice. Such certification shall be provided to the official.

ii. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

d. New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG. Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:

i. Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).

ii. The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.

iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

iv. Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

v. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

vi. The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.

vii. Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.

viii. Property owners shall be required to execute a flood openings/venting affidavit acknowledging that all openings will be maintained as flood vents, and that the elimination or alteration of the openings in any way will violate the requirements of 3-12-5, B(4). Periodic inspections will be conducted by the Floodplain Administrator to ensure compliance. The affidavit shall be recorded in the office of the Newton County Recorder.

ix. Property owners shall be required to execute and record with the structure's deed a non-conversion agreement declaring that the area below the lowest floor (where the interior height of the enclosure exceeds 6 feet) shall not be improved, finished or otherwise converted; the community will have the right to inspect the enclosed area. The non-conversion agreement shall be recorded in the office of the Newton County Recorder.

e. A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:

i. The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.

ii. The fill should extend at least 5 feet beyond the foundation

of the structure before sloping below the FPG.

iii. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.

iv. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

v. The top of the lowest floor including basements shall be at or above the FPG.

vi. Fill shall be composed of clean granular or earthen material.

f. Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:

i. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

ii. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures.

iii. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

g. These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:

i. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

ii. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures.

iii. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

h. Recreational vehicles placed on a site shall either:

i. be on site for less than 180 days;

ii. be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

iii. meet the requirements for "manufactured homes" as stated earlier in this section.

i. Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:

i. Shall not be used for human habitation.

ii. Shall be constructed of flood resistant materials.

iii. Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.

iv. Shall be firmly anchored to prevent flotation.

v. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.

vi. Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures.

j. All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

3. Standards for Subdivision Proposals.

a. All subdivision proposals shall be consistent with the need to minimize flood damage.

b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

d. Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty lots or five acres.

e. All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.

f. All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

4. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

5. Located within SFHAs, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of non-substantial additions/improvements to residences in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that



if fill is needed to elevate an addition above the existing grade, prior approval (construction in a floodway permit) for the fill is required from the Indiana Department of Natural Resources.)

No action shall be taken by the Floodplain Administrator until a permit (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in this Chapter have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

No development shall be allowed, which acting alone or in combination with existing or future development, that will adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

For all projects involving channel modifications or fill (including levees) the Town shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.

6. If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in this Chapter have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

7. Standards for SFHAs Without Established Base Flood Elevation and/or Floodways/Fringes.

a. Drainage area upstream of the site is greater than one square mile: If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper permit for construction in a floodway or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in this Chapter have been met.

b. Drainage area upstream of the site is less than one square mile: If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent annual chance flood elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions have been met.

c. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood more than 0.14 of one foot and will not increase flood damages or potential flood damages.

8. All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards.

(D) Variance Procedures.

1. The Board of Zoning Appeals shall hear and decide appeals and requests for variances from requirements of this ordinance.

2. The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision to the Newton Circuit Court.

3. In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and;

a. The danger of life and property due to flooding or erosion damage.  
b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

c. The importance of the services provided by the proposed facility to the community.

d. The necessity to the facility of a waterfront location, where applicable.

e. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.

f. The compatibility of the proposed use with existing and anticipated development,

g. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.

h. The safety of access to the property in times of flood for ordinary and emergency vehicles.

i. The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.

j. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

4. Conditions for Variances.

a. Variances shall only be issued when there is:  
i. A showing of good and sufficient cause.  
ii. A determination that failure to grant the variance would result in exceptional hardship.

iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or

ordinances.

b. No variance for a residential use within a floodway subject to this Chapter may be granted.

c. Any variance granted in a floodway subject to this Chapter will require a permit from the Indiana Department of Natural Resources.

d. Variances to the Provisions for Flood Hazard Reduction may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

e. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

f. Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

g. Any application to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

h. The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request.

5. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

a. The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and;

b. Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the community's biennial report submission to the Federal Emergency Management Agency.

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

7. Upon the consideration of the factors listed, and the purposes of this Chapter, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter.

(Ordinance No. 2014-15, passed December 16, 2014)

**TITLE XVII: ZONING**

**170. ZONING**

## **CHAPTER 170: ZONING**

### Section

170.01	General Regulations
170.02	Planning Jurisdiction
170.03	Administration
170.04	Board of Zoning Appeals
170.05	Establishment of Districts
170.06	Special Exceptions
170.07	Additional Requirements and Regulations
170.08	Mobile Homes
170.09	Nonconformities
170.10	Violations, Enforcement and Penalties
170.11	Subdivisions
170.12	Improvements
170.13	Improvement Standards
170.14	Design Standards and Specifications
170.15	Specifications for Documents
170.16	Definitions

### **§ 170.01 GENERAL REGULATIONS**

(E) Territorial Limits. The provisions of this Article shall apply to all lands, properties, buildings, and structures within the "jurisdiction" of the Plan Commission of the Town of Goodland, Indiana.

(F) Jurisdiction. These zoning regulations shall apply to all land as defined herein, located within the boundaries of the Town of Goodland Planning Jurisdiction, further defined in Section 170.02.

(G) Interpretation. All development as defined herein shall comply with the provisions of these regulations.

1. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirement.
2. These regulations shall supplement all other regulations and where at variance with other laws, regulations, ordinances, or resolutions, the more restrictive requirement shall apply.
3. For the purpose of these regulations, certain numbers, abbreviations, terms, words, and phrases used herein shall be used, interpreted, and defined as set forth in this Chapter.
4. Whenever any words and phrases used herein are not defined but are defined in the state laws regulating the creation and function of various planning agencies, any such definition therein shall be deemed to apply to such words and phrases used herein, except when the context otherwise required.
5. For the purpose of this Chapter, certain terms or words used herein shall be interpreted or defined as follows:

- a. The present tense shall include the future tense.
- b. The singular includes the plural.
- c. The masculine includes the feminine.
- d. The word "person" includes a corporation, individual, firm, association, organization, partnership, trust, company, or any other legal entity. The word "lot" includes the word "plot" or "parcel".
- e. The word "shall" is mandatory, the word "may" is permissive.
- f. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended , arranged, or designed to be used or occupied."

(H) Combining of Permits. The Commission is hereby required to coordinate the issuance of permits with other departments and agencies which may be required by these regulations as well as previously or subsequently adopted ordinances or regulations.

(I) Severability. Should any section, subsection, paragraph, clause, word, or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole or any part thereof other than the part so declared to be unconstitutionally invalid.

(J) Amendments. For the purpose of protecting and promoting public health, safety, and general welfare, the Plan Commission may, from time to time, amend the provisions imposed by these regulations. Public hearings on all proposed amendments shall be held by the Plan Commission.

(K) Variances. Where the Board of Zoning Appeals finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to these regulations so that substantial justice may be done and the public interest secured, provided that such variance shall not have the effect of nullifying the intent and purpose of these regulations; and further provided the Board of Zoning Appeals shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case that:

1. The granting of the variance will not be detrimental to the public safety, health, or welfare, or injurious to other property.
2. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.
3. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out. Financial hardship does not constitute grounds for a variance.
4. The variance will not in any manner vary the provisions of the Zoning Ordinance, Comprehensive or Master Plan, or Thoroughfare or Major Street Plan.
5. Where the variance impacts on design and construction of public facilities, all appropriate public agencies shall be given ample time to comment in writing to the Commission.

In approving variances, the Board of Zoning Appeals may require such conditions as well, in its judgement, secure substantially the objectives of the standards or requirements of these regulations.

A petition for any such variance shall be submitted in writing by the applicant to the Board of Zoning Appeals. The petition shall state fully the grounds for the application and all the facts relied upon by the petitioner.

(L) Appeals. Any person or aggrieved party who appeared in person or writing before the Board including the applicant may appeal in writing the decision of the Board relative to the final action taken by the Board. Such appeal shall be submitted to the Circuit Court within thirty (30) days from such Board Action.

(M) If any section, subsection, paragraph, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Chapter. It is being expressly declared that this Chapter and each section, subsection, paragraph, sentence, clause and phrase would have been adopted regardless of the fact that any one or more sections, subsections, paragraphs, sentences, clauses or phrases be declared invalid or unconstitutional.

## § 170.02 PLANNING JURISDICTION

(A) Establishment of Jurisdiction. In accordance with the provisions of I.C. 36-7-4-205, the Town of Goodland hereby establishes territorial jurisdiction for zoning and subdivision control purposes over that part of the contiguous unincorporated area lying within two (2) miles of the corporate limits of the Town of Goodland as designated by the map entitled. "Goodland Planning Area Map 1979" attached at the end of this Chapter and made a part thereof. The Town's jurisdiction will take effect upon review of said map by the Recorder of Newton County, Indiana, the Newton County Plan Commission and the Newton County Board of Commissioners; and transmittal of notice by said bodies that jurisdiction has been granted to the Town. The official copy of said map will be located in the offices of the Town Plan Commission and shall be the final authority as to the current zoning status of land in the planning area.

(B) Adoption of Standards for Two Mile Planning Area. The contiguous unincorporated territory under the jurisdiction of the Town as indicated on the following map shall be subject to all of the provisions of this Chapter as amended.

1. Administration and Enforcement of Zoning in the Two-Mile Planning Area. Administration and enforcement of zoning in the Planning Area shall be the responsibility of the Goodland Zoning Administrator the Goodland Plan Commission, and the Goodland Board of Zoning Appeals, as provided for in the Chapter.

2. Additional Members of the Plan Commission. Additional members of the Plan Commission from the contiguous unincorporated territory under the jurisdiction of the Town shall be appointed by the county executive in accordance with the provisions of I.C. 36-7-4-215, as amended. Such additional members shall have full right to participate, including the right to vote in all deliberations of the Commission.

3. Additional members of the Board of Zoning Appeals. Additional members of the Board of Zoning Appeals from the contiguous unincorporated territory under the jurisdiction of the Town shall be appointed by the Plan Commission in accordance with the provisions of I.C. 36-7-4-903 as amended. Such additional members shall have full right to participate, including the right to vote, in all deliberations of the Board.

4. Two-Mile Jurisdiction for Purposes of Zoning and Subdivision. Nothing in this shall nullify or reduce the powers of the County in the contiguous unincorporated area lying within two (2) miles of the corporate limits of the Town of Goodland as designated by the map entitled "Goodland Planning Area Map, 1979" in matters other than zoning and subdivision administration.

a. The Newton County Sanitarian retains control over sanitation *in* the Planning Area. A sanitarian permit from the Sanitarian shall be submitted before a Certificate of Occupancy is issued by the Building Commissioner.

b. The County retains jurisdiction over county road design and construction in the Planning Area.

c. The County retains jurisdiction over drainage in the Planning Area. A certificate signed by the County Surveyor stating that the design and installation of drainage systems conforms to County standards shall be filed with the Final Plat in the case of a subdivision request and before a Certificate of Occupancy is issued in case of a Zoning request.

## § 170.03 ADMINISTRATION

(A) Building Commissioner - Duties and Powers. The provisions of this Chapter shall be administered and enforced by the Building Commissioner who shall be appointed by the Town Council. The Building Commissioner shall have the duty and power to:

1. Receive and examine all applications for Improvement Location permits and to refer applications to the Commission when deemed necessary.

2. Issue Improvement Location Permits and Certificates of Occupancy only when there is compliance with the provisions of this Chapter and with other Town Code Sections provided, however, the issuance of an Improvement Location permit shall not be deemed a waiver of any Town Code Section.

3. Review applications for special permits and forward these applications to the Board of Appeals for action thereon.

4. Following refusal of a permit, to receive applications for appeals from alleged error of the Building Commissioner and variances and forward these applications to the Board of Appeals for action thereon.

5. Conduct inspections and surveys to determine compliance or non-compliance with the terms of this Chapter.

6. Maintain a map showing the current zoning classification of all land.

7. Issue stop orders, and cease and desist orders, and order in writing, correction of all conditions found to be in violation of the provision of this Chapter. Such written orders shall be served personally or by certified mail upon persons, firms or corporations deemed by the Building Commissioner to be violating the terms of this Chapter. It shall be unlawful for any person to violate any such order lawfully issued by the Building Commissioner and any person violating any such order shall be guilty of a violation of this Chapter.



8. Revoke by order, an Improvement Location permit issued under a mistake of fact or contrary to the law or the provisions of this Chapter.

9. With the approval of the Town Council, or when directed by them, institute in the name of the Town any appropriate action or proceeding to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use; to restrain correct, or abate any such violation, so as to prevent the occupancy of or use of any building, structure or land, or to prevent any illegal act, conduct business, or use in or about such premises.

10. Upon the request of the Town Council, the Plan Commission or the Board of Zoning Appeals, present to such bodies facts, records, or reports which they may request to assist them in making decisions.

(B) Certification of Occupancy. No land shall be used or occupied and no building thereafter erected, altered, or extended shall be used or changed in use, until a Certificate of Occupancy shall have been issued by the Building Commissioner stating that the buildings or proposed use thereof complies with the provisions of this Chapter and any other pertinent Sections of the Town Code.

(C) Improvement Location Permits. No structure shall be erected, constructed, reconstructed, extended, or moved; and no land or building changed in use until an Improvement Location permit has been secured from the Building Commissioner. Upon completion of changes in use or construction, reconstruction, extension or moving of structure, the applicant shall notify the Building Commissioner of such completion.

No permits shall be considered as complete or as permanently effective until the Building Commissioner has noted on the permit that the work or occupancy and use has been inspected and approved as being in conformity with the provisions of this Chapter.

Improvement Location permits shall not be required for changes in bearing walls, alterations when there is no increase in ground floor or change in use, general maintenance work, painting, clearing woodland, tilling the soil, constructing fences, terraces, steps, or other similar features, or landscaping as herein defined not requiring structural changes. However, all such activities shall conform with the requirements of this Chapter.

Improvement Location Permits shall be issued with a one (1) year life. However, if work is not commenced within twelve (12) months after issuance of the Improvement Location permit, the permit shall automatically expire and a new permit shall be required before such work or change in use commences.

(D) Application Requirements for Improvement Location Permits. All applications for Improvement Location Permits shall be made in writing by the owner, tenant, vendee under contract of sale, or authorized agent, on a form supplied by the Town and shall be filed with the Building Commissioner. The application shall:

1. Include a statement as to the proposed use of the building or land.
2. Include a site plan drawn to scale/showing the location, dimensions and height of proposed buildings, structures, or uses, and any existing buildings in relation to property or street lines.
3. Include the number, location, and design of parking and loading spaces, if available.
4. Include the size, dimensions, location, and methods of illumination for

signs, if applicable.

5. Include any additional plans and information reasonably necessary for the Building Commissioner to ascertain whether the proposed use, change in use, erection, alteration, or addition complies with the provisions of this Article.

(E) Issuance of Improvement Location Permit. Improvement Location Permits shall be granted or refused within fifteen (15) days after the written application has been filed with the Building Commissioner, except as provided for special permit application. Upon completion of the activity authorized by any Improvement Location Permit, the holder of such permit shall notify the Building Commissioner of such completion. All applications with accompanying plans and documents shall become, and be preserved as a public record, subject to disposition of the Town Council.

(F) Fees. The applicant for an Improvement Location Permit shall, at the time of making application, pay to the Building Commissioner for the use of the Town, a fee in accordance with a fee schedule adopted by resolution of the Town Council as such schedule may be amended by resolution of the Town Council.

(G) Appeals. An appeal or review taken from the requirement, decision or determination of the Building Commissioner shall be filed in writing with the Board of Zoning Appeals. The appeal shall specify the grounds thereof and shall be filed within such time and in such form as may be prescribed by the Board. The Building Commissioner shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

1. The Board shall fix a reasonable time for the public hearing of an appeal. Notice of publication shall be given of the hearing at least fifteen (15) days prior to the public hearing and due notice shall be given, additionally, in writing to those interested parties as determined by the Board. Parties making the appeal shall assume the cost, public notice, and due notice to interested parties. The appellant shall furnish proof of publication and legal notice and proof of due notice to interested parties to the Board and its records. Notice of time and place of public hearing shall be published.

2. The Board, after public hearings, may vary the terms of this Chapter, but no such variance shall be granted except upon a determination and finding that:

a. The grant of such variance will not be injurious to the public health, safety, and general welfare.

b. The use or value of the land or area adjacent to the property included in the variance will not be adversely affected.

c. The need for the variance arises from some condition peculiar to the property involved and does not exist in similar property in the same district.

d. The strict application of the terms of the Chapter will constitute an unusual and unnecessary hardship as applied to the property in which the variance is sought.

e. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property owners in the same vicinity and district but, which is denied the property owner in question.

f. That such variance is the minimum departure from the strict application of the provisions of this Chapter which will afford relief.

3. The Board shall not grant a variance from a use district or classification.

## § 170.04 BOARD OF ZONING APPEALS

(A) Board of Zoning Appeals. The Board of Zoning Appeals, in accordance with Indiana Code 36-7-4-900 et seq., as amended, is a legal body based on state statutes. The Board is composed of a group of citizen members established for the purpose of hearing and deciding appeals from the order of the administrative official in the enforcement of the Zoning Code. The Board is not a legislative body, but, rather performs a judicial function. It has no authority to take any action which would amend or change the Zoning Code. The Board has been delegated the authority, however, to grant relief to administrative interpretations, requests for Special Exceptions, and to authorize certain types of Variances and Appeals.

The Board of Zoning Appeals acts as an interpreter of the Zoning Code in cases of disagreement between citizens and the Building Commissioner, or a designated official who represents the Plan Commission and the governing body. The exceptions and variances the Board can approve are limited by applicable state statutes, cited above.

At the first meeting of each year, the Board shall elect a Chairman and a Vice-Chairman from among its members, and it may appoint and fix the compensation of a Secretary and such employees as are necessary for the discharge of its duties, all in conformity to and compliance with salaries and compensation theretofore fixed by the Town Council.

All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, keep records of its examinations and other official motions, prepare findings of fact on denials and record the vote of each member voting upon each question. All minutes and records shall be filed in the office of the Board and shall be a public record. Notification of the decision of an appeal shall be at public hearing at which final action was taken.

(B) Power and Duties. The specific powers and duties of the Board of Zoning Appeals are stipulated in the state statutes as follows:

1. Hear and determine appeals from and review any order, requirement, decision, or determination made by an administrative official or board charged with the enforcement of any ordinance or regulation adopted pursuant to zoning regulations.
2. Permit and authorize exceptions to the District Regulations only in the classes of cases, or in particular situations, as specified in this Chapter.
3. Hear and decide Special Exceptions to the terms of the Chapter upon which the Board is required to act under the Chapter.
4. Authorize, upon appeal in specific cases such Variance from the terms of the Chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the Chapter will result in unnecessary hardship, and so that the spirit of the Chapter shall be observed and substantial justice done.

The Board of Zoning Appeals, in exercising the powers given it may affirm or change, in whole or in part, any decision or order which is brought before the Board. In exercising this power, the Board will, therefore, have all the powers of the Officer or Board from whom the appeal is taken.

(C) Functions of the Board. The Board of Zoning Appeals is a quasi-judicial body charged with carrying out specific functions. The Board must uphold the meaning and spirit of

the Chapter as enacted by the Town Council, even though it may disagree with the provisions of the Chapter. If certain provisions consistently lead to injustice or hardship, the Board should recommend to the Plan Commission that the Chapter be amended.

The powers and duties of the Board, as previously enumerated, are set forth in the enabling legislation. In the Town of Goodland, the Board's functions fall under three major headings:

1. Appeal from an administrative decision
2. The granting of Special Exceptions
3. Granting of variances

(D) Appeals from Administrative Decision. The Board acts in the capacity of a court of law when it hears Appeals from an Administrative Decision (IC 36-7-4-918). Hearings are held when the administrative agent is alleged with misinterpreting the meaning of the Chapter or misapplying its versions in a particular case. The Board must be guided by the letter and intent of the Chapter when exercising the power of hearing appeals. Though the decisions of the Board are ordinarily taken as final, they can be reversed on appeal to the courts.

(E) Granting Special Exceptions. There are often Special Exceptions which must be made in a Zoning district. This need arises when certain uses which are necessary and desirable in some types of districts are allowed, but which may be detrimental to the area if proper safeguards are not taken. The usual method of handling such uses is to provide that they be permitted in the District only when they comply with conditions that the Board may impose for the protection of the surrounding conditions and public interest. Careful consideration should be exercised by the Board in granting Special Exceptions to ensure that adequate protection is given to adjacent properties, and that the use does not create a nuisance to the surrounding area. The staff, if any, can aid in technical recommendations offering additional help on these matters.

(F) Granting Variances. A Zoning Code would become unduly complicated if every conceivable situation were written into it. The major reason for the creation of the Board of Zoning Appeals is to take care of unusual situations. The ordinary workings of the Chapter may produce hardship cases that would otherwise have to go to court for relief. The Board, with its power to grant Variances, can often settle such cases.

(G) BZA Special Exception and Variance Appeals Procedures.

1. Upon receipt of the application for a conditional use permit, the Board shall hold a public hearing, assure public notice in newspapers, and assure written notice to all parties in interest.
2. The Board of Zoning Appeals shall hold the public hearing within forty-five (45) days after the receipt of an application for an appeal or variance from the Building Commissioner or an applicant. However, the public hearing shall not be held sooner than fifteen (15) days after application receipt.
3. Before holding the public hearing, notice of such hearing shall be given in one or more newspapers of general circulation of the Town at least fifteen (15) days before the date of said hearing. The notice shall set forth the time and place of the public hearing, and the nature of the proposed appeal or variance. The applicant shall assume the responsibility and cost of properly noticing and advertising the public hearing.

Within thirty-five (35) days after the public hearing, the Board of Zoning Appeals shall either approve, approve with supplementary conditions or disapprove the request for appeal or variance in writing. If the application is approved or approved with modifications, the Board shall direct the Building Commissioner to issue a special exception permit listing the specific conditions specified by the Board for approval. If the application is disapproved by the Board the applicant may seek relief through the Circuit Court.

## § 170.05 ESTABLISHMENT OF DISTRICTS

(A) Districts. For the purpose of promoting the public health, safety, and general welfare of the inhabitants of the Town of Goodland, the Town and its Planning Jurisdiction is hereby divided into the following types of Districts:

- A-1 Agricultural District
- R-1 Single Family Residential District
- RMH Residential Mobile Home District
- B-1 General Business District
- B-2 Roadside Business District
- I-1 Industrial District
- FP Flood Plain District

(B) Zoning Map. The location and boundaries of said Districts are set forth in maps entitled "Map of Goodland, Indiana" and "Planning Area Map" located in the office of the Building Commissioner, and which, with all notations, references, and information shown thereon, is hereby made part of this Chapter.

(C) Interpretation of District Boundaries. Where, due to lack of scale, lack of detail, or illegibility of the zoning map in which there is any uncertainty, contradiction or conflict as to the intended location of any zoning district boundary as shown thereon, the Building Commissioner shall make an interpretation of said map upon request of any person. Any person aggrieved by any such interpretation may appeal such interpretation to the Board of Zoning Appeals.

The Commission and the Board, in interpreting the zoning map shall apply the following standards:

1. Zoning district boundary lines are intended to follow lot lines or be parallel or perpendicular thereto or along the center lines of alleys, streets, rights-of-way, or water courses, unless such boundary lines are fixed by dimensions shown on the zoning map.
2. Where zoning district boundary lines are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundary lines.
3. Where a zoning district boundary line divides a lot, the location of any such zoning district boundary line, unless indicated by dimensions shown on the zoning map, shall be determined by the use of the map scale shown thereon.
4. If, after application of the foregoing rules, uncertainty still exists as to the exact location of zoning district boundary line, the boundary line shall be determined in a reasonable manner, considering the history of uses of the property as well as other relevant facts.

(D) Use Regulation Statement. No building or structure may be erected, altered, or used and no lands, properties, or premises may be utilized except for the purposes specifically, or by necessary implication, authorized by this Chapter. Special exception uses are allowed only on a permit granted by the Board of Zoning Appeals. Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized except as prohibited specifically or by necessary implication.

(E) Agricultural District (A-1)

1. Intent. To establish and preserve fertile areas for the production of crops and livestock free from other uses except those which are both compatible with and convenient to the residents of such a district.

2. Uses Permitted:

- a. Dwelling, single family
- b. Dwelling, farm
- c. Farm, general
- d. Agricultural buildings
- e. Agricultural uses involving the production of crops
- f. Roadside stands for retail sale of produced raised on the premises
- g. Greenhouses and nurseries
- h. Public and parochial schools
- i. Public parks, playgrounds, recreational areas
- j. Churches and similar places of worship
- k. Special exception uses as may be hereinafter permitted in Section

170.06.

3. Uses Prohibited. All uses other than those listed above.

4. Development Regulations for the A-1 Agricultural District.

a. Accessory buildings necessary for the agricultural uses of the land shall not be restricted by this Chapter.

b. Fences for agricultural purposes shall not be regulated by this Chapter.

c. All other uses of structures connected with the agricultural uses of the land shall not be regulated by this Chapter (i.e., barns, storage buildings for farming equipment, private storage bins, etc.).

d. Residential structures shall be subject to the restrictions of this Chapter including accessory buildings such as garages, residential storage sheds, etc.

5. Building Height:

a. Principal residential buildings shall not be more than two and one-half (2 ½) stories and shall not exceed thirty-five (35) feet in height.

b. Accessory buildings necessary for agricultural district uses shall not be restricted by this Chapter.

6. Lot Area: (Residential). No dwellings shall be erected on any lot or tract

having an area of less than five (5) acres.

7. Lot Coverage: (Residential). Not more than thirty-five (35) percent of the area of any lot shall be used for principal and accessory buildings thereon.

8. Front Yard Setback: (Residential). The front yard minimum requirements to be measured from the proposed building line to the highway and street right-of-way lines shall be as follows:

- a. On existing federal or state highways, a distance of seventy (70) feet.
- b. On county highways, a distance of fifty (50) feet
- c. On all other streets, a distance of thirty-five (35) feet or a distance back from the street line equal to the average distance of existing residential dwellings back from the street line, whichever is greater.

9. Side Yard: (Residential).

- a. On each interior lot, there shall be two side yards (unless lot shape or other irregularities make this impossible) having an aggregate width of not less than thirty (30) feet, neither side having a width of less than twelve (12) feet.
- b. On each corner lot, there shall be two side yards (unless lot shape or other irregularities make this impossible), the side yard abutting the street shall have a width of not less than twenty (20) feet, and the side yard not abutting the street having a width of not less than twelve (12) feet. Side yard setback, when abutting a federal, state, or county road shall be seventy (70) feet for federal and state roads, and fifty (50) feet for county roads.
- c. On any lot, in any side yard not abutting the street, a detached private garage may be erected and maintained within the rear quarter of the lot if not closer to the side lot line than five (5) feet.

10. Rear Yard: (Residential). There shall be a rear yard on each lot the depth of which shall be not less than thirty (30) feet, except that an accessory use structure may be erected within the rear yard not closer to the property line than five (5) feet.

11. Building Size: (Residential). A single-family residential dwelling shall have a minimum floor area size as follows:

- a. single (1) story dwellings - 860 square feet
- b. all other single family dwellings - 1100 square feet

All floor area shall be measured from the exterior dimensions of the dwelling, exclusive of unenclosed porches, terraces, and garages.

12. Landscaping: (Residential). Minimum landscaping shall be required as approved by the Plan Commission.

13. Parking Requirements: (Residential). Two (2) off-street parking spaces shall be provided per dwelling unit.

14. Outdoor Advertising: (Residential). Name plates shall be permitted subject

to the following conditions:

- a. name plates shall not exceed two (2) square feet in area.
- b. name plates shall display the following alternative information:
  - i. name of the premises upon which it is displayed,
  - ii. name of the owner or lessee of the premises,
  - iii. address of the premises, and
  - iv. nature of the home occupation engaged in on the premises.

"For Rent" and "For Sale" signs shall be permitted. Not more than two (2) such signs, not exceeding a total of six (6) square feet in area, shall be permitted on any lot or parcel.

Signs for institutional uses including churches, hospitals, nursing homes, private clubs and similar uses shall be permitted subject to one of the following regulations:

- a. One (1) free-standing sign for each main use per frontage:
  - i. The sign shall contain only the name and address of the building, its occupants, and the services rendered.
  - ii. The sign shall not exceed thirty-two (32) square feet in area, exclusive of architectural features. The sign shall not exceed eight (8) feet in height.
  - iii. The sign shall not present a nuisance to adjoining residential districts.
  - iv. No sign shall project beyond a lot line, obstruct in any way a driver's vision of the road, or hinder his passage in any way. Further, no sign shall be placed so as to hinder or obstruct any pedestrian's path.

- b. One sign attached to the face of the main building:
  - i. The same shall contain only the name of the building and its occupants.
  - ii. Letter or numeral heights shall not exceed one (1) foot.
  - iii. The sign shall not exceed ten (10) square feet in area.
  - iv. The sign shall not present a nuisance to adjoining residential districts.

(F) R-1 Single Family Residential District

1. Intent. To provide for and preserve an environment of single family, detached dwellings along with facilities (streets, sidewalks, etc.) necessary to serve the residences of the district free from other uses except those which are both compatible with, and convenient to, residences of the district.

2. Uses Permitted.
- a. Single family detached dwellings.
  - b. Accessory buildings located on the same lot with the principal use (single family detached dwelling) and which do not include any activity or use in conflict with the principal use.
  - c. Public or parochial schools, elementary, high, and private schools.
  - d. Churches and similar places of worship.
  - e. Public parks, playgrounds, and recreational areas and essential buildings thereof.
  - f. Electric high voltage transmission, distribution, and telephone lines and necessary uses thereof. It is encouraged that all lines be buried.



g. Signs advertising the sale or rental of the premises upon which the signs are located. Such signs shall not be illuminated and shall, in no case, exceed six (6) square feet in total area.

h. Vegetable and flower gardens and orchards but not the raising of livestock or poultry, provided that no signs or sales stands are used in conjunction therewith.

i. Special exception uses as provided for in Section 170.06.

3. Uses Prohibited. All uses other than those listed above.

4. Building Height.

a. Dwelling shall not be more than thirty-five (35) feet high and not exceed two (2) stories.

b. Accessory buildings shall not exceed sixteen (16) feet in height.

5. Lot Area. No single-family dwelling shall be erected on any lot, having an area of less than ten thousand six hundred twenty five (10,625) square feet or a mean or average width of less than eighty five (85) feet. However, substandard lots of record may be built upon providing the BZA approves the variances.

Requirements:

6. Lot Coverage. Not more than thirty-five (35) percent of any lot shall be occupied by buildings.

7. Front Yard Setback. The front yard minimum requirements to be measured from the proposed building line to the highway and street right-of-way lines shall be as follows:

a. On existing federal or state highways, a distance of seventy (70) feet.

b. On county highways, a distance of fifty (50) feet.

c. On all other streets, a distance of thirty-five (35) feet or a distance back from the street line equal to the average distance of existing residence dwellings back from the street line, whichever is the greater.

8. Side Yard.

a. On each interior lot, there shall be two side yards (unless lot shape or other irregularities make this impossible) having an aggregate width of not less than thirty (30) feet, neither side yard having a width of less than twelve (12) feet.

b. On each corner lot, there shall be two side yards (unless lot shape or other irregularities make this impossible), the side yard abutting the street shall have a width of not less than twenty (20) feet, and the side yard not abutting the street having a width of not less than twelve (12) feet. The aggregate width shall not be less than thirty-two (32) feet.

c. On any lot, in any side yard not abutting the street, a detached private garage may be erected and maintained within the rear quarter of the lot if not closer to the side lot line than five (5) feet.

9. Rear Yard. There shall be a rear yard on each lot the depth of which shall be not less than thirty (30) feet, except that an accessory use structure may be erected within the rear yard not closer to the property line than five (5) feet.

10. Building Size. A single-family residential dwelling shall have a minimum floor area size as follows:

- a. Single (1) story dwellings - 860 square feet.
- b. All other single-family dwellings - 1100 square feet.

All floor area shall be measured from the exterior dimensions of the dwelling, exclusive of unenclosed porches, terraces, and garages.

11. Landscaping. Minimum landscaping shall be required as approved by the Plan Commission.

12. Parking Requirements. Two (2) off-street parking spaces shall be provided per dwelling unit.

13. Outdoor Advertising

- a. Name plates shall be permitted subject to the following conditions:
  - i. Name plates shall not exceed two (2) square feet in area.
  - ii. Name plates may display only the:
    - A. name of the premises upon which it is displayed,
    - B. name of the owner or lessee of the premises,
    - C. address of the premises, and
    - D. nature of the home occupation engaged in on the premises.
- b. "For Rent" and "For Sale" signs shall be permitted. Not more than two (2) such signs, not exceeding a total of six (6) square feet in area, shall be permitted on any lot or parcel.
- c. Signs for institutional uses including churches, hospitals, nursing homes, private and social clubs and similar uses, shall be permitted subject to one of the following alternative regulations:
  - i. One (1) free-standing sign for each main use per frontage:
    - A. the sign shall contain only the name and address of the building, its occupants, and the services rendered.
    - B. the sign shall not exceed thirty-two (32) square feet in area, exclusive of architectural features. The sign structure shall not exceed eight (8) feet in height.
    - C. the sign shall not present a nuisance to adjoining residential districts.
    - D. no sign shall project beyond a lot line, obstruct in any way a driver's vision of the road, or hinder his passage in any way. Further, no sign shall be placed so as to hinder or obstruct any pedestrian's path.

- ii. One sign attached to the face of the main building:
  - A. the same shall contain only the name of the building and its occupants.
  - B. letter or numerical heights shall not exceed (1) foot.
  - C. the sign shall not exceed ten (10) square feet in area.
  - D. the sign shall not present a nuisance to adjoining residential district.

(G) R-2 Multi-family/Two Family Residential District

1. Intent. To establish and preserve the character of a multi-family residential district which enhances and compliments as much as possible the rural nature of the area.

2. Uses Permitted

- a. All uses permitted in the R-1 single family district; and
- b. Dwelling, two family
- c. Dwelling, multi-family
- d. Apartments
- e. Special exceptions as provided for in Section 170.06.

3. Uses Prohibited. All uses other than those listed above.

4. Building Height

- a. Dwelling shall not be more than thirty-five (35) feet high and not exceed 2 stories.
- b. Accessory buildings shall not exceed sixteen (16) feet in height.

5. Lot Area. The minimum lot size shall be figured according to the following table:

Type of Dwelling Unit	Lot Area Per Dwelling Unit in Square Feet	Lot Width
Single Family	10,625	85
Two Family Residential		
Public water & sewer available	6,000	66
Water available/no sewer	12,000	110
Water/sewer not available	13,000	120
Multi-family:		
Public water & sewer available		
4 bedrooms & over	5,000	90
3 bedrooms	4,000	90
2 bedrooms	3,000	90
1 bedrooms	3,000	90

Water available/no sewer

To be established by the Plan Commission on basis of population density and soils survey and analysis.

Water/sewer (not available)

To be established by the Plan Commission on basis of population density and soils survey and analysis.

6. Lot Coverage. Not more than thirty-five (35) percent of any lot shall be occupied by buildings.

7. Front Yard Setback. Front yard requirements shall be the same as for the R-1 single family residential district.

8. Side Yard. On each lot side yards shall be provided in accordance with the following table:

Lot	Type of Dwelling Unit	Side Yards	Minimum Aggregate at Width	Minimum for Any Single Side Yard
Interior	Single family dwelling	2	30 feet	12 feet
	Two family dwelling	2	35 feet	15 feet
	Multi-family Dwelling	2	35 feet	15 feet
Corner	Single family dwelling	2	32 feet	20 feet abutting street 12 feet not abutting street
	Two family dwelling	2	35 feet	20 feet abutting street 15 feet not abutting street
	Multi-family Dwelling	2	40 feet	25 feet abutting street 15 feet not abutting street

On any lot, in any side yard not abutting the street, a detached private garage may be erected and maintained within the rear quarter of the lot if not closer to the side lot line than five (5) feet and private garages may be erected and maintained on adjacent lots within the rear quarters thereof having a wall in common located on the common side lot line.

9. Rear Yard. There shall be a rear yard on each lot, the depth of which shall be not less than thirty (30) feet, except that an accessory use structure may be erected within the rear yard not closer to the property line than (5) feet.

10. Building Size. No building shall be erected for residential purposes having a floor area of less than:

Type of Dwelling Unit	Minimum floor Area per unit in Square Feet
Single story dwelling	860
All other single family dwelling	1100
Two Family and Multi-Family Residential	
4 bedrooms or over	800
3 bedrooms	600
2 bedrooms	500
1 bedroom and efficiency units	400

All floor area shall be measured from the exterior dimensions of the dwelling, exclusive of unenclosed porches, terraces, and garages.

- 11. Landscaping. Multi-family residential development shall provide minimum landscaping. The landscaping plan must be approved by the Plan Commission.
- 12. Parking Requirements. Two off-street parking spaces shall be provided per dwelling unit.
- 13. Outdoor Advertising. The standards of the R-1 District shall apply.

(H) RMH Residential Mobile Home District

1. Intent. To establish and preserve a Mobile Home Residential District that offers an alternative range of housing choice and which complements other residential district.

2. Uses Permitted:

- a. All uses permitted in the R-2 Residential District; and
- b. Mobile home parks subject to the requirements of this Chapter.
- c. Such special exceptions as may be hereinafter permitted under this Chapter.

3. Uses Prohibited. All uses other than those listed above.

4. Building Height. The standards of the R-2 District shall apply.

5. Lot Area. The minimum lot size for the RMH District shall be figured according to the following table:

Type of Dwelling Unit	Lot Area Per Dwelling Unit in Square Feet	Lot Width
Public water and sewer available		
Single family	5,000	50
Two family	3,500	66
Multi-family	3,000	90

Water available/no sewer

To be established by the Plan Commission on basis of population density and soils survey and analysis.

Water/sewer not available

To be established by the Plan Commission on basis of population density and soils survey and analysis.

- 6. Lot Coverage. The standards of the R-2 District shall apply.
- 7. Front Yard Setback. The standards of the R-2 District shall apply.
- 8. Side Yard. The standards of the R-2 District shall apply.

9. Rear Yard. The standards of the R-2 District shall apply.
10. Building size. The standards of the R-2 District shall apply.
11. Landscaping. The standards of the R-2 District shall apply.
12. Parking Requirements. The standards of the R-2 District shall apply.
13. Outdoor Advertising. The standards of the R-2 District shall apply.

(I) B-1 General Business District

1. Intent. To establish and preserve areas for commercial activities serving the residents of the community which complements and enhances the residential uses.

2. Uses Permitted. Uses are limited, in general, to individual exchange of merchandise, goods, money, property, services, fees, information, or counseling on the premises, and excluding those operations where, in general, the exchange of merchandise, goods, or commodities is dependent upon bulk delivery from storage. Permitted uses in the B-1 District are as follows:

- a. Automobile service
  - i. filling station
  - ii. sales room
  - iii. commercial garage
  - iv. commercial parking lot
  - v. auto repair, entirely within enclosed building
- b. Business service
  - i. bank, savings and loan
  - ii. business office
  - iii. post office
  - iv. public utility office
- c. Clothing service
  - i. laundry collection and dry cleaning
  - ii. self-service laundry
  - iii. dressmaking
  - iv. millinery
- d. Equipment service
  - i. radio and T.V. repair and sales
  - ii. tailor shop
  - iii. shoe repair shop
  - iv. dry cleaning and pressing
  - v. record shop
  - vi. electric appliance sales, service and repair
- e. Food service
  - i. Grocery
  - ii. meat market

- iii. supermarket
- iv. restaurant
- v. delicatessen
- vi. roadside vegetable stands
- vii. bakery
- viii. cold storage lockers, for individual use
- ix. tavern or cocktail lounge, only in conformity with state and

local laws and ordinances.

- f. Personal service
  - i. barber shop
  - ii. reducing salon
  - iii. beauty shop
  - iv. photographic studio
- g. Retail service, retail stores, generally
  - i. drugstore
  - ii. Haberdasher
  - iii. department store
  - iv. stationery store
  - v. newsdealer
  - vi. newsprint
  - vii. job printing shop
  - viii. apparel shop
  - ix. showroom for articles to be sold at retail
  - x. flower shop
  - xi. greenhouse, not exceeding 100 square feet in area
- h. Railway and bus passenger stations
- i. Hotel, motel, and motor court
- j. Commercial recreation uses conducted only within buildings so

constructed that no noise of any kind produced therein shall be audible beyond the confines of the building.

- i. theater
- ii. billiard rooms
- iii. bowling alley
- iv. dancing academy
- k. Apartment
  - i. apartment building
  - ii. apartment over store building
  - iii. apartment located in rear of store building and occupied by

family of person employed on premises.

- l. Private club or lodge
- m. Billboard or advertising sign
- n. Public or parochial schools, elementary, high and vocation schools.
- o. Public park or public playground and essential accessory buildings.
- p. Customary accessory uses and buildings located on the same lot

with the principal use and which do not include any activity or use in conflict with principal use or commonly conducted goal.

- q. Electric transmission lines, distribution uses, telephone lines, and necessary accessory uses thereof.
  - r. Signs advertising the sale or rental of the premises upon which the signs are located. Such signs shall not be illuminated and shall in no case exceed ten (10) square feet in total area.
  - s. Public libraries, museums and similar public buildings.
  - t. Church or public building bulletin board, not exceeding twenty-four (24) square feet in total area.
  - u. Hospitals, nursing homes and clinics, excepting animal hospitals.
  - v. Funeral homes and mortuaries, except crematoria.
  - w. Special exceptions as provided for in Section 170.06.
3. Uses Prohibited. All uses other than those listed above.
4. Building Height. Principal and accessory building shall not exceed a height of sixty (60) feet except as noted in Section 170.06.
5. Lot Area. There shall be no specific lot area requirements.
6. Lot Coverage. There shall be no specific lot coverage regulations for the B-1 District.
7. Front Yard Setback. The front yard minimum requirements to be measured from the proposed building line to the highway and street right-of-way line shall be as follows:
- a. On existing federal highways, a distance of seventy (70) feet.
  - b. On existing state highways, a distance of fifty (50) feet.
8. Side Yard. No restrictions except where the side of a lot in the B-1 District abuts a residential district in which case a side yard of six (6) feet shall be required.
9. Rear Yard. No restrictions except where the rear yard abuts a residential district in which case a rear yard of fifteen (15) feet shall be required.
10. Building size. There shall be no specific building size requirements.
11. Landscaping. Where a B-1 District side and/or rear yard requirement is necessary, appropriate screening shall be required. The developer's screening plan shall be approved by the Plan Commission.
12. Parking Requirements
- a. For retail or wholesale stores, at least one (1) parking stall for each two hundred and forty (240) square feet of floor area devoted to sales.
  - b. For office uses, at least eight-tenths (0.8) parking stalls for each employee in the office or building.
  - c. For places of public assembly, at least one (1) parking stall per



each eight (8) seats, and eight-tenths (0.8) stalls per employee.

d. For hotels, and motels, at least one (1) parking stall for each guest room and eight-tenths (0.8) stalls per employee.

e. For public utilities or communication facilities, at least two (2) parking stalls for each three (3) full time employees.

f. For eating and drinking places, at least one (1) parking stall for each five (5) seats and eight-tenths (0.8) parking stalls for each employee.

g. For medical and other health services, at least one (1) parking stall for each five (5) patients, and eight-tenths (0.8) stalls per employee.

h. Any other use should generally provide enough parking to more than handle the ordinary load but not necessarily the maximum.

All parking stalls provided pursuant to this section shall be on the same lot with the building, except that the Board of Zoning Appeals may permit the parking spaces to be on any lot within one thousand (1000) feet of the building, if it is determined that it is impractical to provide parking on the same lot with the building.

13. Outdoor Advertising. No sign shall project further than six (6) feet beyond a lot line, obstruct in any way a driver's vision of the road, or hinder his passage in any way. Further no sign shall be placed so as to hinder or obstruct any pedestrian's path. Signs shall always be properly maintained.

14. Off-street loading and receiving shall be provided in the B-1 District. The Plan Commission shall approve the construction plans.

(J) B-2 Roadside Business District

1. Intent. To establish and preserve areas for commercial activities which normally require drive-in or on-site parking or which normally require major highway access.

2. Uses Permitted.

a. Automobile services, including:

- i. filling stations
- ii. commercial garages
- iii. commercial parking lots
- iv. automobile sales
- v. automobile repair

b. Implement services, including:

- i. implement sales
- ii. implement parts sales and accessories
- iii. implement repair

c. Food service, including:

- i. Restaurants
- ii. taverns or cocktail lounge, drive-in restaurants

d. Hotels. or motels, only in conformity with state and local laws and ordinances.

e. Billboard or advertising signs

- f. Electric transmission lines, distribution lines, telephone lines, and necessary uses thereof.
  - g. All uses allowed in the B-1 District are allowed in the B-2 District.
  - h. Special exception uses as provided for in Section 170.06.
3. Uses Prohibited. All uses other than those listed above.
  4. Building Height. The standards of the B-1 District shall apply.
  5. Lot Area. Standards of the B-1 District shall apply.
  6. Lot coverage. Standards of the B-1 District shall apply.
  7. Front Yard Setback. The standards of the B-1 District shall apply.
  8. Side Yard. The standards of the B-1 District shall apply.
  9. Rear Yard. The standards of the B-1 District shall apply.
  10. Building Size. The standards of the B-1 District shall apply.
  11. Landscaping. The standards of the B-1 District shall apply.
  12. Parking Requirements
    - a. For restaurants and other eating places, at least one (1) parking stall for each five (5) seats and eight-tenths (0.8) stalls per employee.
    - b. For hotels and motels, at least one (1) parking stall for each guest room and eight-tenths (0.8) stalls per employee.
    - c. Any other use should generally provide enough parking to more than handle the ordinary load but not necessarily the maximum.
    - d. All parking stalls provided pursuant to this Section shall be on the same lot as the building, except that the Board of Zoning Appeals may permit the parking spaces to be on any lot within five hundred (500) feet of the building if it is determined that it is impractical to provide parking on the same lot with the building.
    - e. All other requirements same as B-1 District.
  13. Outdoor Advertising. The standards of the B-1 District shall apply.
  14. Off-street loading and receiving shall be provided in the B-2 District. The construction plan shall be approved by the Plan Commission.

(K) I-1 Industrial District

1. Intent To establish and preserve areas for industrial and related uses and to make provisions for certain kinds of commercial uses which are most appropriately located as neighbors of industrial uses or which are necessary to service the immediate needs of the people

in these areas.

2. Uses Permitted
  - a. Research and testing laboratories
  - b. Cleaning, processing, and dyeing plants
  - c. Commercial greenhouses
  - d. Wholesalers and distributors
  - e. Warehousing
  - f. Bulk storage
  - g. Millwork, machine tools, paper container plants
  - h. Manufacture, fabricating, packing, packaging, and assembly of confections, cosmetics, electrical appliances, electronic devices, instruments, jewelry, pharmaceuticals, tobacco, and toiletries
  - i. Manufacturing and bottling of non-alcoholic beverages
  - j. Painting, printing, publishing establishments
  - k. Commercial bakeries, and trade offices.
  - l. Special exception uses as provided in Section 170.06.
3. Uses Prohibited. All uses other than those listed above.
4. Building Height. No restrictions for building height.
5. Lot Area. No requirements
6. Lot Coverage. No requirements
7. Front Yard Setback. The front yard minimum requirements to be measured from the proposed building line to the highway and street right-of-way line shall be as follows:
  - a. On existing federal/state highways, a distance of seventy (70) feet.
  - b. On existing county and local streets, a distance of fifty (50) feet.
8. Side Yard. Each lot, at minimum, shall have a side yard of twenty (20) feet.
9. Rear Yard. Each lot at a minimum, shall have a rear yard of thirty (30) feet.
10. Building Size. There shall be no specific building size requirements.
11. Landscaping. Appropriate screening shall be required. The developer's screening plan shall be approved by the Plan Commission.
12. Parking Requirements. At least one (1) off-street parking space shall be provided for each two (2) workers.
13. Off-street loading. On the same premises with every building or structure

hereafter erected and occupied for uses involving the receipt or distribution by vehicle of material or merchandise, there shall be provided and maintained on the lot, adequate space for standing, loading, and unloading in order to avoid undue interference with public use of the street or alley.

Such space, unless otherwise adequately provided for, shall include a ten (10) foot by forty-five (45) foot loading space with a fourteen (14) foot height distance for every twenty thousand (20,000) square feet or fraction thereof in excess of three thousand (3,000) square feet of floor area of land area used for the aforementioned purposes.

14. Outdoor Advertising. The standards of the B-1 District shall apply.

(L) FP Flood Plain District

1. Intent. To preserve drainage basins in the community and guide development in the flood hazard areas subject to flooding and which exhibit unstable soil characteristics.

2. Uses Permitted.

- a. Agricultural uses such as the production of crops, pastures, orchards, plant nurseries, vineyards, and general farming.
- b. Forestry, wildlife areas, and nature preserves.
- c. Park and recreational uses, such as golf courses, driving ranges, and play areas.
- d. Special exception uses as provided for in Section 170.06.

3. Uses Prohibited. All uses other than those listed above.

4. Additional Requirements. All buildings constructed in the FP District shall have a flood protection grade at least two (2) feet above the regulatory profile as established by the Department of Natural Resources Commission.

5. Variances. The Board may not grant a variance to any of the requirements of the FP District or to the flood protection grade requirements without written approval of the Department of Natural Resources Commission.

§ **170.06 SEPCIAL EXCEPTIONS**

(A) Intent. Within the various districts established by this Article, certain uses may be permitted, and buildings and premises be used, and buildings may be erected which are arranged, intended, or designated for the following uses within the District, but only after the Board of Zoning Appeals shall determine through public hearing, after proper public notice as provided for in this Chapter, that such uses will substantially serve the public convenience, health, and welfare and will not be injurious to the appropriate use of neighboring property. In permitting such Special Exceptions, the Board may establish appropriate conditions and safeguards as part of such permission.

A Special Exception may be approved in zones as specified in this Section 170.06.

The use approved shall be subject to any regulations or requirements imposed as a part of the Special Exception, in addition or in place of the other regulations or requirements of this Chapter. The provisions of a Special Exception shall replace and supersede the provisions of the base zone, effective upon either construction of any facilities approved as a part of the Special Exception or upon beginning of operation of the use or uses specified, whichever occurs first. The provisions shall remain in effect until such time as the Special Exception use ceases to operate. Immediately prior to change of use of the structures of facilities used for the Special Exception, the provisions of the Special Exception shall become invalid and the regulations and requirements of the base zone shall again be in effect.

Any significant changes (as determined by the Commission) in the use of Special Exception or any construction of new facilities or structures, or major additions to existing facilities or structures (as determined by the Commission) shall be subject to approval by both the Commission and Board of Zoning Appeals, using the same procedure as was used for the original approval.

The Board of Zoning Appeal shall take into consideration at a minimum, the following points when making the decision to issue a special exception permit:

1. The establishment, maintenance, or operation of the Special Exception will not be detrimental to or endanger the public health, safety, or general welfare.
2. The Special Exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property value within the neighborhood;
3. The establishment of the Special Exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the District.
4. Adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided;
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.

(B) Uses Permitted (by special exception). The following uses shall require approval as a Special Exception. They shall be subject to the specific conditions imposed and approved by the Board of Zoning Appeals.

Special Exception	District(s) in which Use May be Permitted
Airport	A-1, I-1
Amusement Park	A-1, B-2, I-1
Auction Arenas	A-1
Building material supply yard	A-1, I-1
Bulk storage	A-1, I-1
Cemetery	All
Church	All
Confined feeding operation	A-1
Farm implement sales and service	A-1, B-2
Game preserves	A-1

Grain elevators and related uses	A-1, I-1, B-1, B-2
Green house/Nurseries	All except R-1, R-2
Golf course/country club	All, FP
Home occupations	All
Hospital	All
Junk yard, paper or scrap metal storage	I-1
Kennels	A-1, I-1
Mining Operation (i.e. sand or gravel pit)	A-1
Mobile home park	RMH
Mobile home subdivision	RMH
Mobile Home	RMH
Nursery school	All except I-1
Nursing home	All except I-1
Off premise advertising	B-1, B-2, I-1, FP
Outdoor Recreation Commercial Enterprise	A-1, B-2
Outdoor theatre	A-1, B-2
Park or recreational facilities	All, FP
Police or fire station/ governmental buildings	All
Private recreational development (i.e. picnic grounds, fraternal organizations, etc.)	A-1, B-2
Produce stands, seasonal	A-1, B-1, B-2
Produce stand, year round	A-1, B-1, B-2, I-1
Public transportation terminal	B-1, B-2, I-1
Public utility stations	A-1, B-1, B-2
Raising and breeding of non-farm animals or fowl	A-1
Recreation vehicle park	A-1, B-2
Riding stable	A-1
Schools- public or private	All
Seed processing, chemical processing, warehousing	I-1
Sewage treatment facilities	I-1
Stock yards	A-1, B-1, B-2, I-1
Transmission towers (radio, TV, etc.)	A-1, B-1, B-2
Veterinary hospital or clinic	

\*All uses are prohibited in (FP) Flood Plain District unless specifically listed.

Uses under special exception use (conditional use) provisions are not non-conforming uses. Any use which is permitted as a special exception use (conditional use) in a District under the terms of this Chapter shall not be deemed a non-conforming use in such District but shall without further action be considered a conforming use.

(C) Height, Yard and Area Exceptions

1. Height

a. In R-Residential Districts, those structures permitted which are not residential in nature may be increased in height to sixty (60) feet when front and rear yards are

increased in depth and side yards are increased in width one half (1/2) foot for each foot that the structure exceeds the height limitations established for such Districts.

b. In business districts, all structures permitted may be increased in height to seventy (70) feet when front and rear yards are increased in depth and side yards are increased in width one half (1/2) foot for each one (1) foot that the structure exceeds the height limitations established for the district.

c. In all districts, chimneys, cooling towers, elevator bulkheads, fire towers, gas tanks, grain elevators, solariums, penthouses, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers or spires, television relay, or radio towers and necessary mechanical appurtenances may be erected in excess of height limitations provided they conform with other sections of the Code of the Town of Goodland.

2. Yards and Areas

a. Every part of a required yard shall be open from its lowest point to the sky unobstructed, except for the projection of sills, belt courses, cornices, and ornamental features not to exceed four (4) inches; provided, however, that open balconies and cornices may project into a front yard not more than four (4) feet.

b. A front yard may include a one-story porch, unenclosed except for a railing not over three (3) feet in height, and screening.

§ **170.07 ADDITIONAL REQUIREMENTS AND REGULATIONS**

(A) Accessory Structure Requirements

1. No detached accessory building or swimming pool shall be located closer to a side or rear lot line than five (5) feet and ten (10) feet respectively or exceed sixteen (16) feet in height.

2. No detached accessory building or swimming pool shall be located closer than fifty (50) feet from the front building line.

3. Public utility installations, walks, driveways, curbs, retaining walls, mailboxes, lamp posts, bird baths, and structures of a like nature are permitted in any required yard without the issuance of a permit.

4. Fences, latticework screens, hedges or walls not more than seven (7) feet in height, and private swimming pools, surrounded by a fence at least five (5) feet in height, maintained so as to prevent the intrusion of small children or animals, may be located in the required side or rear yard.

A hedge or fence not to exceed three and one-half (3 ½) feet in height, may be located in any front yard, except that vision clearance on corner lots shall be provided.

5. Trees, shrubs, flowers or plants shall be permitted in any required yard, except that vision clearance on corner lots shall be required.

(B) Elevation Requirements. No building shall be constructed unless the construction grade ground elevation is six (6) inches above the crown of the adjoining road. The maximum allowed elevation shall be twelve (12) inches above the crown of the adjoining road unless approved by the Plan Commission.

(C) Fence Regulations

- Chapter.
1. Fences used for agricultural purposes shall not be regulated by this Chapter.
  2. Fences in Residential Districts or in Agricultural Districts when used for residential purposes shall be allowed subject to the following provisions:
    - a. Fences shall be allowed in side and rear yards up to a height of six (6) feet.
    - b. No setback shall be required for fences in side and rear yard.
    - c. Fences shall be allowed to extend along side property lines provided that from the building setback line to the road right-of-way line they shall not exceed three and one-half (3 ½) feet in height. Front yard fences within the building setback line shall not exceed three and one-half (3 ½) feet in height.
    - d. Such fences shall not be permitted to block passage along existing sidewalks.
    - e. Fencing intended for decorative purposes only, and which does not include any area to be completely enclosed, may be allowed on any part of a parcel provided that it does not exceed three (3) feet in height.
  3. Fences in Commercial (B-1, B-2) or Industrial (I-1) Districts where used for commercial or industrial uses shall be allowed subject to the following provisions:
    - a. Fences intended for security purposes shall not exceed a maximum height of eight (8) feet plus a maximum of three (3) strands of barbed wire and shall be allowed within any side or rear yards, however, they shall not be allowed in any greenstrip or buffer area. Barbed wire shall be vertical or slant to the inside of the property.
    - b. Fencing intended for decorative purposes only may be allowed anywhere on a parcel provided it does not exceed three and one-half (3 ½) feet in height.
    - c. For the purpose of all fence regulations, any yard having fifty (50) percent or more of its length bordering a dedicated public right-of-way shall be considered a front yard, and all other yards, (side and rear) shall be determined by the orientation of the major structure located on that parcel.

(D) Home Occupation Regulations

1. Intent. A home occupation is intended to be an occupation or profession which is customarily carried on within the dwelling unit. The use shall be clearly incidental and secondary to the use of the dwelling unit for residential purposes and which conforms to the standards and provisions provided herein. Furthermore, all home occupations involving the agricultural use of the land, as defined by this Chapter, shall be exempt from the home occupation regulations.
2. Standards: Home occupations shall conform to the following standards.
  - a. No traffic shall be generated by such home occupation in greater volume than would normally be expected in residential neighborhoods.
  - b. Only one (1) type of occupation or profession shall be permitted within the occupied building.
  - c. The use may occupy not more than 35 percent of the total floor area and in no event more than 500 square feet of floor area.
  - d. No non-family person shall be employed on the premises.
  - e. No offensive noise, vibration, smoke, dust, odors, heat, or glare



shall be produced.

f. There shall be no exterior display, no exterior sign, except as permitted herein, no exterior storage for materials, and no other exterior indication of the home occupation or variations from the residential character of the principal building. However, one (1) sign shall be permitted which shall be an unanimated, non-illuminated, flat or window sign having an area of not more than one (1) square foot attached flat to the building.

g. No business hours will be permitted after 8:00 P.M.

h. No machinery or equipment shall be installed which interferes with radio or television reception and which is not customarily incidental to the practice of such occupation or profession. (1980, Amended 1984)

3. Uses Permitted.

a. A profession such as an artist, engineer, architect, or insurance salesman, real estate consultant, etc.

b. Dressmakers, seamstresses, or tailors.

c. Music, dancing and other teachers or tutors, provided the instruction is limited to one (1) pupil at a time, except for occasional groups.

d. Beauty and barber services having not more than one (1) operator.

e. Photography studio primarily devoted to photography of individuals or small groups.

f. Minor repair or fix-it service not grossing over \$6,000 annually.

4. Uses Prohibited

a. Automobile and vehicular repair.

b. Rental business.

c. Stables or kennels.

d. Eating or drinking places.

e. Nursery schools and kindergartens and child-sitting service having more than five (5) children at any one (1) time, not including members of the immediate family of the operator.

f. Tourist homes.

g. Veterinarian services or animal hospitals.

h. Mortuaries and embalming establishments.

i. Private clubs, including fraternity and sorority houses.

j. Dentists and doctors offices.

k. All other uses not listed in the "uses permitted".

## § 170.08 MOBILE HOMES

### (A) General Requirements

1. Permanent Occupancy. Mobile homes and mobile home parks may be permitted in RMH Residential Mobile Home Districts subject to the restrictions and requirements of this Section.

2. Emergency Occupancy. In the event of an emergency requiring the housing of a family due to the loss of regular or conventional living quarter, the Board may issue an improvement location permit for the occupancy of a mobile home for such purpose for a period not to exceed three (3) months, subject to review and action by the Board, provided:

- a. Such mobile home is to be located on the same property with a residence under repair or reconstruction; and
- b. Such mobile home shall remain on its wheels and not be placed on a permanent foundation; and
- c. Occupancy of such mobile homes is restricted to the property owner or persons normally residing on the premises where located; and
- d. Applicable side yard and setback regulations of the District where it is located are observed.

3. Non-residential Occupancy. Mobile homes, trailers or vans may be utilized as contractor's offices, watchman's shelters, or tool or storage in any District only on the site and during the period of construction of improvement.

4. All requirements of this and other Code Sections with respect to water supply and sanitary waste disposal will be met and a letter from the County Health Officer so stating accompanies the application for an improvement location permit for this use.

(B) Mobile Home Parks. Notwithstanding any other provision or restriction provided in this Chapter, the following Property Development Standards shall apply to all mobile home development to be developed hereafter.

1. Lot size. The minimum size of a mobile home park shall be five (5) acres.

2. Lot Coverage. Not more than thirty (30) percent of any lot shall be occupied by buildings.

3. Front Yard Setback. The minimum depth of front yard of a mobile home park, where such park abuts a federal or state highway, is seventy (70) feet. The minimum depth of front yard of a mobile home park, where such park abuts a county road, is fifty (50) feet. The minimum depth of front yard of a mobile home park, where such park abuts a local street, is thirty-five (35) feet. If such mobile home park abuts on two or more streets, then there shall be a front yard on each street.

4. Side Yard. The minimum depth of side of a mobile home park shall be twenty-five (25) feet, unless adequate screen planting is provided, approved by the Plan Commission. When so approved, the minimum depth of side yard shall be ten (10) feet.

5. Rear Yard. The minimum depth of a rear yard of a mobile home park shall be twenty-five (25) feet, unless adequate planting is provided and as provided, approved by the Plan Commission. When so approved, the minimum depth of a rear yard shall be ten (10) feet.

6. Stands. Each mobile home site shall be provided with a slab improved to provide adequate support for the placement and tie-down of the mobile home so that it is secure against uplift, sliding, rotation, and overturning.

Mobile home stands must be so located that when occupied by a mobile home, the clear distance between a mobile home and any adjacent mobile home will be not less than thirty (30) feet, except end to end clear distance which may not be less than twenty (20) feet.

7. Additional Standards:
- a. The clear distance between any mobile home and the centerline of the abutting mobile home park street shall be a minimum of thirty (30) feet.
  - b. Each mobile home shall have access to, and the use of, general storage space of a minimum of two-hundred forty (240) cubic feet.
  - c. No mobile home shall be occupied unless it is supported on masonry blocks or jacks, connected to utilities, and provided with skirting from the bottom of the

walls to the ground, made of aluminum or other durable materials. It is recommended that all utility wires and pipes be underground.

d. Each mobile home park shall have an underground master television antenna system, and exterior antennas shall not be permitted on individual mobile homes.

e. Each mobile home park shall provide refuse containers having a capacity of one (1) cubic yard for each four (4) mobile homes, located so that no mobile home is more than two hundred (200) feet from such a container. Said containers shall be located on a concrete slab, abutting and level with a driveway and shall be screened on all but the driveway side by a fence of at least six (6) feet high.

f. Mobile home park streets shall be paved either with Portland cement concrete or Bituminous concrete (including the surfacing procedure commonly known as "chip and seal"). Such streets shall be a minimum of twenty-four (24) feet in width and shall, if to be publicly maintained, be built in conformance with the current street construction standards of the Town.

g. A paved sidewalk shall be installed on at least one side of each mobile home park street. The minimum width of such sidewalks shall be three (3) feet.

h. The Plan Commission may, as part of its approval, require curbs and/or gutters in mobile home parks, where, in the opinion of the said Commission, drainage of surface water as provided by the applicant in its development plans, is insufficient to properly carry such surface water.

i. Surface drainage as approved by the Plan Commission shall be installed and maintained by the applicant or his successor in title.

j. There shall be a maximum of two (2) entrances to a mobile home park, unless a different number is provided by the Plan Commission.

k. A maximum of nine (9) mobile homes shall be permitted per acre. This maximum shall be determined from the gross acreage of the mobile home park.

l. Prior to the issuance of an improvement location permit, an applicant must file with the Zoning Administrator of the Plan Commission, a letter from the Indiana State Board of Health, evidencing approval by such board and compliance with the requirements of such board.

m. Each mobile home, or mobile home stand or mobile home space shall be provided with two (2) parking spaces adjacent thereto, which parking spaces shall have unobstructed access to a mobile home park street. No on-street parking shall be permitted.

## § 170.09 NONCONFORMITIES

(A) Continuation. The lawful use of any structure of land existing at the effective time of the 1985 Codification may be continued although such use does not conform with the provisions of this Chapter except as otherwise provided herein.

(B) Alteration or Extension. A use of land or structure which does not conform to the regulations shall not be altered, extended, or enlarged, except in accordance with the following provisions:

1. General maintenance work is permitted on the non-conforming use.

2. A conforming use or structure shall not be altered or extended so that it becomes a non-conforming use or structure.

(C) Restoration. If a non-conforming structure is damaged by fire or other causes, it shall not be rebuilt to exceed the height, area, volume, or dollar value of the original structure.

Reconstruction or site clearing shall begin within one year from the date of the damage and shall be carried on without interruption unless in litigation.

(D) Abandonment. Whenever a non-conforming use has been discontinued for a period of one (1) year and such use has been abandoned, such use shall not thereafter be reestablished and any future use shall be in conformity with the provisions of this Chapter.

(E) Changes. Once changed to a conforming use, no structure or land shall be permitted to revert to a non-conforming use. No non-conforming use shall be changed to another non-conforming use, except as provided for in the following provisions:

1. The applicant shall show that the non-conforming use cannot reasonably be changed to a use permitted in the district where such non-conforming use is located.

2. The applicant shall show that the proposed change will be less objectionable in external effects than the existing non-conforming use with respect to:

a. traffic generation and congestion including truck, passenger car, and pedestrian traffic.

b. noise, smoke, dust, noxious matter, heat, glare, vibration.

c. storage and waste disposal

d. appearance

3. The new non-conforming use is similar or more restrictive than the previous use.

(F) Displacement. No non-conforming use shall be extended to displace a conforming use.

(G) District Changes. Whenever the boundaries of a District shall be changed so as to transfer an area from one District to another District of a different classification, the foregoing provisions shall also apply to any non-conforming uses or structures existing or created therein.

(H) Temporary Permits. The Board may authorize, by written permit, in a residential district for a period of not more than one (1) year from the date of such permit, a temporary building for commercial or industrial use incidental to the residential construction and development of said district.

(I) Water and Sewer Facilities

1. General, Water. Necessary action shall be taken by the applicant whenever possible to provide a water supply system capable of providing water for domestic use. Where a public water main is accessible the subdivider shall install adequate water facilities, subject to the specification of state and local authorities.

a. Individual Wells and Central Water Systems: In outlying or rural areas where a public water system is not available, or in the discretion of the Plan Commission,

individual wells may be used in such a manner that an adequate supply of water will be available. Individual wells shall be sampled and approved by the appropriate health authorities.

2. General, Sewer Facilities. The applicant shall provide a sanitary sewer system which shall connect with an existing public approved sanitary sewer system, except when such public sanitary sewer system is not available, the following methods of sewage disposal shall include providing a private sewage disposal system consisting of a septic tank and an absorption field or other approved sewage disposal system that is designed and installed in accordance with the minimum standards set by the Indiana Board of Health.

3. Mandatory Connections to Public Sewers. If a public sanitary sewer is accessible and a sanitary sewer is placed in a street or alley abutting upon a property, the owner thereof shall be required to connect to said sewer for the purpose of disposing of waste. It shall be unlawful for any such owner or occupant to maintain upon such property an individual sewage disposal system.

a. Individual Disposal System Requirements Minimum lot areas shall conform to the requirements of this Chapter and test holes and percolation tests shall be made as directed by the Commission in conformance with health department regulations.

## § 170.10 VIOLATIONS, ENFORCEMENT AND PENALTIES

(A) Violations. Failure to obtain either an Improvement Location Permit or a certificate of occupancy shall be a violation of this Chapter and will be punishable under the provisions of this Chapter.

1. Improvement Location permit or certificate of occupancy issued on the basis of plans and applications approved by the Building Commissioner authorize only the use or arrangement set forth in such approved plans and applications or amendments thereto, and no other use, arrangements, or construction. Any use, arrangement, or construction contrary to that authorized shall be deemed a violation of this Article and be punishable under the provisions of this Chapter.

(B) Complaints Regarding Violations. Any person may register a complaint with the Building Commissioner whenever a violation of this Article occurs or is alleged to have occurred.

(C) Penalties and Enforcement.

1. Improvement Location Permits Required. No building or other structure shall be erected, moved, added to, or structurally altered; nor shall any building, structure, or land be established or changed in use without a permit issued by the Building Commissioner. Zoning permits shall be issued only in conformity with the provisions of this Chapter unless the Building Commissioner receives a written order from the Board of Zoning Appeals deciding an appeal, special exception use (or conditional use) or variance. Zoning permits will only be granted when the proposed use is in total conformance with the provisions of this Chapter. Too often a Building Commissioner grants variances for minor deviations from regulations when it is clearly outside his area of responsibility. These should be left to the Board of Zoning Appeals.

2. Contents of Application for Improvement Location Permit. The application for an improvement location permit shall be made in triplicate and signed by the

owner or applicant attesting to the truth and exactness of all information supplied by the application. Each application shall clearly state that the permit shall expire and be revoked if work has not begun within one (1) year or substantially completed within one (1) year.

- a. The following information is the minimum required:
  - i. name, address, and phone number(s) of applicant
  - ii. legal description of property
  - iii. existing and proposed use
  - iv. zoning district
  - v. plans in duplicate drawn to scale, showing the actual

dimensions and the shape of the lot to be built upon; the exact size and location of existing buildings on the lot, if any; and the location and dimensions of the proposed building(s) or alteration.

- vi. building heights
- vii. number of off-street parking spaces or loading berths.
- viii. number of dwelling units.
- ix. any other matters which may be necessary to determine

conformance with, and provide for the enforcement of this Chapter.

3. Approval of Improvement Location Permit. Within fifteen (15) days after the receipt of an application, the Building Commissioner shall either approve or disapprove the application. One set of the plans shall be returned to the applicant by the Building Commissioner and either be marked "approved" or "disapproved" and the Building Commissioner's signature on the copy should attest. One set of the plans, similarly marked, should be retained by the Building Commissioner. If the application is approved, the Building Commissioner shall issue a placard to the applicant. It is to be posted in a conspicuous place on the property in question and will attest to the fact that the use or alteration is in compliance with the provisions of this Chapter. This section puts a time limit on the Building Commissioner to expedite the matter. It also allows that both the applicant and Building Commissioner shall have approved or disapproved, copies of the application to avoid complications at a later date. It also allows for the Improvement Location permit placard to be placed on properties which have been approved. This helps to avoid unnecessary phone calls regarding the activity.

4. Expiration of the Improvement Location Permit.

a. If work has not begun one (1) year from the date of issuance of the improvement location permit, that permit shall expire and be revoked by the Building Commissioner. If same work has not been substantially completed within one (1) year from the date of issuance of the Improvement Location permit application that permit shall expire and be revoked by the Building Commissioner.

b. Written notice shall be given to the applicants with stipulation that work may not begin or continue (whichever case applies) until a new improvement location permit has been obtained. This section puts a time limit on the applicant to avoid lingering construction situations and hardships.

5. Certificate of Occupancy. It shall be unlawful to use, occupy or permit the use or occupancy of any residential building or premises following any period of vacancy, and no certificate of occupancy shall be issued, until such time as the Building Commissioner, his agents and designees, inspect the premises to insure compliance with the building code, the fire code, the electrical code and this Chapter. "Vacancy" shall be defined to mean any change in use or occupancy by any previous resident.

(Amended by Ord. No. 1998-9, passed July 20<sup>th</sup>, 1998)

6. Record of Improvement Location Zoning Permits and Certificates of Occupancy. The Building Commissioner shall maintain a complete record of all Improvement Location permit and Certificates of Occupancy and copies shall be furnished or presented for review to any person making a request. The Building Commissioner should have readily available the pertinent information to any case his office has handled. The purpose is to avoid legal complications at a later date.

7. Failure to Obtain an Improvement Location Permit or Certificate of Occupancy. Failure to obtain either an Improvement Location Permit or a Certificate of occupancy shall be a violation of this Chapter and will be punishable under the provisions of this Chapter.

8. Construction and Use to be as Provided in Applications, Plans, Permits, and Certificates. Improvement Location Permits and Certificates of Occupancy issued on the basis of plans and applications approved by the Building Commissioner authorize only the use or arrangement set forth in such approved plans and applications or amendments thereto, and no other use, arrangements, or construction. Any use, arrangement, or construction contrary to that authorized shall be deemed a violation of this Chapter and be punishable under the provisions of this Chapter. Any use, construction, or arrangement that is not listed in the approved application for the Improvement Location Permit is not allowed. The project that is approved must be the project that is constructed, otherwise changes might cause the final use to not conform to this Chapter.

9. Penalties for Violation. Violations of the provisions of this Chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a common nuisance. Any person who violates this Chapter or fails to comply with any of its requirements shall be fined as set forth in Section 10.99, in addition to a fine equal to all costs and expenses involved in the case, including but not limited to attorneys fees.

Each day such violation continues after receipt of a notice of violations, shall be considered a separate offense. The owner or tenant of any building, builder, contractor, agency, or other person who commits, participates in, assists in, or maintains such violations may each be found responsible of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation.

(D) Schedule of Fees, Charges, and Expenses. The Town Council shall, by Ordinance or Resolution, establish a schedule of fees, charges, and expenses and a collection procedure for Improvement Location, Occupancy, and Earthwork permits, amendments, appeals, variances, special exception applications, and other matters pertaining to the administration and enforcement of this Chapter requiring investigations, legal, advertising, postage, and other expenses. The schedule of fees shall be posted in the office of the Building Commissioner and may be altered or amended only by the Town Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

Schedule of Fees, Charges and Expenses	
Improvement Location Permit: Dwelling	\$20.00

Room Addition	10.00
Accessory Building	5.00
Commercial	30.00
Occupancy Permit	5.00
Earthwork Permit	5.00
Application for Appeal (Board of Zoning Appeals)	10.00
Application for Special Exception (Conditional Use)	10.00
Application for Variances	10.00
Petition for Amendment to the Articles	20.00
Preliminary Plat	25.00 plus 5.00 per lot
Inspection of Improvements	25.00

**§ 170.11 SUBDIVISIONS**

(A) Generally.

1. Title. These regulations shall be known and cited as the Subdivision Regulations of the Town of Goodland , Goodland, Indiana.

2. Authority. These regulations are authorized by Indiana Code 36-7-4-101, et. seq., as amended.

3. Policy. It is hereby declared to be the policy of the Town of Goodland to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the Town of Goodland pursuant to the official comprehensive plan of the Town of Goodland for the orderly, planned, efficient, and economical development of the Town of Goodland.

Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and land shall not be subdivided until proper provision has been made for drainage, water, sewerage, recreation facilities, and other elements of a viable community infrastructure.

The existing and proposed public improvements shall conform to and be properly related to the proposals of the comprehensive plan, and the capital budget and program of the Town of Goodland.

4. Purposes. The purposes of these regulations are to protect and promote the public health, safety, and general welfare, and to provide for:

a. Guidance of future growth and development in accordance with the comprehensive planning process:

b. Adequate air, light, and privacy due to prevent overcrowding of the land and undue congestion.

c. Protection of the character and the social and economic stability of all parts of the area, and the encouragement of orderly and beneficial development of all parts.

d. Protection and conservation of the value of land, buildings, and other improvements upon the land, and to minimize conflicts among uses of land and building.

e. Guidance of public and private policy and action in order to assure adequate and efficient transportation, water, sewerage, schools, parks, drainage, and other public



requirements and facilities.

f. Avoidance of scattered and uncontrolled subdivision of land that would result in the unnecessary imposition of and excessive expenditure of public funds for the supply of services that are a part of community infrastructure.

g. Establishment of reasonable standards of design and minimum requirements for the creation, installation, and improvement of physical facilities which are, or will be, maintained for the benefit of general public.

h. Establishment of reasonable standards and procedures for subdivisions and resubdivisions, in order to further the orderly layout and use of land; and to insure proper legal descriptions and monumenting of subdivided land.

i. Prevention of the pollution of air and water; provision of drainage facilities and the safeguarding of the water table; and the encouragement of wise use and management of natural resources in order to preserve the integrity, stability, natural beauty and topography, and the value of the land.

j. Administration of these regulations by defining the powers and duties of approval authorities; and the manner and form of making, filing and processing of any plat.

5. Jurisdiction. These subdivision regulations shall apply to all subdivisions of land, as defined herein, located within the jurisdictional boundaries of the Town of Goodland. No land shall be subdivided within these boundaries until:

a. The subdivider or his agent shall submit a sketch of parcel to the Building Commissioner;

b. Approval of the preliminary and final plats are obtained from the Commission; and

c. The approved plat is filed with the County Recorder.

6. Interpretation. All subdivisions as defined herein shall comply with the provisions of these regulations. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements. These regulations shall supplement all other regulations, and where at variance with other laws, regulations, ordinances, or resolutions; the more restrictive requirements shall apply.

7. Combining of Permits. The Commission is hereby required to coordinate the issuance of permits with other departments and agencies which may be required by these subdivision regulations as well as previously or subsequently adopted ordinances or regulations.

8. Amendments. For the purpose of protecting and promoting public health, safety, and general welfare, the Plan Commission may, from time to time, amend the provisions imposed by these regulations.

Public hearings on all proposed amendments shall be held by the Plan Commission, except for minor changes, in which case the Commission shall use its own discretion.

(B) Resubdivision (Replat)

1. For any change in a map of an approved or recorded subdivision plat, if such change affects any street layout shown on such map, or area reserved thereon for public use, or any lot line, or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivision, such parcel shall be approved by the Plan Commission by the same procedure, rules, and regulations as for a subdivision.

2. Whenever a parcel of land is subdivided and the subdivision plat shows

one or more lots containing more than one (1) acre of land and there are indications that such lots will eventually be resubdivided, the Plan Commission may require that such parcel of land allow for the future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of such streets may be made a requirement of the plat.

(C) Vacation

1. Any plat or any part of any plat may be vacated by the owner of the premises, at any time before the sale of any lot herein, by a written instrument, to which a copy of such plat shall be attached, declaring the same to be vacated.

2. Such an instrument shall be approved by the Plan Commission in like manner as plats of subdivisions. The Town Council may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets, or alleys.

3. Such an instrument shall be executed, acknowledged or approved, and recorded or filed, in like manner as plats of subdivisions; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, and public grounds, and all dedications laid out or described in such plat.

4. When lots have been sold, the plat may be vacated in the manner herein provided by all the owners of lots in such plat joining in the execution of such writing.

(D) Variances

1. Where the Plan Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that such variance shall not have the effect of nullifying the intent and purpose of these regulations; and further provided the Plan Commission shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case that:

a. The granting of the variance will not be detrimental to the public safety, health, or welfare, or injurious to other property.

b. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.

c. Because of the particular physical surrounding, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out. Financial hardship does not constitute grounds for a variance.

d. The variance will not in any manner vary the provisions of the Zoning Article, Comprehensive or Master Plan, or Thoroughfare or Major Street Plan.

e. Where the variance impacts on design and construction of public facilities, all appropriate public agencies shall be given ample time to comment in writing to the Commission.

2. In approving variances, the Plan Commission may require such conditions as well, in its judgement, secure substantially the objectives of the standards or

requirements of these regulations.

3. A petition for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed with the Building Commissioner. The petition shall state fully the ground for the application and all the facts relied upon by the petitioner.

(E) Appeals. Any person or aggrieved party who appeared in person or writing before the Commission including the subdivider may appeal in writing the decision of the Commission relative to the final action taken by the Commission. Such appeal shall be submitted to the Circuit Court within thirty (30) days from such Commission action.

(F) Subdivision Application and Approval Procedure

1. Any person desiring to create a subdivision as herein defined shall submit all necessary applications to the Building Commissioner.

2. No contract shall be made for the sale of any part of the subdivision and no improvement of building shall be made on the property, until the subdivider applies for, and secures approval of, such proposed subdivision in accordance with the procedures set forth. No final plat shall be filed with the County Recorder until the plat has been acted upon and approved by the Plan Commission.

3. For the purpose of these subdivision regulations, the date of the regular monthly meeting of the Commission at which the public hearing on final approval of the subdivision plat is closed shall constitute the official submittal date of the plat at which the statutory period required for formal approval or disapproval of the plat shall commence to run.

(G) Sketch Plat. Pre-Platting Conference. Before preparing the preliminary plat for a subdivision, the application should discuss with the Building Commissioner the procedure for adoption of a subdivision plat and the requirements as to general layout of streets and for reservations of land, street improvements, drainage, sewerage, fire protection, and similar matters, as well as the availability of existing service. The Building Commissioner shall also advise the applicant, where appropriate, to discuss the proposed subdivision with those officials who must eventually approve these aspects of the subdivision plat coming within their jurisdiction. The applicant has the option to request a conference with the Commission, also, but not for the purpose of overriding the Building Commissioner. This action may not require application, but notification should provide sufficient time for the matter to be placed on the agenda.

(H) Preliminary Plat

1. Application. The subdivider shall file an application with the Building Commissioner for approval of the preliminary plat. The application shall:

a. Be made in duplicate and presented at least four (4) weeks prior to a regular meeting of the Commission.

b. Be made on forms available at the office of the Building Commissioner.

c. Be accompanied by a fee of Twenty-five Dollars (\$25.00) plus \$5.00 per lot.

d. Include all land which the applicant proposed to subdivide and all

land immediately adjacent extending one hundred (100) feet therefrom, or of that directly opposite thereto, extending one hundred (100) feet from the street frontage of such opposite land, with the names of the owners as shown in the Assessor's files. This information may be shown on a separate current plat reproduction from the Auditor's Office showing the subdivision superimposed thereon.

e. Be accompanied by a minimum of six (6) copies of the preliminary plat as described in these regulations.

f. Be accompanied by a minimum of three (3) copies of construction plans, as described in these regulations.

g. The Building Commissioner shall review the proposed preliminary plat and construction plans and submit a report, in writing, to the Plan Commission at the time of the next regular meeting of the Commission.

2. Notice of Public Hearing. Upon receipt of formal application and all accompanying material, the Building Commissioner shall:

a. Request a public hearing for the next scheduled meeting of the Plan Commission to be held no less than two (2) weeks after the date of the application.

b. Submit a notice for publication in one (1) newspaper of general circulation to be published at least fifteen (15) days prior to the public hearing and mail notice to all property owners. At the time of the public hearing, the applicant shall submit an affidavit stating that he has notified by certified mail, return receipt requested, each adjacent or opposite owner of property as indicated on the application for subdivision approval, at least ten (10) days prior to the public hearing.

3. Preliminary approval. After the Plan Commission has reviewed the preliminary plat, construction plans, reports received from the Building Commissioner and other agencies, and heard testimony submitted at the public hearing, the applicant shall be advised of any required additions. The Commission shall approve, conditionally approve, or disapprove the preliminary plat within forty-five (45) days after the date of the regular meeting of the Commission at which the public hearing on preliminary approval, including adjourned date thereof, is closed. The Building Commissioner shall return one (1) copy of the proposed preliminary plat and construction plans to the developer with the date of approval, conditional approval, or disapproval, and the reasons therefore, in writing, accompanying the plat.

4. Public improvements. The subdivider shall be responsible in accordance with this Chapter and specified in the final subdivision plat, and as approved by the Commission to complete all required public improvements within the subdivision.

In the event a subdivider does not perform, the Town can take legal action whereas the subdivider shall incur all legal costs.

5. Effective period of preliminary approval. Unless extended, the approval of a preliminary plat shall be effective for a period of two (2) years at the end of which time final approval on the subdivision must have been obtained and certified by the President and Secretary of the Commission. Any plats not receiving final approval within the period of time set forth herein shall be null and void, and the developer may be required to resubmit a new plat for preliminary approval subject to all new zoning restrictions and subdivision regulations. Upon request of the applicant, the Commission may extend the approval of a preliminary plat in increments of one (1) year beyond an expiration date without further notice and public hearing.

6. Zoning Ordinances. Every plat shall conform to existing zoning ordinances and subdivision regulations applicable at the time of final approval, except that any

plat which has received preliminary approval shall be exempt from any subsequent amendments to the zoning ordinances rendering the plat nonconforming as to size, shape, or use.

7. Grading of site prior to final plat approval. Subsequent to final approval the developer may apply for an earthwork (topsoil and excavation) permit from the Building Commissioner or such other agency as the Goodland Town Council may designate, and upon receipt of such permit may commence construction to the grades and elevations required by the approved preliminary plat.

(I) Final Plat

1. Discussion of requirements. Following the approval of the preliminary plat of a subdivision, the applicant, if he wishes to proceed with the subdivision, shall file with the Plan Commission an application for final approval of a subdivision plat.

2. Application. The application shall:

a. Be made in duplicate forms available at the office of the Building Commissioner.

b. Be presented to the Building Commissioner at least four (4) weeks prior to a regular meeting of the Commission in order that a final review may be scheduled. The date of the regular meeting of the Commission, including any adjourned date thereof, shall constitute the official submittal date of the plat for the purpose of these regulations.

c. Be accompanied by copies of the final plat consisting at a minimum of six (6) paper copies and two (2) copies on tracing cloth, reproducible mylar, or sepia paper. The final plat shall comply in all respects with the sketch plat or preliminary plat as approved.

d. Be accompanied by a minimum of three (3) copies of complete final construction plans, as described in these regulations. Should any modification of these plans be made in the actual construction of these improvements, "as built" drawings shall be submitted upon completion.

e. Be accompanied by all formal irrevocable offers of dedication to the public of all streets, utilities, parks, easements, and other local government uses, in a form approved by the Plan Commission Attorney. In addition, the subdivision plat shall be marked with a notation indicating the formal offers of dedication as follows:

The owner, or his representative, hereby irrevocably offers for dedication to the Town of Goodland all the streets, local government uses, easements, parks and required utilities shown on the subdivision plat and construction plans.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

f. Be accompanied by a full covenant and warranty deed to all lands offered for dedication in proper form for recording, and that all improvements and land included in the irrevocable offer of dedication shall be dedicated to the local government free and clear of all liens and encumbrances on the premises.

g. Be accompanied by a deposit in the sum of money equal to the actual cost of material and labor for installation of the sign(s) and according to the construction plans, in which case the street sign(s) shall be installed by the local government. The actual material and labor cost will be determined by the Plan Commission upon consultation with the

Town Council.

3. Endorsements by other public authorities. The final subdivision plat shall be properly endorsed by the appropriate health and housing authorities to assure the Commission that the plan is in compliance with all rules, regulations, and requirements of local and state authorities.

4. After the Commission has taken action by resolution on the final plat, one copy of the final plat shall be returned to the subdivider with the date of approval, conditional approval, or disapproval, noted thereon, and the reasons therefore, in writing accompanying the plat.

5. Vested rights. No vested rights shall accrue to any plat by reason of preliminary or final approval until the actual signing of the plat by the President of the Plan Commission and attested by the Secretary.

All requirements, conditions, or regulations adopted by the Commission applicable to the subdivision, or on any subdivisions generally, shall be deemed a condition for any subdivision prior to the time of the signing of the final plat by the Chairman and attested to by the Secretary.

Where the Commission has required the installation of improvements prior to signing of the final plat, the Commission shall not unreasonably modify the conditions set forth in the final plat.

6. Recording of Plat. The President and Secretary will sign the reproducible mylar, tracing cloth or sepia prints of the subdivision plat and return one (1) copy to the applicant. A signed copy of the construction plans shall also be returned.

It shall be the responsibility of the subdivider to file the plat with the County Recorder within thirty (30) days of the date of the signature. Simultaneously with the filing of the plat, the subdivider shall record the agreement of dedication together with such legal documents as shall be required to be recorded by the Plan Commission Attorney.

## § 170.12 IMPROVEMENTS

### (A) Assurance for Completion

1. Generally. Before the final plat is signed by the President of the Plan Commission, all applicants shall be required to complete, in accordance with the Commission's decision and to the satisfaction of the Building Commissioner all street, curb, sidewalks, street signs, sanitary water and other improvements including lot improvements on the individual lots of the subdivision as required in these regulations, specified in the final subdivision plat, and as approved by the Commission, and dedicate the same to the local government, free and clear of all liens and encumbrances. Written notice shall be given to the Building Commissioner within a minimum of three (3) days in advance of start of construction. Where construction has ceased for ninety (90) days, renotification is required.

### (B) Completion of Improvement.

1. The applicant shall build and pay for all costs of temporary improvements required by the Plan Commission and shall maintain same for the period specified by the Commission. The temporary facilities will be properly constructed, maintained, and removed.

2. All required improvements, either temporary or permanent, shall be made by the applicant, at his expense, without reimbursement by the local government.

(C) Inspection of Improvements.

1. The Plan Commission shall provide for inspection of required improvements during construction and insure their satisfactory completion.

2. The applicant shall pay to the local government an inspection fee of Twenty-five Dollars (\$25.00). The subdivision plat shall not be signed by the President of the Plan Commission unless such fee has been paid at any time of application. These fees shall be due and payable upon demand by the Town of Goodland and no Improvement Location permits shall be issued until all fees are paid.

(D) Assurance for Maintenance. The applicant shall be required to maintain all improvements on the subdivided lots and, if required, provide for snow removal and traffic control on streets and sidewalks until acceptance of said improvements by the Town Council.

(E) Deferral or Waiver of Improvements

1. General conditions. The Plan Commission may defer or waive at the time of final approval, subject to appropriate conditions, the provisions of any or all such improvements, as in its judgment, are not requisite in the interest of public health, safety, and general welfare, or which are inappropriate because of inadequacy or lack of connecting facilities.

2. Assurance for future completion. Whenever it is deemed necessary by the Plan Commission to defer the construction of any improvement required herein because of incompatible grades, future planning, inadequate or lack of connecting facilities, or for other reasons, the applicant may be required to pay his share of the costs of future improvements to the local government prior to signing of the final subdivision plat.

**§ 170.13 IMPROVEMENT STANDARDS**

(A) Plats. In addition to the requirements established herein, all subdivision plats shall comply with the following rules, laws and regulations:

1. All applicable statutory provisions.

2. The Town Code, building and housing codes, and all other applicable laws of the appropriate jurisdictions.

3. The official Comprehensive or Master Plan, Thoroughfare Plan, and Capital Improvements Program of the Town, including all public facilities, open space, and recreation plan, as adopted.

4. The rules and regulations of State Board of Health, Department of Natural Resources, Federal Aviation Administration, and other appropriate state agencies.

5. The rules, regulations and standards of the Indiana State Highway Commission if the subdivision or any lot contained therein abuts a state highway.

6. All applicable planning and regulatory guidelines, including access control or driveway manuals, parking and traffic control ordinances, and other applicable guides published or adopted by the Town.

7. The "Indiana Manual on Uniform Traffic Control Devices" for installation of traffic control devices (See below).

(B) Construction Plans. Plat approval may be withheld if a subdivision is not in general conformity with the above plat requirements or with the following requirements for construction plans.

1. It shall be the responsibility of the subdivider of every proposed subdivision to have a complete set of construction plans prepared by an engineer including profiles, cross sections, specification, and other supporting data for all required public streets, utilities, and other facilities.

2. The final construction plans shall be based on preliminary plans which have been approved with the preliminary plat and shall be prepared and submitted in conjunction with the final plat.

3. Construction plans shall be prepared in accordance with the Town's standards and specifications.

(C) Material and Construction Control. To assure compliance with good engineering practice, the subdivider, contractor, or developer is required to follow:

1. The latest issue of the "Indiana State Highway-Standard Specifications" for material and construction control, except when different specifications are explicitly described in these regulations or adopted by the Town Council.

(D) Political and Jurisdictional Boundaries. To eliminate potential jurisdictional disputes and to facilitate effective coordination and control of development, the Plan Commission shall be guided by the following policy:

1. Whenever access to the subdivision is required across land outside the Town boundaries, the Commission shall request assurance from that the Newton County Attorney that access is legally established, and from the Newton County Engineer that the access road is adequately improved, or that a performance bond has been duly executed and is sufficient in amount to assure the construction of the access road.

(E) Public Improvements. Every subdivider shall be required to install the following public and other improvements in accordance with the conditions and specifications in these regulations:

1. The applicant shall place permanent reference monuments in the subdivision in accordance with this Chapter and as approved by a Land Surveyor.

2. All streets and alleys shall be constructed in accordance with the standards and specifications of this Chapter and as adopted and approved by the Town Council.

3. All bridges and culverts shall be constructed in accordance with applicable engineering standards as approved by the Town Council.

4. Underground installation of communication and electric utilities is encouraged and may be required subject to the adopted policies of the Plan Commission.

5. All public water supply and sewer systems shall be constructed in accordance with the adopted local plans and specifications.

6. The placement of fire hydrants and water mains for adequate fire protection shall be in accordance with the appropriate American Insurance Association recommendations.

7. Street name signs shall be installed in the appropriate locations at each



street intersection in accordance with local standards.

8. Greenbelts or landscaping screening may be required for the protection of residential properties from adjacent major arterial streets, railroad rights-of-way, commercial or industrial areas, or other features.

9. Street lights may be required to be installed at intersections throughout the subdivision and such installations shall conform to the requirements of the Town Council and the public utility providing such lighting.

(F) Subdivision Street Location and Arrangements. Within a proposed subdivision, streets, as shown on the Comprehensive Plan, shall be dedicated to the public in all cases. The street layout shall conform to the following:

1. When an official street plan or Comprehensive Plan has been adopted, subdivision transportation plan shall be complimentary to the plans.

2. Local streets shall be so arranged as to discourage their use by through traffic.

3. The construction of stub streets shall not be permitted except where the adjoining areas are under the same ownership as the area proposed to be subdivided. In such a case the arrangement of streets in new subdivisions may be such that said streets extend to the boundary line of the tract to make provisions for the future extension of said streets into adjacent areas. The Commission shall require a reserve strip to be held in public ownership or other assurances from the developer to assure the future extension of such temporary stub streets. The developer shall install a guard rail across the stub end of the street and post markings and signs as required in the Manual on Uniform Traffic Control Devices of Indiana. Not required in one lot depth subdivision.

4. Local streets shall be arranged in proper relation to topography in a manner which results in usable lots, safe streets and acceptable gradients without unnecessary destruction of drainage courses, trees, and other natural features of land.

5. Alleys shall be provided in multiple dwellings or commercial and industrial subdivisions unless other provisions are made for service access and off-street loading and unloading. Dead-end alleys shall be prohibited.

6. Where a subdivision abuts or contains an arterial street, it shall be required that frontage roads be constructed approximately parallel to and on each side of such arterial street. The Commission may require such other treatment as is necessary for the adequate protection of residential properties and to separate through traffic from local traffic.

7. No intersection shall be constructed with more than four (4) approach legs.

8. Whenever a proposed subdivision borders an existing street, the Commission may require the reconstruction or widening of such street as a condition of plat approval. Additional dedication or right-of-way streets may also be required.

9. Private streets and roads shall be prohibited except within mobile home parks.

(G) Subdivision Lot Arrangements.

1. The lot arrangements shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with the zoning code and other regulations and in providing safe

driveway access to buildings on such lots from an approved street.

2. Lot dimensions shall comply with the minimum standards of the zoning code.

3. Lots shall not, in general, derive access exclusively from an arterial or major collector street. Where driveway access from an arterial or major collector street may be necessary for several adjoining lots, the Plan Commission may require that such lots be served by a common and combined driveway in order to limit possible traffic hazard on such street.

4. Lots shall be laid out so as to provide positive drainage away from all buildings and individual lot drainage shall be coordinated with the general storm drainage pattern for the area.

5. Topsoil shall not be removed from residential lots or used as spoil, but shall be redistributed so as to provide at least six (6) inches of cover on the lots and at least four (4) inches of cover between the sidewalks and curbs and shall be stabilized by seeding or planting.

#### (H) Subdivision Block Arrangements

1. Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depth. Exceptions to this prescribed block width shall be permitted in blocks adjacent to major transportation facilities, water courses, and industrial and commercial areas.

2. Whenever practicable, blocks along arterials and major collector streets shall not be less than six hundred eighty (680) feet in length. As a general rule blocks in other residential areas shall not be more than six hundred eighty (680) feet nor less than three hundred and forty (340) feet in length.

3. In long blocks, the Plan Commission may require an easement through the block to accommodate utilities, drainage facilities, or pedestrian walkways.

#### (I) Subdivision and Street Names

1. The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the area covered by these regulations. The Plan Commission shall have final authority to approve the name of the subdivision which shall be determined at the time of preliminary plat approval.

2. Street names shall not duplicate any existing name within the area covered by these regulations except where a new street is a continuation of an existing street. Street names that may be spelled differently but sound the same as existing streets shall not be used.

3. The Plan Commission shall have final authority to name all streets (in case of conflict) at the time of preliminary plat approval.

#### (J) Public Sites and Open Spaces

1. Where it is determined that a proposed park, playground, school, or other public use as shown on the Comprehensive Plan is located in whole or in part within a proposed subdivision, sufficient area for such public use shall be dedicated to the public or reserved and offered for public purchase. If within three (3) years of plat recording, the purchase is not agreed on, the reservation shall be cancelled or shall automatically cease to exist.

2. Existing natural features which add value to residential development and enhance the attractiveness of the community shall be preserved in the design of the subdivision.

§ **170.14 DESIGN STANDARDS AND SPECIFICATIONS**

(A) Monuments

1. General. All monuments shall be properly set flush with the ground and approved by a registered Land Surveyor or Engineer prior to the time the Plan Commission recommends approval of the final plat.

2. External Boundaries. The external boundaries of a subdivision shall be monumented in the field by monuments of stone or concrete, not less than thirty (30) inches in length, not less than four (4) inches square or five (5) inches in diameter and marked on top with a cross, brass plug, iron rod, or other durable material securely imbedded.

The spacing and exact location requirements shall be established by a certified surveyor. The Plan Commission may amend these requirements.

3. Internal Boundaries. All internal boundaries and those corners and points not covered by the preceding paragraph shall be monumented in the field by steel or iron rods one-half (1/2) inch in diameter or iron pipe one (1) inch in diameter. These monuments shall be placed at all block corners, at each end of all curves, and at all internal angle points as required by a certified surveyor.

(B) Control Devices- Regulatory Signs, Warning Signs, and Other Devices. The applicant shall deposit with the Town of Goodland at the time of final subdivision approval, the actual dollar cost of material and labor for each sign required by the Town of Goodland. The local government shall be responsible for the installation of all such signs in accordance with the Manual on Uniform Traffic Control Devices of Indiana.

(C) Streets and Roads

1. General. In order to provide for streets of suitable location, width, and improvement to accommodate expected traffic and afford satisfactory access to police, fire-fighting, snow removal, sanitation, and road maintenance equipment, and to coordinate street development so as to compose a convenient system, avoid undue hardships to adjoining properties and assure compatibility with long range comprehensive plans, all streets shall be designed according to the geometric standards set forth in these regulations.

2. Principles of Design. Subdivision street design, as a general rule, deals with the design of streets which are part of a functionally classified overall street and road system of an area. In designing and approving subdivision streets, the following factors shall receive consideration:

- a. Safety for both vehicular and pedestrian traffic;
- b. Efficiency of service for all users;
- c. Livability or amenities as affected by traffic elements in the circulation system;
- d. economy of both construction and use of land.

3. Vertical Grades. Drainage design may become critical where grades exceed four (4) percent. Commercial, industrial, and residential streets shall be held to a maximum grade of four (4) percent and a minimum grade of one-half (0.5) percent.

4. Intersection. Intersections, including median openings, should be designed with adequate corner sight distance. The recommended minimum corner sight distance is two

hundred (200) feet for local streets and three hundred (300) feet for collectors. In order to maintain these distances, the Commission may recommend regulations to restrict the height of embankment, location of buildings and screening fences and landscaping, and other provisions necessary for intersection sight control.

The minimum intersection angle for all streets shall be seventy five (75) degrees. It is recommended that the intersection angle be ninety (90) degrees whenever possible.

5. Minimum Radii of Curvature on Center Line. Where a deflection angle of more than ten (10) degrees in the alignment of a street occurs, a curve shall be introduced, providing for:

a. Residential local streets- a minimum radii of one hundred (100) feet but should be greater whenever possible.

b. Residential Collector- a minimum radii of two hundred (200) feet but should be greater whenever possible.

c. Commercial/Industrial Collector- a minimum radii of four hundred (400) feet but should be greater whenever possible.

6. Horizontal Alignments (Tangent)- The minimum tangent distance between reverse curves shall be:

a. Residential local streets 200 feet

b. Residential Collector 300 feet

c. Commercial/Residential 400 feet

7. Curb return Radius. Minimum curb return radius at local streets shall be:

a. Residential local 20 feet

b. Residential Collector 25 feet

c. Commercial/ Industrial 30 feet

8. Street right-of-way widths. In order to assure that subdivisions have future traffic volume considerations built into their design, all subdivision streets shall have a minimum "right-of-way" width of sixty (60) feet.

9. Alley Right-of-way Widths. Service alleys are required in all business, commercial, and industrial subdivisions and shall have minimum right-of-way width of sixteen (16) feet.

10. Cul-de-Sacs. The maximum length of a residential local street cul-de-sac shall be six hundred (600) feet. Wherever a collector street serves exclusively an industrial or commercial area, a cul-de-sac may be allowed and the length may be increased to one thousand (1000) feet. This special provision shall be allowed only in areas which have a difficult access or are otherwise unsuitable for normal subdividing. The minimum radii for cul-de-sacs shall be as follows:

Local right-of-way of outside, 40 feet radii

Commercial/ Industrial right-of-way or outside, 56 feet radii.

11. Auxiliary Lanes. The Commission shall require construction of parking and turning lanes and transitional tapers where warranted.

(D) Sidewalks. When provided and installed by the property owner in a residential district, sidewalks shall be a minimum width of forty-eight (48) inches and minimum thickness of four (4) inches of Portland Cement Concrete. A compacted, smooth and firm stone on gravel base is required. Concrete shall be used in all sidewalk construction and the cement shall be six (6) bag mix per cubic yard of sand. Sidewalk joints shall be at intervals of five (5) feet as nearly

as possible.

(E) Drainage Facilities

1. General. The Plan Commission shall not recommend for approval any plat of subdivision which does not make adequate provision for storm or flood water runoff. The drainage system shall be separate and independent of any sanitary sewer system. Storm sewers, where required shall be designed to according to professional, acceptable, engineering standards, and approved by the Plan Commission. Inlets shall be provided so that surface water is not carried across or around any intersection, nor for a distance of more than four hundred (400) feet in any gutter without emptying into a catch basin. Surface water drainage patterns shall be shown for each and every lot and block.

2. Requirements for Storm Sewers. The applicant may be required by the Plan Commission to carry away by pipe or open ditch, any spring or surface water that may exist either previously to, or as a result of, the subdivision. Such drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate width. Drain facilities shall be provided under driveways so that the flow of water in ditches is not impeded.

Where a public storm sewer is accessible, the applicant shall install storm sewer facilities, or if no outlets are within a reasonable distance, adequate provision shall be made for the disposal of storm waters subject to the approval and acceptance of the Commission.

Where conditions exist that would require a sewer size larger than what is normally required for a particular size subdivision, the local government will consider bearing the additional cost for the oversized facility, over and above what would be required for the subdivision alone.

In subdivisions containing lots less than fifteen thousand (15,000) square feet in area and in commercial and industrial districts, the Commission shall require that underground storm sewer systems be constructed throughout the subdivisions and be conducted to an approved out-fall regardless of the distance of public sewer facilities.

If the Commission determines that a connection to a public storm sewer will eventually be provided as shown in existing local plans and programs, the developer shall make arrangements for future storm water disposal in the subdivision, by a public utility system at the time the plat receives final approval.

3. Poor Drainage Areas. Whenever a plat is submitted for an area which is subject to flooding, the Plan Commission may approve such application provided that the applicant fills the affected area of said subdivision to an elevation as determined by the Commission.

4. Flood Plain Areas. The Plan Commission shall, when it deems it necessary for the health, safety, or welfare of the present and future population of the area, and necessary to the conservation of water, drainage, and sanitary facilities, prohibit the subdivision of any portion of the property which lies within the flood plain. Any approvals within the flood plain shall, at a minimum, meet the requirements of the Indiana Department of Natural Resources.

5. Drainage Easements. Where a subdivision is traversed by a watercourse, drainage-way, channel, or stream, the subdivider shall provide a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width and construction as will be acceptable to the Commission. Such easement shall be adequately monumented by open channel with landscaped banks.

(F) Water Facilities

1. General. Necessary action shall be taken by the applicant whenever possible, to provide a water supply system capable of providing water for domestic use and fire protection. Where a public water main is accessible the subdivider shall install adequate water facilities, including fire hydrants, subject to the specification of State and local authorities.

The location of all fire hydrants, all water supply improvements, and the boundary lines of proposed districts, shall be shown on the preliminary plat, and the cost of providing and installing same shall be included in the performance bond.

2. Individual Wells and Central Water Systems. In outlying or rural areas where a public water system is not available, in the discretion of the Plan Commission, individual wells may be used, or a central water system provided in such a manner that an adequate supply of water will be available to every lot in the subdivision. Individual wells and central water systems shall be sampled and approved by the appropriate health authorities.

3. Fire Hydrants. Fire hydrants shall be required for all subdivisions except those coming under the above paragraph 2. Unless otherwise specified by local fire regulations, fire hydrants shall be located no more than one thousand (1000) feet apart and within five hundred (500) feet of any structure and shall be approved by the Town of Goodland fire chief. Hydrants shall be placed in conformance with American Insurance Association recommendations.

(G) Sewerage Facilities

1. General. The applicant shall provide a complete sanitary sewer system which shall connect with an existing public approved sanitary sewer system, except when such public sanitary sewer system is not available, one of the following methods of sewage disposal shall be used:

a. A complete sanitary sewer system including a treatment plant to be provided by the subdivider, in accordance with the minimum standards set by the Indiana State Board of Health.

b. Each lot owner, upon construction of a dwelling, shall provide a private sewage disposal system on each individual lot consisting of a septic tank and an absorption field or other approved sewage disposal system that is designed and installed in accordance with the minimum standards set by the Indiana Board of Health.

2. Mandatory Connections to Public Sewers. If a public sanitary sewer is accessible and a sanitary sewer is placed in a street or alley abutting upon a property, the owner thereof shall be required to connect to said sewer for the purpose of disposing of waste. It shall be unlawful for any such owner or occupant to maintain upon such property an individual sewage disposal system.

3. Individual Disposal System Requirements. Minimum lot areas shall conform to the requirements of the zoning code and test holes and percolation tests shall be made as directed by the Commission in conformance with health department regulations.

4. Standards for Sewer Line, House Connections, Laterals, and Collectors (Mains). In order to avoid clogging of sewer lines and to assure that each subdivision sewer line system meets a minimum standard the following shall be required as a minimum:

- a. Sewer line diameter  
Collector line                      8 inches

Lateral line	8 inches
House Connections	4 inches (but recommend 6")

b. The velocity of flow in all sewer pipes within a system should be great enough to prevent accumulation of sediment in the bottom of the pipes, but should not be too great, whereas an excessive velocity of wastewater streams which contain quantities of grit can erode the sewer pipes. The following are velocity standards the Commission will use:

Minimum velocity	2 feet per second
Maximum velocity	10 feet per second

(H) Nonresidential Subdivisions

1. General. If a proposed subdivision includes land that is zoned for commercial or industrial purposes, the layout of the subdivision with respect to such land shall make such provision as the Plan Commission may require.

2. Standards. In addition to the principles and standards in these regulations, which are appropriate to the planning of all subdivisions. The applicant shall demonstrate to the satisfaction of the Commission that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

a. Each non-residential plot or parcel shall be shown and marked on the plat as to its intended use.

b. Proposed parcels shall be suitable in area and dimensions to the types of development anticipated.

c. Special requirements may be imposed by the local government with respect to street, curb, driveway, and sidewalk design and construction.

d. Special requirements may be imposed by the local government with respect to installation of public utilities, including water, sewer, and storm water facilities.

e. Every effort shall be made to protect adjacent residential areas from potential nuisances of a proposed nonresidential subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for a permanently landscaped buffer when necessary.

f. Non-residential subdivision streets shall not be extended to the boundaries of adjacent existing or potential residential areas. Residential local streets shall not be extended to the boundaries of adjacent existing potential non-residential areas.

**§ 170.15 SPECIFICATIONS FOR DOCUMENTS**

(A) Sketch Plat. Prior to submission of a Preliminary Subdivision Plat, any subdivider proposing a subdivision or resubdivision of a tract of land or involving the opening of a new street, shall submit to the Building Commissioner a sketch plan of the Subdivision as to provide the Building Commissioner with information concerning the proposed development and to review at an early stage, the requirements affecting the proposed subdivision.

1. General. The following items are required for the sketch plan:

a. Location and description of property

i. Location of property by township, section number, subdivision (with block and lot numbers) as applicable shall be specified and in the case of

unsubdivided properties, location township and section range (metes and bounds).

- ii. Size of tracts in acres or existing lots, if any, in square feet
- b. Information as to Ownership
  - i. Name of owner and agent, address and telephone number of legal owner or agent or property.
  - ii. Description of any existing legal rights-of-way or easements affecting the property.
  - iii. Listing of any existing covenants on the property.

2. Drawing Showing Existing Features. A hand drawn sketch at a scale of approximately two hundred (200) feet to the inch shall show information for the property, which is proposed to be subdivided, and for adjoining properties for a distance of not less than one hundred (100) feet, which will include:

- a. A general layout of streets, blocks, and lots for the entire tract under control of the subdivider.
- b. Identification of any general area to be set aside for schools, parks, or other community facilities.
- c. Identification of sites for uses other than single-family dwellings.
- d. General indications of how subdivision is to be provided with water service, sanitary sewers, and storm drainage.

(B) Supplementary Information. The following information, as applicable, should be provided at this time in order for the Building Commissioner to better assess the advisability of authorizing the preparation of the preliminary plat.

1. The boundary of the property and its true relationship to the right-of-way of the existing road upon which it may border.
2. The location and name of all adjacent subdivided and unsubdivided property.
3. Present zoning classification.
4. The location, width, and type of use of any existing roads, rights-of-way, easements or other special purpose areas within the property, or immediately adjacent thereto, together with the location of any towers, poles, or other structures in connection with electric transmission lines.
5. Approximate location of any existing underground utilities, such as sewers, water mains, storm drains, gas or oil transmission lines, etc., within the property on immediately adjacent thereto, with approximate pipe size and directions of slope.
6. Existing topography with suitable contour intervals, giving benchmarks, not greater than five feet, together with drainage channels, streams, springs, swamps, flood zones, rock outcrops, buildings, wooded areas, or other features likely to affect the plan. The source and accuracy of the topographic details shown on the plan shall be in terms of U.S.G.S. data and/or field survey.

(C) Preliminary Plat

1. General. The preliminary plat shall be prepared by a licensed land surveyor at a convenient "engineer's" scale not more than one (1) inch equals one hundred (100) feet. It may be prepared in pen or pencil and the sheets shall be numbered in sequence, if more than one (1) sheet is used. All sheets shall be of such size as is acceptable for filing in the office



of the County Recorder but shall not be larger than thirty-four by forty-four (34 X 44) inches. The map prepared for the preliminary plat should be drawn on tracing cloth or reproducible mylar. Preparation in pencil would make any required changes and/or additions easier.

2. Name.
  - a. Name of subdivision if property is within an existing subdivision.
  - b. Proposed name if not within a previously platted subdivision.
3. Ownership.
  - a. Name and address, including telephone number, of legal owner or agent of property.
  - b. Citation of any existing legal rights-of-way or easements affecting the property.
  - c. Existing covenants on the property, if any.
  - d. Name and address, telephone number, and registration number of the professional engineer and/or surveyor responsible for subdivision design, for the design of public improvements, and for surveys.
4. Description. Location of property by lot or section, township, range, and county (metes and bounds). Graphic scale, north arrow, and date shall be included.
5. Features.
  - a. Location of property lines, existing easements, burial grounds, railroad rights-of-way, water-courses, and existing wooded areas or trees eight (8) inches or more in diameter, measured four (4) feet above ground level; location, width, and names of all existing or platted streets or other public ways within the tract.
  - b. The location of property with respect to surrounding property and streets, including the names of adjoining developments, and names of adjoining streets.
  - c. Location, size, invert elevations, and slopes of existing sewers, water mains, culverts and other underground structures within the tract and existing permanent buildings and utility poles on the tract.
  - d. Approximate topography of the proposed subdivision site with contour lines shown at five (5) foot intervals in rolling or hilly terrain and two (2) foot intervals in level terrain, referenced to sea-level datum and an established benchmark.
  - e. The approximate location and width of proposed streets.
  - f. Proposals for connection with existing water supply and sanitary sewer systems, or alternative means of providing water supply and sanitary waste disposal and treatment; preliminary provisions for collecting and discharging surface water drainage.
  - g. The approximate location, dimensions, and areas of all proposed or existing lots.
  - h. The approximate location, dimensions, and area of all parcels of land proposed to be set aside for park or playground use or other public use, or for the use of property owners in the proposed subdivision.
  - i. The location of temporary stakes to enable the local officials to find and appraise features of the preliminary plat in the field, if needed.
  - j. Whenever the preliminary plat covers only a part of an applicant's contiguous holdings, the applicant shall submit, at the scale of no more than two hundred (200) feet to the inch, a sketch in pen or pencil of the proposed subdivision area, together with its proposed street system, and an indication of the probable future street system, and an indication of the probable future street and drainage system of the remaining portion of the tract.

k. A vicinity map showing streets and other general development of the surrounding area. The preliminary plat shall show all school and improvement district lines with the districts (or zones) properly designated.

(D) Final Plat

1. General. The final plat shall be prepared by a licensed land surveyor or engineer at a convenient "engineers" scale not more than one (1) inch equals one hundred (100) feet. It shall be prepared in pen and the sheets shall be numbered in sequence if more than one (1) sheet is used. All sheets shall be of such size as is acceptable for filing in the office of the County Recorder but shall not be larger than thirty-four by forty-four (34 X 44) inches. The map prepared for the final plat should be drawn on tracing cloth or reproducible mylar.

2. Features. The final plat shall show the following:

a. The location and dimensions of all boundary lines of the property and lots expressed in feet and decimals of a foot, the area and bearings of all lines to a minimum of one-half (1/2) minute.

b. The location, width, or size of existing streets, easements, water bodies, and other pertinent features such as swamps, railroads, buildings, parks, cemeteries, drainage ditches, bridges, and culverts, as determined by the Plan Commission.

c. The location and width of all proposed streets, easements, alleys, and other public ways, and proposed street rights-of-ways and building set-back lines.

d. The location, dimensions, and areas of all proposed or existing lots including dimensions of all lot lines expressed in feet and decimals of a foot, and bearings of all lines to a minimum of one-half (1/2) minute.

e. The location and dimensions of all property proposed to be set aside for park or playground use, or other public or private reservation, with designation of the purpose, thereof, and conditions, if any, of the dedication or reservation.

f. The name and address of the owner of land to be subdivided; the name and address of the subdivider, if other than the owner; and the name and address of the land surveyor.

g. The date of the map, north arrow, scale, and title of subdivision.

h. The location of all proposed and existing monuments.

i. Name of the subdivision.

j. Indication of the use of any lot (single-family, two family, multi-family, etc.) and all uses other than residential proposed by the subdivider.

k. Blocks and lots shall be consecutively numbered, blocks in numbered additions to subdivisions bearing the same name shall be numbered consecutively throughout the several additions.

l. The plat should include the following notations:

i. Explanation of drainage easements, if any.

ii. Explanation of site easements, if any.

iii. Explanation of reservations, if any.

iv. Endorsement of owner with date and signature.

m. A block or space shall be set aside on the final plat in the following form for endorsement by Commission President.

n. The lack of informant on under any item specified herein, or improper information supplied by the applicant, shall be cause for disapproval of a final plat.

(E) Construction Plan

1. General. Construction plans shall be prepared for all required improvements. Plans shall be drawn on standard thirty-four by forty-four (34 x 44) inch sheets at a scale of no more than one (1) inch equals one hundred (100) feet.

2. Features. The plans shall show the following:

a. Profiles showing existing and proposed elevations along center lines of all streets. Where a proposed street intersects an existing street or streets, elevation along the center line of the existing street or streets within one hundred (100) feet of the intersection. Approximate radii of all curves, lengths of tangents, and central angles on all streets.

b. Plans and profiles showing the location and typical cross-section of streets including curbs and gutters, sidewalks, rights-of-way drainage facilities, manholes, and catch basins; the location, size, and invert elevations of existing and proposed sanitary sewers, storm water drains, and fire hydrants, showing connection to any existing or proposed utility systems; the location of street, streets, street lighting standards, and street signs; and exact location and size of all water, gas, or other underground utilities or structures.

c. Location, size, elevation, and other appropriate description of any other existing physical and natural features or facilities, including features noted on the official maps of local government, trees with a diameter of eight (8) inches or more (measured four (4) feet above ground level), the points of connection to proposed facilities and utilities, and the approximate high and low-water elevations of all ponds, lakes, and streams. All elevations shall be referred to the U.S.G.S. datum plane.

d. Topography at a scale of one inch (1") equals one hundred feet (100') with contour intervals at two (2) and/or five (5) feet, depending on the terrain type.

e. All specifications and references required by the local government's construction standards and specifications, including a site-grading plan for the entire subdivision, and a traffic control and barricading plan, where required.

f. Notation of any self-imposed restrictions, and locations of any buildings and lines proposed to be established in this manner, if required by the Commission in accordance with these regulations. The Commission may require that restrictive covenants be recorded with the County Recorder in a form to be approved by the local governmental Attorney.

g. Endorsement of Newton County health officials.

h. Lots numbered as approved by the Newton County Assessor.

i. Space for notation of approval as follows:

APPROVED BY:

Owner: \_\_\_\_\_ Date: \_\_\_\_\_

Plan Comm. President \_\_\_\_\_ Date: \_\_\_\_\_

j. Title, name, registration number (seal), address, and signature of professional engineer or surveyor, and date.

§ 170.16 DEFINITIONS

(A) The following definitions shall apply to this Chapter:

1. Accessory Building or Use. An accessory building or use is one which is subordinate to and serves a principal building or use, is subordinate in activity, extent, or purpose to the principal use served.
2. Agriculture. The use of land for farming, dairying, pasturage, agriculture, apiculture, horticulture, floriculture, viticulture, animal and poultry husbandry, and the necessary accessory uses for packing, treating, or storing produce, provided, however, that:
  - a. The operation of any such accessory uses shall be secondary to that of normal agricultural activities;
  - b. The above uses shall not include the feeding or sheltering of animals or poultry in penned enclosures within fifteen hundred (1500) feet of any residential zoning district;
  - c. The agriculture does not include the operation or maintenance of a commercial stockyard or feedlot where large numbers of livestock are fed concentrated feeds particularly for the purpose of fattening for market.
3. Building Commissioner. An official, having knowledge in the principles of zoning and subdividing, who is appointed by the Town Council, to administer the Chapter and regulations.
4. Agricultural Building. A structure utilized for the conduct of farming operations but does not include a dwelling.
5. Airport. Any location, either on land, water, or structure which is designed or used for the landing and taking off of aircraft, including all necessary buildings and facilities, if any.
6. Alterations. Any change, addition, or modification in construction, or any change in the structural members of a building, such as bearing walls, columns, beams, or girders.
7. Apartment Building. A building providing more than two rooms or suites, or rooms designed as single-family dwellings and with each including culinary accommodations.
8. Applicant. The owner of land proposed to be subdivided or his representative. Consent shall be required from the legal owner of the premises.
9. Area of Critical Concern. A geographic area or site, regardless of its size, that is significantly affected by, or has a significant effect upon natural, man-made, historical or environmental resources, or is in limited supply and is of local, regional statewide, or national importance.
10. Basement. A portion of the building partly underground but having less than half its clear height below the average grade of the adjoining ground.
11. Block. A tract of land bounded by streets, or a combination of streets and public parks cemeteries, railroad rights-of-way, shorelines of waterways, or boundary lines of municipalities.
12. Board. Board of Zoning Appeals.
13. Boarding House. A building, not available to transients, in which meals are regularly provided for compensation for at least three (3) but not more than thirty (30) persons.
14. Bond. Any form of security including a cash deposit, surety, bond, collateral, or property in an amount and form satisfactory to the Town Council. All bonds shall be approved by the Town Council whenever a bond is required by these regulations.
15. Building. Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattels, or property of any kind, and includes any structure.
  - a. Detached. Building with no party wall.
  - b. Semi-detached. A building with only one-party wall in common with

another building.

c. Attached. A building which has two party walls in common with adjacent buildings.

16. Building Area. The maximum horizontal projected area of the buildings on a lot, excluding open steps or terraces, unenclosed porches not more than one story high, and architectural features that project no more than two (2) feet.

17. Building Height. A building's vertical measurements from the established grade to a point midway between the highest and lowest points on the roof; excluding chimneys, spires, towers, elevator penthouses, tanks, flagpoles, aeriels, stacks, beacons, and similar projections of the building.

18. Building Line. A line parallel to the lot line at a distance therefrom equal to the depth of the yard required for the district in which the lot is located.

19. Building Site. An area proposed or provided by grading, filling, excavation or other means for erecting pads or foundations for buildings.

20. Business, General. Commercial uses which generally require locations on or near major highways, and/or their intersections, and which tend, in addition to serving day-to-day needs of the neighborhoods, also supply the more durable and permanent needs of the whole community.

21. General business uses include, but need not be limited to, such activities as major supermarkets, stores that sell hardware, apparel, footwear, appliances and furniture, and various department and discount stores. Also included here may be drive-in banks.

22. Business, Highway. Commercial uses which generally require locations on or near major highways and/or their intersections, and which tend to serve the motoring public. Highway business uses include, but need not be limited to, such activities as filling stations, automotive sales and service, restaurants and motels, and commercial recreation.

23. Capital Improvements Program. A proposed schedule of all future projects in order of construction priority together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual Town's operating expenses, for the purchase, construction, or replacement of the physical assets for the Town are included.

24. Cemetery. Land used or intended to be used for the burial of the human or animal dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery for which perpetual care and maintenance is provided.

25. Central Sewerage System. A community sewer system including collection and treatment facilities established by the developer to serve a new subdivision in an outlying or generally rural area.

26. Certificate of occupancy. A certificate signed by the Building Commissioner stating that the occupancy and use of land or a building or structure referred to therein complies with the provisions of this Article.

27. Channel. A natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water.

28. Club. A building or portion thereof or premises owned or operated by a person for a social, literary, political, educational, or recreational purpose primarily for the exclusive use of members and their guests but not including any organization, group, or association, the principal activity of which is to render a service usually and ordinarily carried on as a business.

29. Commission. The Town of Goodland Plan Commission appointed in accordance with the appropriate planning enabling act.

30. Comprehensive Plan or Master Plan. A document that herein may be referred to as a comprehensive plan, comprehensive development, or master plan. It is a plan for the physical development of the community within the jurisdiction of the local government prepared and adopted by the Commission, pursuant to state law, and including any part of such plan separately adopted and any amendment to such plan, or parts thereof.

The document shall show the general location and extent of present and proposed physical development, including, but not limited to, housing, industrial and commercial uses, streets, parks, schools, and other community facilities.

31. Condominium. An estate consisting of an undivided interest in common in real property, in an interest or interests in real property, or in any combination thereof; together with a separate interest in real property, in an interest or interests in real property, or in any combination thereof.

32. Confinement Feeding. Any time 100 or more cattle, 100 or more swine or sheep, or 3,000 or more fowl are housed (or penned) and fed in a confined area.

33. Construction Plan. The maps, drawings and textual descriptions accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the Commission as a condition of the approval of the plat.

34. County Recorder. The office of the County Recorder.

35. Covenant. A private legal restriction on the use of the land contained in the deed to the property or otherwise formally recorded.

36. Culvert. A drain that channels water under a bridge, street, or driveway.

37. Dedication. The setting apart of land or interests in land for use by the public by ordinance, resolution, or entry in the official minutes as by the recording of a plat.

38. Density. A unit of measurement; the number of dwelling units per acre of land.

a. Gross Density - the number of dwelling units per acre of the total land to be developed, including public right-of-way.

b. Net Density - the number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses, excluding public right-of-way and other public sites.

39. Density, High. Any subdivision with a density greater than six (6) dwelling units per acre of gross land area.

40. Density, Medium. Any subdivision with a density of two (2) dwelling units per acre of gross land area.

41. Developer. Authorized agent(s) of a subdivider or the subdivider himself. The developer may be the owner of land proposed to be subdivided or his representative, the subdivider.

42. District. A section of the Planning Jurisdiction of the Town of Goodland for which regulations governing the use, height, area, site, and intensity of use of buildings and land are uniform.

43. Dwelling. A fixed structure of building, containing one or more dwelling units.

a. Single Family. A detached building designed for or occupied by not more than one (1) family.

b. Two Family. A detached or semidetached building designed for or

occupied by not more than two (2) families.

c. Multiple - A building designed for or occupied by three (3) or more families living independent of one another.

44. Dwelling Unit. A room or group of rooms designed and equipped exclusively for use as living quarters for only one family and its household employees, including provisions for living, sleeping, cooking, and eating. The term shall include mobile homes but shall not include house trailers or recreational vehicles.

45. Easement. An authorization or grant by a property owner to specific person(s) or to the public to use land for specific purposes.

46. Engineer. Any person who is licensed in the State of Indiana to practice professional engineering.

47. Escrow. A deposit of cash with the local government in lieu of an amount required and still in force on a performance or maintenance bond.

48. Family. One or more persons occupying a single dwelling unit, provided that all members are related by blood, adoption, or marriage.

49. Fence. A structure, including entrance and exit gates, designed and constructed for enclosure or screening.

50. Flood (or Floodwater). The temporary inundation of land adjacent to and inundated by overflow from a river, stream, lake, or other body of water.

51. Flood Control. The prevention of floods, the control, regulation, diversion or confinement of flood water or flood flow, and the protection, therefrom, according to sound and accepted engineering practice, to minimize the extent of floods, and the death, damage, and destruction caused thereby, and all things incidental thereto or connected therewith.

52. Flood Hazard Area. A flood plain, or portion thereof, which has not been adequately protected from floodwater by means of dikes, levees, reservoirs, or other works approved by the Indiana Department of Natural Resources.

53. Flood Plain. The relatively flat area or low land adjoining the channel of a river or stream which has been or may be covered by floodwater. The flood plain includes the channel, floodway and floodway fringe.

54. Flood, Regulatory. A flood having a peak discharge which can be expected to be equaled or exceed on the average of once in a hundred-year period, as calculated by a method and procedure which is acceptable to and approved by the Indiana Department of Natural Resources. The 100-year frequency flood is equivalent to a flood having a probability of occurrence of one percent (1%) in any given year (a flood magnitude which has a one percent chance of being equaled or exceeded in any given year).

55. Floodway. The channel of a river or stream and those portions of the flood plain adjoining the channel, which are reasonably required to carry and discharge the flood water or flood flow of any river or stream.

56. Floodway Fringe. Those portions of the flood hazard areas lying outside the floodway.

57. Floor Area. The sum of the horizontal areas of such story of the building measured from the exterior faces of the exterior walls, exclusive of areas of basements, unfinished attics, attached garages, breezeways and unenclosed porches.

58. Floor Area, Ground. The area of a building in square feet, as measured in a horizontal plane at the ground floor level within its largest outside dimensions, exclusive of open porches, breezeways, terraces, garages and exterior stairways.

59. Frontage. The length along the street right-of-way line of a single lot, tract, or development area between the side lot lines of the property. It is that side of a lot abutting a street and ordinarily regarded as the front of the lot.

60. Garage, Private. An accessory building for parking or storage of not more than three (3) motor vehicles per family, not more than one (1) of which may be a commercial vehicle of not more than three (3) tons gross vehicle weight. A garage designed to accommodate two (2) motor vehicles for each family housing in a two-family or multi-family dwelling shall be considered a private garage.

61. Garage, Public. Any building, except those defined herein as a private garage, used for the storage, or care of motor vehicles, or where such vehicles are equipped for operation, repaired, or kept for remuneration, hire, or sale.

62. Governing Body. The Goodland Town Council which is the body of local government having the power to adopt ordinances.

63. Governmental Attorney. An attorney licensed in the State of Indiana and designated by the Town Council to furnish legal assistance for the administration of these regulations.

64. Grade. The slope of a road, street, or other public way specified in terms of percentage (%).

65. Health Department and Health Officer. The agency and person designated by the Newton County Commissioners to administer the health regulations of the local government.

66. Highway. See Street.

67. Home Occupation. Any occupation carried on within the walls of a dwelling and not visible or noticeable in any manner or form from outside the walls of the dwelling.

68. Hotel or Motel. A building in which lodging, or boarding are provided and offered to the public for compensation. As such it is open to the public in contradistinction to a rooming house, boarding house, lodging house, or dormitory which is herein separately defined.

69. Improvement. Any alteration to the land or other physical constructions associated with subdivision and building site development.

70. Improvement, Lot. Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment. Certain lot improvements shall be properly bonded as provided in these regulations.

71. Improvement, Public. Any drainage ditch, roadway, sidewalk, tree, lawn, off-street parking area, lot improvement or other facility for which the local or state government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local or state government responsibility is established. All such improvements shall be properly bonded.

72. Improvement Location Permit. A site plan review permit signed by the Building Commissioner stating that a proposed improvement complies with the provisions of this Chapter.

73. Improvement, Temporary. Improvements built and maintained by a subdivider during construction of the subdivision and prior to release of the performance bond.

74. Individual Sewage Disposal System. A septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device.

75. Infrastructure. The fixed public works and facilities necessary in a community, such as sewers, water systems and streets.

76. Jurisdiction. Jurisdiction of local government means all land within its boundaries



and any land outside its boundaries over which it is authorized to exercise powers under these regulations.

77. Land. The earth, water and air, above, below, or on the surface, and includes any improvements or structures customarily regarded as land.

78. Land Use. The development existing on land.

79. Land Surveyor. Any person who is licensed in the State of Indiana to practice professional land surveying.

80. Loading Space, Off-Street. Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space. All off-street loading spaces shall be located totally outside of any street or alley right-of-way.

81. Local Government. The Town Council which is by law to enforce subdivision regulations within its planning jurisdiction.

82. Lot. A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, or transfer of ownership or for building development.

83. Lot Area. The area of the horizontal plane of the lot bounded by the vertical planes of the front, side, and rear lot lines.

84. Lot Frontage. The front of a lot shall be construed to be the portion nearest the street. For the purpose of determine yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "Yards" in this section.

85. Lot Types. Terminology used in this Chapter with reference to different types of lots is as follows:

a. Corner Lot. A lot at the junction of and fronting on two or more intersection streets.

b. Depth of Lot. The mean distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

c. Lot Width. The width of the lot between side lot lines at the front building line as prescribed by the front yard regulations.

d. Lot Line. Any boundary line of a lot.

e. Lot Area. The total horizontal area within the lot lines of a lot.

f. Lot Coverage. The percentage of a lot occupied by buildings.

g. Interior Lot. A lot with only one frontage on a street.

h. Through Lot. A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

i. Reversed Frontage Lot. A lot on which frontage is at right angles to the general pattern in the area. A reversed frontage lot may also be a corner lot.

86. Master Plan. See Comprehensive Plan.

87. Mobile Home. A portable manufactured housing unit designed for transportation on a chassis and for placement on a temporary or permanent foundation, possessing a body width of not less than eight (8) feet and an overall body length of not less than thirty-two (32) feet less hitch. Any such mobile home shall comply in full with standards, rules, and regulations prescribed in (NFPA No. 501B, 2017, Mobile Home Code.)

88. Mobile Home Park. A parcel of land on which two or more mobile homes are

regularly accommodated with or without charge, including any building or other structures, fixtures, or equipment that is used or intended to be used in providing that accommodation and for which a state license is required.

89. Monument. Any permanent marker either of stone, concrete, galvanized iron pipe, or iron or steel rods used to identify the boundary lines of any tract, parcel, lot, or street lines.

90. Non-Conforming. A building or use, existing at the effective date of the 1985 Code, or amendments thereto, that does not conform to provisions and regulations for the District in which it is located.

91. Nonresidential Subdivision. A subdivision whose intended use is other than residential, such as commercial or industrial.

92. Off-Site (Off-Premise). Any premises or structure not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.

93. Open Space. A public or private outdoor area expressly set aside for the use and benefit of many unrelated people.

94. Ordinance. Any legislative action, however denominated, of a local government which has the force of law, including any amendment or repeal of any ordinance.

95. Owner. Any person, firm, association, syndicate, partnership, corporation, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.

96. Performance Bond. An amount or money or other negotiable security paid by the subdivider or his surety to the Town Council which guarantees that the subdivider will perform all actions required by the Town Council regarding an approved plat, and provides that if the subdivider defaults and fails to comply with the provisions of an approved plat, the subdivider or his surety will pay damages up to the limit of the bond, or the surety will itself complete the requirements of the approved plat.

97. Planned Unit Development. A subdivision designed as a combination of residential, commercial, and/or industrial uses planned for a tract of land to be developed as a unit under single ownership or control, which is developed for the purpose of selling individual lots or estates, whether fronting on private or dedicated streets, which may include two or more principal buildings.

98. Plan Commission. The Town of Goodland Plan Commission.

99. Plat. The Drawing, map, or plan of a subdivision or other tract of land or a replat of such including certifications, descriptions and approvals.

100. Plat, Final. The final and formal presentation of the map, plan or record of a subdivision and any accompanying material, as described in these regulations.

101. Plat, preliminary. The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Commission for approval.

102. Premises. One or more lots which are in the same ownership and are contiguous or separated only by a road or waterbody, including all buildings, structures, and improvements.

103. Professional Office. Office of a member or members of a recognized profession as defined by the United States Bureau of Census.

104. Reserve Strip. A strip of land between a partial street and adjacent property, which is reserved or held in public ownership for future street extension or widening.

105. Resubdivision (Replat). A change in a map for an approved or recorded

subdivision plat if such change affects any street layout on such map or area reserved thereon for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivision.

106. Right-Of-Way. A strip of land occupied or intended to be occupied by transportation facilities, public utilities or other special public uses. Rights-of way intended for any use involving maintenance by a public agency shall be dedicated to the public use by the maker of the plat on which such right-of-way is established.

107. Right-of-Way Width, Street. The distance between property lines measured at right angles to the center line of the street.

108. Road. See Street.

109. Sale or Lease. Any immediate or future transfer of ownership, any possessory interest in land, including contract of sale, lease, devise, or transfer, of an interest in a subdivision or part thereof, whether by deed, metes and bounds, contract, or other written instrument.

110. Same Ownership. Ownership by the same person, corporation, firm, entity, partnership, or unincorporated associations, in which a stockholder, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

111. Screening. Any means of protecting an area of land from the adverse visual and audible effects of another area. The specific requirements for screening are set forth in this Chapter.

112. Setback. The distance between a building and the nearest street right-of-way line or property line regardless of whether it is the front, side, or rear of the building. It is an imaginary line established by the Zoning Code that requires all buildings to be set back a certain distance from property lines.

113. Setback, Front. The distance between a building and the street right-of-way line nearest thereto.

114. Sign. A name, identification, image, description, display, or illustration which is affixed to or represented directly or indirectly upon a building, structure, or piece of land and which directs attention to an object, product, place, activity facility, service, event, attraction, person, or business and which is visible to passers-by from any public or semi-public property.

115. Special Exception Use (Conditional Use). A special use permitted within a district other than a principally permitted use, requiring a conditional use permit and approval of the Board of Zoning Appeals because of its unusual nature. Conditional uses permitted in each district are listed in the Official Schedule of District Regulations.

116. Special Exception Permit (Conditional Use). A permit issued by the Board of Zoning Appeals to allow a use other than a principally permitted use to be permitted within the district.

117. Standard Specifications. Standard specifications set by the laws of the State of Indiana.

118. Street. A general term denoted a public way for purposes of vehicular travel, including the entire area within the right-of-way. The term "street" also includes the terms highway, parkway, road, thoroughfare, avenue, boulevard, land, court, place, and other such terms. The recommended usage is: highway or street in urban area; highway or road in rural area.

a. Alley. A street intended to provide secondary access to the rear or side of lots or to buildings in urban areas and not intended for the purpose of through vehicular traffic.

b. Arterial. A system of streets and roads which form an integrated network of continuous routes primarily for through traffic. The "arterial" system is stratified into "principal" (or major) and "minor" categories.

i. Principal. Serves corridor traffic movements having trip length and travel density characteristics indicative of substantial statewide or interstate travel or connects major population centers in rural areas or serves major centers of activity and highest traffic volume corridors with the longest trip desires in urban areas.

ii. Minor. Links other cities, large towns and traffic generators, and provides a substantial amount of interstate and intercounty service in rural areas; or interconnects and augments with the principal arterials to provide service to trips of moderate length for intracommunity in urban areas.

c. Collector. A system of streets and roads which generally serve travel of primarily intra-area and intra-county importance with approximately equal emphasis to traffic circulation and land access service. The "collector" system is generally further stratified into a "major" and "minor" category. The system collects and distributes traffic between the arterial and local systems.

d. Cul-de-sac. A local street open at one end only and with a special provision for a vehicle turnaround.

e. Dead-end. A local street open at one end only and without a special provision for a vehicle turnaround.

f. Frontage. A local street or road auxiliary to and located on the side of an arterial for service to abutting property and adjacent areas, and for control of access. (Sometimes also called a "marginal access street.")

g. Highway. A term applied to streets and roads that are under the jurisdiction of the Indiana Department of Transportation.

h. Local. A system of streets and roads which primarily provide access to higher order system.

i. Loop. A local street with both terminal points on the same street or origin.

j. Perimeter. Any existing street to which the parcel of land to be subdivided abuts on only one (1) side.

k. Private. A local street that is not dedicated or accepted for public use or maintenance which provides vehicular and pedestrian access.

l. Public. Street under the control of and kept by the public, established by regular governmental proceedings for the purpose, or dedicated by the authorities and for the maintenance of which are responsible.

119. Structure. Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, walls, swimming pools, fences and signs.

120. Subdivider. A subdivider shall be deemed to be the individual, firm, corporation, partnership, association, syndicate, trust or other legal entity that executes the application and initiates proceeding for the subdivision of land in accordance with the provisions of this Article. The subdivider need not be the owner of the property; however, he shall be an agent of the owner or have sufficient proprietary rights in the property to represent the owner.

121. Subdivision. The division of a lot, tract, or parcel of land, vacant, or improved, which is divide or proposed to be divided into two (2) or more lots, parcels, sites, units, plots, or

interests for the purpose of offer, sale, lease, or development either on the installment plan, or upon any and all other plans, terms, and conditions, including resubdivision and all changes in street or lot lines, provided, however, that division of land for agricultural purposes and division of land in parcels of more than ten (10) acres shall not be considered a subdivision under the terms of the Article. Subdivision includes the division or development of residential and non-residential zoned land, whether by deed, metes and bounds description, or other recorded instrument. However, this Chapter shall not apply to any of the following:

- a. An adjustment of lot lines as shown on a recorded plat which does not reduce the area, frontage, width, depth, or building setback lines of each building site below the minimum zoning requirements and does not change the original number of lots in any block of the recorded plat.
- b. An allocation of land in the settlement of an estate of a decedent or a court decree for the distribution of property.
- c. The unwilling sale of land as a result of legal condemnations as defined and allowed in the Indiana State Law;
- d. Widening of existing streets to conform to the Comprehensive Plan,
- e. The acquisition of street rights-of-way by a public agency in conformance with the Comprehensive Plan.
- f. The exchange of land for the purpose of straightening property boundaries which does not result in the change of the present land usage.

122. Subdivision Plat. The final map or drawing, described in these regulations, on which the subdivider's plan of subdivision is presented to the Commission for approval and which, if approved shall be submitted to the County Recorder for filing.

123. Subdivision Regulations or Subdivision Control Ordinance. The Sections of this Chapter for ensuring the orderly development of land by requiring coordination of new public facilities with existing facilities; and providing standards for lot layout, street design, utilities and easements to assure compatibility with long-range Comprehensive Plan.

124. Terrain Classification. For purposes of these regulations and to guide the application of geometric design criteria, terrain has been classified as follows:

- a. Level. That condition where street sight distances, as governed by both horizontal and vertical restrictions, are generally long or could be made to be so without construction difficulty or major expense.
- b. Rolling. That condition where the natural slope consistently rise above and fall below the street grade line and where occasional steep slopes offer some restriction to normal horizontal and vertical street alignment.
- c. Hilly. That condition where longitudinal and transverse changes in the elevation of the ground with respect to a street are abrupt and where the roadbed is obtained by fragment benching or side hill excavation.

125. Thoroughfare Plan. A plan and maps established by the Town Council pursuant to law as a portion of the Comprehensive Plan, showing the location of streets and roads functionally classified into systems. Such a plan generally includes the location of public facilities, utilities and desirable future infrastructure. The plan as approved, adopted and established by law and any amendments or additions, including those resulting from the approval and filing of subdivision plats, are adopted by the Town Council as a continuous updating of the plan.

126. Town. Town of Goodland being the governmental body having jurisdiction of the

parcel of land under consideration.

127. Traffic Control Devices. All signs, signals, markings and devices placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

128. Travel Trailer. A vehicular portable structure built on a chassis designed as a temporary dwelling for travel, recreation, vacation, and other short term uses having a body width not exceeding eight (8) feet and a body length not exceeding thirty-five (35) feet.

129. Use. Any activity, occupation; business, or operation carried on in a building or other structure or on a tract of land.

130. Use, Principal. The main use of a lot.

131. Use, Accessory. A use customarily incidental and subordinate to the principal use of a building and located on the same lot with such principal use of a building.

132. Utilities. Installations for transmission of water, sewage, gas, electricity, telecommunications and storm water and similar facilities providing service to and used by the public.

133. Variance. A modification of the strict terms of the relevant regulations of this Chapter where such modification will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this Chapter would result in unnecessary and undue hardship.

134. Vicinity Map. A small-scale map showing the location of a tract of land in relation to a larger area.

135. Yard. An open space unobstructed from the ground up on the same lot with a principal structure, extending along a lot line or street line and inward to the structure. The size of the required yard shall be measured as the shortest distance between the structure and a lot line or street line.

a. Yard, Front. A yard between a principal structure and a street line and extending the entire length of the street line. In the case of a corner lot, or a through lot, the yards extending along all streets are front yards.

b. Yard, Rear. A yard between a principal structure and a rear lot line and extending the entire length of the rear lot line.

c. Yard, Side. A yard between a principal structure and a side lot line, extending from the front yard to the rear yard.

136. Zoning. The division of an area into districts and the public regulation of the character and intensity of the use of the land, and of the buildings and structures which may be located thereon, in accordance with a comprehensive plan.

137. Zoning Administrator. See Building Commissioner.

138. Zoning Code or Chapter. A legal tool for accomplishing the objectives of a land use plan. It is an effective regulatory measure designed to encourage high standards of development and to foster the most efficient use of land.