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TITLE I: GENERAL PROVISIONS

CHAPTER 10: RULES OF CONSTRUCTION

CHAPTER 10: RULES OF CONSTRUCTION

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§10.01 TITLE OF CODE

This codification of ordinances by the City of New Haven, Indiana, shall be designated as the "New Haven Code" and may be so cited.

§10.02 INTERPRETATION

(A) Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this Code as those governing the interpretation of the Indiana Code.

(B) Where a section of this Code is followed by a reference to the Indiana Code, the reference indicates that the section is analogous or similar to the cited sections in the Indiana Code. Footnotes, cross-references, and other comments are by way of explanation only and should not be deemed a part of the text of any section.

(C) All provisions of this Code are limited in application to the territorial boundaries of the municipal corporation although the provisions may not be so limited specifically.

(D) Code, title, chapter, and section headings do not constitute any part of the law as contained in the Code.

§10.03 APPLICATION TO FUTURE ORDINANCES

All provisions of Title I not incompatible with future legislation shall apply to ordinances hereafter adopted which amend or supplement this Code unless otherwise specifically provided.

§10.04 CAPTIONS

Headings and captions used in this Code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§10.05 DEFINITIONS

(A) General rule. Words and phrases shall be taken in their plain, ordinary, and usual sense. But technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import. (IC 1-1-4-1)

(B) For the purpose of this Code, unless otherwise specifically provided, the following words and phrases shall have the following meanings:

(1) <u>City, Municipal Corporation, or Municipality</u>. The City of New Haven, Indiana.

(2) This Code or This Code of Ordinances. The Municipal Code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

(3) Council. The Common Council of New Haven, Indiana.

(4) May. The act referred to is permissive.

(5) Month. A calendar month.

(6) Owner. Applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, or joint tenant of the whole or a part of such building or land, either alone or with others.

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

(8) Personal Property. Every species of property except real property.

(9) Property. Real and personal property.

(10) Real Property. Lands, tenements, and hereditaments and all chattels real.

(11) Shall. The act referred to is mandatory.

(12) Sidewalk. That portion of a street between the curb lines of the lateral lines of a roadway and the adjacent property lines, intended for the use of pedestrians.

(13) State. State of Indiana.

(14) Street. Except as provided in the traffic code, the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right.

(15) Year. A calendar year, unless otherwise expressed; equivalent to the words Year of our Lord. (IC 1-1-4-1)

§10.06 RULES OF INTERPRETATION

The construction of all ordinances of this City shall be by the following rules, unless the construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance. (IC 1-1-4-1)

(A) And or Or. Either conjunction shall include the other as if written "and/or", if the sense

requires it.

(B) Acts by Assistants. When a statute requires an act to be done which, by law, an agent or deputy may do as well as the principal, the requisition shall be satisfied by the performance of the act by an authorized agent or deputy. (IC 1-1-4-1)

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

(D) General Term. A general term following specific enumeration of terms is not to be limited to the class enumerated, unless expressly so limited.

(E) Joint Authority. Words importing joint authority to three or more persons shall be construed as authority to a majority of such persons, unless otherwise declared in the law giving the authority. (IC 1-1-4-1)

§10.07 SEVERABILITY

If any provision of this Code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application. (IC 1-1-1-8)

§10.08 REFERENCE TO OTHER SECTIONS

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

§10.09 REFERENCE TO OFFICES

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

§10.10 ERRORS AND OMISSIONS

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied,

omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§10.11 OFFICIAL TIME

The official time, as established by applicable state and federal law, shall be the official time within the City of the transaction of all City business.

§10.12 REASONABLE TIME

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

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded. (IC 34-1-61-1).

§10.13 ORDINANCES REPEALED

This Code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this Code shall be deemed repealed from and after the effective date of this Code.

§10.14 ORDINANCES UNAFFECTED

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

§10.99 GENERAL PENALTY

Whoever violates any provision of this Code for which another penalty is not specifically provided shall be fined not more than $1,000 for each offense.

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CHAPTER 30: COMMON COUNCIL

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RULES AND REGULATIONS FOR GOVERNMENT OF COMMON COUNCIL

§30.01 INITIAL MEETING OF COMMON COUNCIL MEMBERS

The members-elect of the Common Council shall hold their first regular meeting in January after their election at the hour of 7:30 p.m. in the council chambers.

(A) The members-elect at this meeting shall determine the time and place of the future meetings of the Common Council, which shall be at least twice in every month thereafter.

(B) The members-elect at such meeting shall review the existing rules of the Common Council and determine if these rules shall be altered, amended, or rescinded and may adopt a motion to accept such rules as established or may make recommendations to alter, amend or rescind any rule or rules in part or in toto.

(C) The members-elect shall transact any other business as shall be required by statute not limited to but to include the election of a Council member to the City Plan Commission and of any other special body to which the Council shall be entitled to name a member.

[Ord. G-92-1, passed 3-10-92]

§30.02 PRESIDING OFFICER

It shall be the duty of the Mayor of the City of New Haven to preside at all meetings of the Common Council of the City of New Haven.

(A) The Mayor, while so presiding, shall have a casting vote in case of a tie, but not otherwise.

(B) The members of the Common Council shall choose a president pro tempore from its members, who shall preside whenever the Mayor is absent from any meeting for any cause.

[Ord. G-01-7, passed 6-26-01; Ord. G-02-03, passed 4-9-02]

§30.03 REGULARLY SCHEDULED MEETINGS

(A) The Common Council of the City of New Haven shall meet in regular session at 7:00 P.M. (EST) on the second and fourth Tuesday of each and every month; except if such date shall fall on a legal holiday, the date of such monthly meeting can be determined to be at a time and date in said month as shall be determined by a majority of the members of the Common Council at the regular meeting held in the month immediately prior thereto.

(B) One (1) but not more than one (1) regularly scheduled meeting each month may be canceled provided that the Mayor determines there to be insufficient business to warrant holding the meeting and that, before 5:00 P.M. on the Friday before the scheduled meeting date, notice of such cancellation is posted at City Hall and is mailed to the City Attorney and all persons who are entitled to receive notice of special meetings.

[Ord. G-92-1, passed 3-10-92]

§30.04 SPECIAL MEETINGS

Special meetings of the Common Council shall be held upon the call of the Mayor or of any four members of the Common Council, subject to the following provisions:

(A) It shall be the duty of the person or persons calling the special meeting to duly notify the Clerk Treasurer thereof in writing in time to reasonably permit the Clerk Treasurer to prepare and serve notice on all members at least 48 hours prior to the time of the meeting as hereafter provided, whereupon it shall be the duty of the Clerk Treasurer to cause notice of such special meeting to be served in writing upon each member, either in person or by notice left at his place of residence.

(B) Only such ordinances, resolutions, or such communications received or other business shall be considered or acted upon as are specifically stated in the call for the meeting.

[Ord. G-92-1, passed 3-10-92]

§30.05 QUORUM

A majority of all the members-elect of the Common Council shall constitute a quorum.

[Ord. G-92-1, passed 3-10-92]

§30.06 MAJORITY VOTE REQUIRED

A majority vote of all members-elect of the Common Council shall be required to pass an ordinance, resolution, order or motion unless a greater number shall be required by law.

[Ord. G-92-1, passed 3-10-92]

§30.07 TWO-THIRDS VOTE REQUIRED

Whenever it is required that any ordinance or resolution shall be passed or other action of the Common Council taken by a two-thirds (2/3) vote, such requirement shall be construed to mean a two-thirds (2/3) vote of all the members-elect.

[Ord. G-92-1, passed 3-10-92]

§30.08 PROCEDURE FOR PASSAGE OF ORDINANCES AND RESOLUTIONS

No ordinance, order or resolution of the Common Council shall become a law, or be operative, until it has been signed by the presiding officer of the Common Council, and approved in writing by the Mayor or passed over the Mayor's veto and promulgated according to law, whenever necessary.

[Ord. G-92-1, passed 3-10-92]

§30.09 PASSAGE ON DAY OF INTRODUCTION

No ordinance shall be passed on the same day, or at the same meeting, that such ordinance is introduced, except by unanimous consent to proceed and to suspend these rules, and then only in case there are present and voting at least two-thirds (2/3) of all the members-elect of the Common Council.

[Ord. G-92-1, passed 3-10-92]

§30.10 ORDINANCES IMPOSING A PENALTY OR FORFEITURE

Every ordinance duly adopted by the Common Council imposing a penalty or forfeiture for the violation thereof shall, before the same shall take effect, be published as required by law, except if there is an urgent necessity requiring its immediate effectiveness, the Mayor proclaims the urgent necessity, and copies of the ordinance are posted in three (3) public places in each of the districts from which members are elected to the Common Council.

[Ord. G-92-1, passed 3-10-92]

§30.11 PROCEDURE AFTER PASSAGE OF ORDINANCES AND RESOLUTIONS

Every ordinance, order or resolution of the Common Council shall immediately upon its passage, enrollment, attestation and signature by the Clerk Treasurer and presiding officer, be presented by the Clerk Treasurer to the Mayor, and a record of the time of such presentation made by the Clerk Treasurer.

(A) Within ten (10) days after an ordinance, order, or resolution is presented to him the Mayor shall:

(1) Approve the ordinance, order, or resolution, by entering his approval on it, signing it, and sending the Common Council a message announcing his approval; or,

(2) Veto the ordinance, order, or resolution, by returning it to the Common Council with a message announcing his veto and stating his reasons for the veto.

(B) If the Mayor fails to perform his duty under subsection (A), the ordinance, order, or resolution is considered vetoed, in which case the Clerk Treasurer will present the ordinance to the Common Council at the next meeting when it may be properly placed on the agenda.

(C) Whenever an ordinance, order, or resolution is vetoed by the Mayor, it is considered defeated unless the Common Council, at its first regular or special meeting after the ten (10) day period prescribed by subsection (A), passes the ordinance, order, or resolution over his veto by a two-thirds (2/3) vote.

[Ord. G-92-1, passed 3-10-92]

§30.12 RECORD OF ORDINANCES AND RESOLUTIONS

(A) All ordinances shall, within a reasonable time after their approval by the Mayor or their passage over his veto, be recorded in a book kept for that purpose by the Clerk Treasurer.

(B) Such record shall include the signature of the presiding officer, the attestation of the Clerk Treasurer and the Mayor's written approval or disapproval, and in the latter case, a memorandum of the passage of the ordinance over the veto, with the date of such acts.

(C) Proof of publication of all ordinances requiring publication shall be procured by the Clerk Treasurer and attached to such ordinance and filed therewith.

(D) Such record, or a certified copy thereof, shall be presumptive evidence of the passage and going into effect of such ordinance.

[Ord. G-92-1, passed 3-10-92]

§30.13 JOURNAL OF COMMON COUNCIL PROCEEDINGS

(A) The Clerk Treasurer shall keep accurate minutes of the proceedings of the Common Council and as the meeting of the Council progresses, the following memoranda shall be kept:

(1) The date, time and place of the meeting.

(2) The members of the Council recorded as present or absent.

(3) The general substance of all matter proposed, discussed or decided.

(4) A record of all votes taken, and by individual members if there is a roll call.

(B) The memoranda are to be available within a reasonable period of time after the meeting for the purpose of informing the public of the Council's proceedings and shall be kept in a permanent file in the office of the Clerk Treasurer.

(C) The minutes of all meetings of the Council shall be transcribed by the Clerk Treasurer as soon as possible after the meeting and in any event prior to the next meeting of the Council and shall be open to the public for inspection and copying.

(D) The Clerk Treasurer shall keep a permanent file of all original papers, documents, reports and correspondence filed with or submitted to the Council.

(E) The Clerk Treasurer shall be custodian of all ordinances, resolutions, petitions, memorials and all other papers pertaining to the business of the Common Council.

(F) The Clerk Treasurer shall call the roll of the members of the Common Council at each meeting.

(G) If an agenda is used by the Council, the Clerk Treasurer shall post a copy of the agenda at the entrance to the location of the meeting prior to the meeting. A rule, regulation, ordinance or other final action adopted by reference to agenda number or item alone shall be prohibited and such action shall be void.

[Ord. G-92-1, passed 3-10-92]

§30.14 OPEN MEETINGS REQUIRED

All meetings of the Common Council, except as otherwise provided in these rules or by statutes, shall be open at all times for the purpose of permitting members of the public to observe and record them.

[Ord. G-92-1, passed 3-10-92]

§30.15 SECRET BALLOTS PROHIBITED

A secret ballot vote may not be taken at any meeting of the Common Council on any matter.

[Ord. G-92-1, passed 3-10-92]

§30.16 PUBLIC NOTICE OF MEETINGS

(A) Public notice of the date, time and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight (48) hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. This requirement does not apply to reconvened meetings (not including executive sessions) where announcement of the date, time, and place of the reconvened meeting is made at the original meeting and recorded in the memoranda and minutes thereof, and there is no change in the agenda.

(B) Public notice shall be given by the Clerk Treasurer by:

(1) Posting a copy of the notice at the City Hall.

(2) Depositing in the United States mail with postage prepaid or by delivering notice to all news media which deliver by January 1 an annual written request for such notices for the next succeeding calendar year to the Council.

(C) Notice of regular meetings need be given only once each year, except that an additional notice shall be given where the date, time, or place of a regular meeting or meetings is changed. This subsection does not apply to executive sessions.

(D) If a meeting is called to deal with an emergency involving actual or threatened injury to person or property, or actual or threatened disruption of the governmental activity under the jurisdiction of the Common Council by any event, then the time requirements of notice under this section shall not apply, but:

(1) News media which have requested notice of meetings must be given the same notice as is given to the members of the Council, and

(2) The public must be notified by posting a copy of the notice according to this section.

(E) This section shall not apply where notice by publication is required by statute, ordinance, rule, or regulation.

[Ord. G-92-1, passed 3-10-92]

§30.17 EXECUTIVE SESSIONS

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

(1) Where authorized by federal or state statute.

(2) For discussion of strategy with respect to any of the following:

(a) Collective bargaining.

(b) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing.

(c) The implementation of security systems.

(d) The purchase or lease of real property by the governing body up to the time a contract or option to purchase or lease is executed by the parties.

However, all such strategy discussions must be necessary for competitive or bargaining reasons and may not include competitive or bargaining adversaries.

(3) To receive information about and interview prospective employees.

(4) With respect to any individual over whom the Common Council has jurisdiction:

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

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

(5) For discussion of records classified as confidential by state or federal statute.

(6) To discuss before a placement decision an individual student's ability, past performance, behavior, and needs.

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

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

(a) Develop a list of prospective appointees.

(b) Consider applications.

(c) Make one (1) initial exclusion of prospective appointees from further consideration.

(B) Notwithstanding IC 5-14-3-4(b)(12), the Common Council may release and shall make available for inspection and copying in accordance with IC 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration.

An initial exclusion of prospective appointees from further consideration may not reduce the number of prospective appointees to fewer than three (3) unless there are fewer than three (3) prospective appointees. Interviews of prospective appointees must be conducted at a meeting that is open to the public.

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

(D) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (A). The requirements stated in §30.13 of this Chapter for memoranda and minutes being made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The Common Council shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

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

[Ord. G-92-1, passed 3-10-92]

§30.18 ORDER OF BUSINESS

(A) The order of business at Common Council meetings shall be as determined by the chair, unless such order is objected to by a majority of the Council present, in which case, the following order of business shall be observed:

(1) Roll call of members.

(2) Reading, correcting and approval of the minutes of the proceedings of the prior regular or special meeting.

(3) Reports of standing committees.

(4) Ordinances on second reading, third or final reading of ordinances.

(5) Introductions of ordinances and resolutions.

(6) Miscellaneous business.

(B) The reading of the minutes may be dispensed with at any time by order of the Council.

(C) The Council may order a return to any order of business after the call of the regular order of business.

(D) The Clerk Treasurer shall cause a written agenda, accompanied by all deliberative material related to agenda items, to be mailed to each Council member at least 96 hours in advance of each regularly scheduled meeting.

(E) The Common Council may not consider any item of business not described on the agenda and not accompanied by all appropriate deliberative material unless the Council shall, by a two-thirds vote of all the elected members, find an emergency to exist.

[Ord. G-01-7, passed 6-26-01; Ord. G-02-03, passed 4-9-02]

§30.19 ROLL CALL VOTES

(A) The presiding officer shall decide whether any question is carried by affirmative or negative vote; provided, that if in doubt or if a roll call vote be demanded, the Council shall decide by roll call vote.

(B) All votes upon the passage of ordinances and resolutions, upon motions to suspend the rules or motions to reconsider, shall be by roll call.

(C) Upon a roll call vote on any question, after any one member shall have voted, it shall not be in order for any member to offer remarks except in explanation of his vote, which he may do only simultaneously with the casting of his vote.

(D) Any member may demand a roll call upon any question to be voted upon by the Council, and when such demand is made the Clerk Treasurer shall call the roll.

[Ord. G-92-1, passed 3-10-92]

§30.20 INTRODUCTION OF ORDINANCE, RESOLUTION OR OTHER BUSINESS

An ordinance, resolution, or any other item of business may be introduced by any member of the Common Council or by the Chair.

[Ord. G-92-1, passed 3-10-92]

§30.21 IDENTIFICATION OF ORDINANCES AND RESOLUTIONS

(A) Immediately subsequent to introduction, each ordinance and resolution shall have a number assigned to it by the Clerk Treasurer. The number shall consist of a letter prefix, as prescribed in this section followed by the last two digits of the calendar year in which

introduced, and followed by the number in the sequence of introduction within each particular year. All ordinances, regardless of subject matter, shall be numbered in the same sequence for each year beginning with number one from and after the first day of each year together with the appropriate prefix therefor as prescribed in this section.

(1) The prefix for appropriation ordinances shall be the letter "A".

(2) The prefix for special ordinance shall be the letter "S".

(3) The prefix for zoning map ordinances, shall be the letter "Z".

(4) The prefix for annexation ordinances shall be the letter "X".

(5) The prefix for general ordinances shall be the letter "G".

(B) Resolutions shall be numbered in a separate sequence, beginning with number one from and after January 1 of each year, to which number there shall be added the prefix "R".

(C) Appropriation ordinances shall be limited to those appropriating the funds of the City.

(D) Special ordinances shall be limited to those relating to contracts and the business affairs of the City.

(E) Zoning map ordinances shall be limited to those amending the zoning map of the City or the extraterritorial zoning jurisdiction of the City.

(F) Annexation ordinances shall be limited to those annexing territory to the City.

(G) General ordinances shall be limited to those relating to the government of the City.

[Ord. G-92-1, passed 3-10-92]

§30.22 READING OF ORDINANCES AND VOTING

(A) All ordinances shall be read at least three times by the Clerk Treasurer, and no ordinances shall be passed upon the same day or at the same meeting it is introduced, except by a two-thirds (_) vote of all the elected members, after unanimous consent of the members present to consider the ordinance.

(B) An ordinance, upon introduction, shall be read by the Clerk Treasurer the first time in full unless Council votes unanimously to read by title only as permitted by statute. While on second reading, the ordinance shall be open for amendments; thereafter, upon motion duly adopted, it may read the second time by title.

(C) After second reading the ordinance shall be on third reading, at which time it shall again be subject to amendment; thereafter, on motion duly adopted, it may be placed upon its passage and, in such instance, shall be finally voted upon after being read in full or by title as specified by such motion.

(D) Any ordinance failing to receive a majority of the votes upon second reading shall be considered as still upon second reading unless stricken from the files or otherwise disposed of by the Common Council.

(E) Any ordinance failing to receive a sufficient number of votes on final passage, will be considered as lost; provided, however, that the vote thereon may be reconsidered within the time and in the manner provided in subsection (F) hereof.

(F) When any question has been once decided in the affirmative or negative, any member voting with the majority may move a reconsideration thereof at the same or next regular meeting; provided that no such motion shall be introduced at the next regular meeting unless the member intending to make the motion shall have given written notice of such intention at the meetings at which the vote which he desired to have reconsidered was taken.

[Ord. G-01-7, passed 6-26-01; Ord. G-02-03, passed 4-9-02]

§30.23 EFFECTIVE DATE OF ORDINANCE

All ordinances passed by the Common Council, requiring publication, shall take effect from and after the due publication thereof as required by law. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.

[Ord. G-92-1, passed 3-10-92]

§30.24 INTRODUCTION OF RESOLUTIONS AND VOTING

A resolution may be acted upon at the meeting at which it is introduced, provided that a resolution requiring specific action by any person shall be processed the same as an ordinance.

[Ord. G-92-1, passed 3-10-92]

§30.25 COMMITTEES

The Common Council may by resolution establish committees if it shall deem such committees necessary in carrying out the business of the Council. Such resolution shall establish the purpose and functions of such committees and the members thereof.

[Ord. G-01-7, passed 6-26-01; Ord. G-02-03, passed 4-9-02]

§30.26 ROBERT'S RULES OF ORDER

Robert's Rules of Order, Revised, the latest edition, shall be the controlling authority on all questions of parliamentary law and procedure not specifically covered by the rules adopted by the Common Council for the conduct of business or by statute or ordinance.

[Ord. G-92-1, passed 3-10-92]

§30.27 AMENDMENT OF RULES

The rules of the Common Council may be amended, modified or annulled by two-thirds (2/3) vote of all of the members-elect of the Common Council. All proposed amendments to such rules shall be proposed at a regular meeting of the Council, but no final action may be taken thereon until a subsequent special or regular meeting of the Council shall be duly convened.

[Ord. G-92-1, passed 3-10-92]

COUNCILMANIC DISTRICTS

§30.30 DIVISION INTO FIVE DISTRICTS.

All territory within the Corporate limits of the City is divided into five (5) councilmanic districts, numbered 1, 2, 3, 4, and 5, and they are as follows:

(A) **Councilmanic District Number 1,** is described and defined as follows:

BEGINNING at the intersection of the North Right-of-Way of the northernmost rail line of the Norfolk Southern Railroad, also being the current New Haven Corporation Line and the centerline of Estella Avenue, said point being 128 feet +/- North of Old Maumee Road; thence East, Northerly, Easterly, Southerly and Westerly, meandering on and along the New Haven Corporation Line to the intersection of said corporation line and the centerline of Summit Street, said point being 760 feet +/- East of Linden Road; thence Westerly on the centerline of Summit Street to the intersection with the centerline of Eben Street; thence North on the centerline of Eben Street to the intersection with the centerline of Main Street; thence Westerly on the centerline of Main Street to the intersection with the centerline of Hartzell Road; thence South on the centerline of Hartzell Road to the intersection with the North Right-of-Way of the southernmost rail line of the Norfolk Southern Railroad; said point being 755 feet +/- North of Lincoln Highway; thence Westerly along said Railroad Right of Way to the intersection with the centerline of Estella Avenue; thence North on the centerline of Estella Avenue to the intersection of the North Right-of-Way of the northernmost rail line of the Norfolk Southern Railroad, also being the current New Haven Corporation Line, and the centerline of Estella Avenue, said point also being the POINT OF BEGINNING.

(B) **Councilmanic District Number 2,** is described and defined as follows:

BEGINNING at the intersection of centerline of Green Street and the centerline of Summit Street; thence East on the centerline of Summit Street to the intersection of the New Haven Corporation Line, said point being 760 feet +/- East of Linden Road; thence East, Northerly, Easterly, Southerly and Westerly, meandering on and along the New Haven Corporation Line to the intersection with the centerline of Green Road; thence North on the centerline of Green Road and Green Street to the intersection with the centerline of Summit Street, said point also being the POINT OF BEGINNING

(C) **Councilmanic District Number 3**, is described and defined as follows:

BEGINNING at the centerline of Green Road and the New Haven Corporation Line at Seiler Road; thence Westerly and Southerly meandering on and along the New Haven Corporation Line to the Southwest Corner of the Pinestone Subdivision. Thence North

on the West line of the Pinestone Subdivision, said line also being the West line of Section 13 Adams Township, extending to the centerline of Seiler Road; thence continuing on and along the West line of said Section 13 and the West line of Section 12 Adams Township to the intersection with the centerline of State Road 930; thence Westerly on the centerline of State Road 930 to the intersection with the centerline of the Trier Drain; thence Southerly and Westerly along the meanderings of the centerline of the Trier Drain to the intersection with the centerline of Hartzell Road; thence North on the centerline of Hartzell Road to the intersection with the centerline of Main Street; thence East on the centerline of Main Street to the intersection with the centerline of Eben Street; thence South on the centerline of Eben Street to the intersection with the centerline of Summit Street; thence East on the centerline of Summit Street to the intersection with the centerline of Green Street; thence South on the centerline of Green Street and Green Road to the intersection with the New Haven Corporation Line at Seiler Road, said point also being the POINT OF BEGINNING.

(D) **Councilmanic District Number 4,** is described and defined as follows:

BEGINNING at the Southwest Corner of the Pinestone Subdivision; thence West, Northerly, and Westerly on and along the meanderings of the New Haven Corporation line to the intersection with the centerline of Woodmere Drive; thence North on the centerline of Woodmere Drive to the intersection with the centerline of Sara Drive; thence West on the centerline of Sara Drive to the intersection with the centerline of Shannon Drive; thence Northerly on the centerline of Shannon Drive to the intersection with the centerline of Bedford Drive; thence Northwesterly on the centerline of Bedford Drive to the intersection with the centerline of Sherbrook Drive; thence Northerly on the centerline of Sherbrook Drive to the intersection with the centerline of Melbourne Drive; thence Northerly on the centerline of Melbourne Drive to the intersection with the South Property Line of 1160 Melbourne Drive (PIN 021311355015000041) extended East to the centerline of Melbourne Drive; thence West on and along the South line of 1160 Melbourne Drive and the South line of 1161 Brookwood Drive (PIN 021310483012000041) to the intersection with the centerline of Brookwood Drive; thence Northerly on and along the centerline of Brookwood Drive to the intersection of the centerline of State Road 930; thence Easterly on the centerline of State Road 930 to the intersection with the centerline of Hartzell Road; thence South on the centerline of Hartzell Road to the intersection with the centerline of the Trier Drain; thence Easterly and Northerly on and along the meanderings of the centerline of the Trier Drain the intersection with the centerline of State Road 930; thence Easterly on the centerline of State Road 930 to the intersection with the centerline of Werling Road; thence South on the centerline of Werling Road and extending South to the Southwest corner of the Pinestone Subdivision, said point also being the POINT OF BEGINNING.
This description excepts 9017 Seiler Road (PIN 021314478014000039) and 9125 Seiler Road (PIN 021314478016000039) not currently annexed into the City of New Haven

(E) **Councilmanic District Number 5,** is described and defined as follows:

BEGINNING at the intersection of the North Right-of-Way of the northernmost rail line of the Norfolk Southern Railroad, also being the current New Haven Corporation Line and the centerline of Estella Avenue, said point being 128 feet +/- North of Old Maumee Road; thence South on the centerline of Estella Avenue to the intersection with the North Right-of-Way line of the southernmost rail line of the Norfolk Southern Railroad; said point being 462 feet +/- South of Nelson Road; thence Easterly along said Railroad Right-of-Way to the intersection with the centerline of Hartzell Road; thence South on the centerline of Hartzell Road to the intersection with the centerline of State Road 930; thence Westerly on the centerline of State Road 930 to the intersection with the centerline of Brookwood Drive; thence South on the centerline of Brookwood Drive to the intersection with the South Property Line of 1161 Brookwood Drive (PIN 021310483012000041) extended West to the centerline of Brookwood Drive; thence East on and along the South line of 1161 Brookwood Drive and the South line of 1160 Melbourne Drive (PIN 021311355015000041) extended East to the intersection with the centerline of Melbourne Drive; thence Southerly on the centerline of Melbourne Drive to the intersection with the centerline of Sherbrook Drive; thence Southerly on the centerline of Sherbrook Drive to the intersection with the centerline of Bedford Drive; thence Southeasterly on the centerline of Bedford Drive to the intersection with the centerline of Shannon Drive; thence Southerly on the centerline of Shannon Drive to the intersection with the centerline of Sara Drive; thence East on the centerline of Sara Drive to the intersection with the centerline of Woodmere Drive; thence South on the centerline of Woodmere Drive to the intersection with the New Haven Corporation Line; thence West, Southerly, Westerly, Northerly, and Easterly, meandering on and along the New Haven Corporation Line to the intersection with the North Right-of-Way of the northernmost rail line of the Norfolk Southern Railroad, also being the current New Haven Corporation Line and the centerline of Estella Avenue, said point being 128 feet +/- North of Old Maumee Road and also being the POINT OF BEGINNING.

[Ord. G-90-23, passed 10-25-90; Ord. G-93-l, passed 2-9-93; Ord. X-93-13, passed 12-14-93; Ord. X-94-4, passed 4-12-94; Ord. X-94-5, passed 4-8-94; Ord. X-95-1, passed 1-24-95; Ord. X-97-1, passed 1-28-97; Ord. X-97-22, passed 11-25-97; Ord. X-98-5, passed 7-14-98; Ord. X-98-12, passed 10-13-98; Ord. G-02-18, passed 10-22-02; Ord. G-12-12, passed 10-3-12]

§30.31 TWO AT-LARGE DISTRICTS

The entire area contained within the corporate boundaries of the City of New Haven shall constitute two councilmanic districts for at-large purposes as provided in IC 36-4-6-5.

[Ord. 728, passed 9-16-63; Ord. G-14-73, passed 11-13-73; Ord. G-81-24, passed 12-8-81; Ord. G-90-23, passed 10-25-90; Ord. G-93-1, passed 2-9-93]

§30.32 VOTING

Each voter of the City may vote for two (2) candidates for at large membership and one (1) candidate from the district in which the voter resides. The two (2) at large candidates receiving the most votes from the whole City and the district candidates receiving the most votes from their respective districts are elected to the Common Council of the City.

[Ord. G-90-23, passed 10-25-90; Ord. G-93-1, passed 2-9-93]

CHAPTER 31: DEPARTMENTS

Section

Department of Economic Development

31.01 Creation of Department
31.02 Commission Members

Police Reserve

31.10 Establishment
31.11 Powers
31.12 Uniforms
31.13 Compensation
31.14 Ranks

Building Department

31.25 Designation of Allen County Building Department as Building Department of City

Department of Redevelopment

31.31 Establishment

DEPARTMENT OF ECONOMIC DEVELOPMENT

§31.01 CREATION OF DEPARTMENT

A new department to be known and designated as the New Haven Department of Economic Development is created.

[Ord. G-2-77, passed 1-31-77]

§31.02 COMMISSION MEMBERS

(A) The Department of Economic Development shall be under the control of a Commission of five members to be known as the New Haven Economic Development Commission, and this Commission shall be constituted and appointed and have the powers and duties provided by law.

(B) The five Commission members shall be appointed as follows:

(1) The Mayor shall nominate three members;

(2) The Common Council shall nominate one member; and

(3) The Allen County Council shall nominate one member.

All members shall be appointed by the Mayor.

[Ord. G-2-77, passed 1-31-77; Ord. G-84-23, passed 10-9-84]

POLICE RESERVE

§31.10 ESTABLISHMENT

Pursuant to IC 36-8-3-20, the City establishes the Police Reserve.

[Ord. G-84-8, passed 2-14-84]

§31.11 POWERS

The City Police Reserve, hereinafter referred to as "Reserves", shall be appointed by the City Chief of Police, but shall not be members of the regular police force. The Reserves shall have all of the powers of regular members, except as determined by internal rules which may be promulgated by the Chief.

[Ord. G-84-8, passed 2-14-84]

§31.12 UNIFORMS

(A) Reserves shall provide their own firearms, and shall be instructed by the firearms instructor of the City Police Department.

(B) Pursuant to state law, the Reserve uniform must be easily distinguishable from that of the regular police officer, and accordingly shall be as follows:

(1) Shirt, French blue with Navy trim.

(2) Trousers, French blue with navy striping.

(3) Badge, same star design as regular police officer.

[Ord. G-84-8, passed 2-14-84]

§31.13 COMPENSATION

Reserves shall serve at no compensation, but may request contribution from the City to defray uniform costs. The Common Council, in its discretion, may reimburse each Reserve officer for this expense. The City shall be responsible for providing a badge to each reserve officer.

[Ord. G-84-8, passed 2-14-84]

§31.14 RANKS

(A) The following ranks are established for the Reserve unit:

(1) Captain

(2) Lieutenant

(3) Sergeant

(4) Officer

(B) The Chief of the City Police Department shall have all rights to make the above appointments, and those appointments shall serve at his discretion and pleasure.

[Ord. G-84-8, passed 2-14-84]

BUILDING DEPARTMENT

§31.25 DESIGNATION OF ALLEN COUNTY BUILDING DEPARTMENT AS BUILDING DEPARTMENT OF CITY

For provisions concerning the County Building Department as Building Department of the City, see Chapter 153 Building Code.

(Compiler's note)

DEPARTMENT OF REDEVELOPMENT

§31.31 ESTABLISHMENT

Pursuant To IC 36-7-14-3, the Council hereby establishes the City of New Haven Department of Redevelopment (the "Department"), for the purposes and to exercise the powers set forth in the Act or otherwise granted by law. The Department will be controlled by a board of five (5) members to be known as the City of New Haven Redevelopment Commission (the "Redevelopment Commission"), two of whom shall be appointed by the Council and three of whom shall be appointed by the Mayor of the City.

[Ord. G-03-5, passed 3-25-03]

CHAPTER 32: PUBLIC EMPLOYEES

Section

Salaries

32.01 Elected Officials
32.02 Other City Employees

Benefits

32.03 Accrual of Seniority Rights
32.10 Clothing Allowance to Police and Maintenance Employees
32.11 Holidays
32.12 Sick Days, Sick Leave, & Extended Sick Leave
32.13 Funeral Leave
32.14 Vacation Leave
32.15 Payment of Police Officers for Longevity of Service
32.16 Retirement of Employees
32.17 Personal Days
32.18 Family or Medical Leave
32.19 Military Leave
32.20 Jury Duty
32.21 Leave of Absence
32.25 Reimbursement for Official use of a Private Motor Vehicle

Employee Relations

32.60 Open Meetings
32.61 Employees Representative Board

SALARIES

§32.01 ELECTED OFFICIALS

Compiler's Note: Indiana Code 36-4-7-2 establishes the requirements for the compensation of elected officials of second and third class cities, including the City of New Haven. "Compensation" is defined to include all money paid to an elected city officer for performing duties as a city officer, regardless of the source of funds from which the money is paid.

The compensation is fixed on an annual basis. It may not be changed in the year for which it is fixed, nor may it be reduced below the amount fixed for the previous year.

§32.02 OTHER CITY EMPLOYEES

Compiler's Note: Indiana Code 36-4-7-2 establishes requirements for the compensation of employees, except police and fire employees, of second and third class cities, including the City of New Haven. Depending upon an employee's job description, salaries are set either by the Mayor or Clerk-Treasurer subject to a maximum established by the City Council. Salaries must be fixed by August 20 of each year for the ensuing budget year.

Indiana Code 36-8-3-3 establishes requirements for the compensation of police and fire employees. Compensation is set by an ordinance adopted by the City Council before August 20 of each year for the ensuing budget year. Should the Council not adopt such an ordinance, the compensation of police and fire employees must be set by the Board of Public Works and Safety.

BENEFITS

§32.03 ACCRUAL OF SENIORITY RIGHTS

(A) The time of service of an employee of the City of New Haven who voluntarily leaves the City's employment and is later rehired shall, for the purpose of calculating employee benefits, be determined by adding together the time of service during each separate employment period.

(B) No seniority benefits will accrue between period of employment except as may be otherwise provided in this Code.

(C) The following New Haven Ordinance Code Sections are also renumbered as a result of the passage of this Ordinance, as shown below:

PRIOR CODE SECTION NUMBER	NEW CODE SECTION NUMBER
§32.03	§32.10
§32.04	§32.11
§32.05	§32.12
§32.06	§32.13
§32.07	§32.14
§32.08	§32.15
§32.09	§32.16
§32.10	§32.17
§32.11	§32.18
§32.12	§32.19
§32.13	§32.20
§32.14	§32.21
§32.15	§32.60
§32.16	§32.61

[Ord. G-09-01, passed 2-10-09]

§32.10 CLOTHING ALLOWANCE TO POLICE AND MAINTENANCE EMPLOYEES

(A) After one (1) year of full-time employment, members of the Police Department will receive a clothing allowance of $600.00 payable in July of each year and $600.00 payable in December of each year. This Ordinance shall not be deemed to alter Police Department policy governing the issuance, use or return of equipment and uniforms.

(B) After one (1) year of full-time employment, members of the Police Dispatchers will receive a clothing allowance of $225.00 payable in July of each year and $225.00 payable in December of each year. This Ordinance shall not be deemed to alter Police Dispatchers' policy governing the issuance, use or return of equipment and uniforms.

(C) Employees of the City Utilities Department who are regularly assigned outdoor work will receive a clothing allowance of $206.50 payable in July of each year and $206.50 payable in December of each year. This Ordinance shall not be deemed to alter Utility Department policy governing the issuance, use or return of clothing.

[Ord. A-90-8, passed 7-10-90; Ord. G-96-7, passed 8-13-96; Ord. G-97-19, passed 10-28-97; Ord. A-07-06, passed 9-11-07]

§32.11 HOLIDAYS

(A) All full-time City employees shall be entitled to pay for approved holidays.

(B) Approved Holidays:

New Year's Day	Labor Day
Martin Luther King Day	Columbus Day
President's Day	Election Day
Good Friday	Veteran's Day
Primary Election Day	Thanksgiving Day
Memorial Day	Friday after Thanksgiving
Independence Day	Christmas Day

and any other working days the Mayor, at his/her discretion, designates as paid holidays.

(C) In the event a holiday falls on a Saturday, the preceding Friday shall be the observed holiday. In the event a holiday falls on a Sunday, the following Monday shall be the observed holiday.

(D) In order to be eligible for holiday pay, an employee shall work the entire last scheduled working day before and all of the next scheduled working day after said holiday, unless the employee is on leave, including, vacation, sick leave, funeral leave, personal leave, or is using compensatory time. This is done so as not to affect the efficiency of the department.

[Ord. G-98-11, passed 9-8-98; Ord. G-09-01, passed 2-10-09]

§32.12 SICK DAYS, SICK LEAVE, & EXTENDED SICK LEAVE

(A) Sick Days.

Employees are eligible for sick days after successful completion of the mandatory ninety (90) day probationary period. Sick days earned will be calculated on a prorated basis [1 day awarded per month after hire date within the calendar year not to exceed ten (10) days].

To be eligible for sick day benefits, an employee must have reported for work or called in reporting the sickness or injury. Any hourly employee shall report or call his/her department head. In the absence of the department head, calls shall be directed to the Mayor's office. Salaried employees shall call or report to the Mayor's office.

(1) The employee or someone on his/her behalf shall notify in the above order the absence of the employee as soon as possible prior to the scheduled hours of work.

(2) All full-time employees shall be given ten (10) sick days per year.

(3) Sick days may be accumulated up to a maximum of sixty (60) days.

(4) Sick days can only be used for personal illness.

(5) In the event of a family illness, the personal day privilege shall be utilized.

(B) Sick Leave.

(1) To be eligible for sick leave, an employee must have reported for work or called in reporting the sickness or injury.

(2) In order to be paid for sick leave for more than three (3) successive days, a report from the doctor treating the employee stating the nature of the illness, that the employee is unable to work, and the expected return to work date will be required by the department head and/or the Mayor.

(C) Extended Sick Leave.

(1) Extended sick leave may be granted to a full-time employee for any continuous absence due to personal injury or illness in excess of one (1) week - five (5) working days.

(2) Thirty (30) days sick leave may be borrowed, only after exhausting accumulated sick days, comp. time and personal time.

(3) If sick leave is borrowed, the employee may pay back to the City with personal days, comp. time and/or vacation days.

(4) If sick leave is borrowed, the employee must pay back to the City if he/she quits, is terminated, or for any other reason leaves the employment of the City.

(5) Attending physician's statement is required for extended sick leave purposes. A report from the doctor treating the employee stating the nature of the illness, that the employee is unable to work, and the expected return to work date will be required by the department head and/or the Mayor.

(6) Extended sick leave can be used only for personal illness.

(7) Employees health insurance benefits will continue for six months. After six months, the employee may continue the group health insurance by paying full group rate.

(8) After extended sick leave benefits have expired, the Board of Public Work & Safety may, at their discretion, extend any benefits further.

(9) Upon returning to work, an attending physician's statement is required stating that the employee may return to work and the date they will be able to return to work.

(10) In departments, where applicable, temporary services can be utilized. It is the intent of the City Administration that upon returning to work, the employee be reinstated in the position he/she filled at the time the extended sick leave was granted.

[Ord. G-98-11, passed 9-8-98; Ord. G-09-01, passed 2-10-09]

§32.13 FUNERAL LEAVE

(A) Paid Funeral Leave. This policy applies to all full-time City employees. The City of New Haven recognizes that in the event of a death in the immediate family, much planning and expense is involved and employees need time to complete arrangements.

(1) Employees shall be allowed three (3) days off with pay for funerals and necessary arrangements of the affairs of the deceased for the employee's Father, Mother, Husband, Wife, Child(ren), Grandchild(ren), Grandparents, Brother or Sister, Father-In-Law, Mother-In-Law, Son-In-Law, Daughter-In-Law, Step-Father, Step-Mother, Step-Child(ren), Step-Brother, and Step-Sister.

(2) In the event of a death of any other relative or close friend, the personal day privilege should be utilized.

(B) Unpaid Funeral Leave. Additional unpaid funeral leave will be at the discretion of the Mayor.

[Ord. G-98-11, passed 9-8-98; Ord. G-09-01, passed 2-10-09]

§32.14 VACATION LEAVE

(A) Eligibility. For the purpose of determining eligibility for vacation leave, the term "continuous service" shall be defined as the period of uninterrupted employment from the date of last hire to the present. Only those employees who are working full-time are eligible for paid vacation.

(B) Length of Vacation. Employees shall be entitled to the following maximum paid vacations in accordance with their length of continuous service with the City:

Length of Service	Number of Days
Date of Hire to December 31 (1st year)	None
January 1 - 2nd Year	pro-rated days from prior year (number of full months divided by 12) x 10 days
January 1 - 3rd Year	10 days
January 1 - 4th Year	10 days
January 1 - 5th Year	10 days
January 1 - 6th Year	11 days
January 1 - 7th Year	12 days
January 1 - 8th Year	13 days
January 1 - 9th Year	14 days
January 1 - 10th Year	15 days
January 1 - 11th Year	16 days
January 1 - 12th year	17 days
January 1 - 13th Year	18 days
January 1 - 14th Year	19 days
January 1 - 15th Year	20 days
January 1 - Over 15 years	20 days

(C) A new employee must work from his/her date of hire until December 31 of that year to earn a vacation as of January 1. The number of months worked shall be divided by 12 times 10 days. This amount of vacation days may be used as of January 1.

(D) In general, vacations are earned in the previous work year, and taken in the calendar year in which they fall due. Carry over entitlements must be requested in writing to the Mayor, and approved by the Mayor. Only very unusual circumstances will apply.

(E) An employee who has earned vacation benefits and has not received them because of resignation, termination, death, etc., shall receive earned benefits upon separation. In the case of death, benefits shall be paid to the widow, widower, or the estate of the employee as deemed appropriate by the State Statutes. For this purpose, the calendar year (January 1 through December 31) is used and it is the City's practice that employees earn vacation for the current year in the preceding year, with accrual beginning on the first day of the year and ending on his/her termination date.

(F) Vacation pay for each day or week of vacation shall be determined by multiplying the employee's regular hourly wage rate by the number of hours in his/her regular work week.

(G) If an employee becomes ill or injured while on vacation, the scheduled vacation time shall be counted as vacation; if the disability continues beyond the scheduled time of vacation, the sick day/leave allowances shall begin on the first scheduled working day after the end of the scheduled vacation.

(H) In the event an employee becomes sick prior to a vacation period, that period may be used as sick time instead of vacation time. The employee may reschedule his/her vacation period at the convenience of the department.

(I) If a paid holiday occurs during an employee's vacation, the employee will receive an additional day of paid vacation to be taken at a time agreed upon by the department head, and/or the Mayor.

(J) In order to avoid disrupting the work schedule, the department head shall approve the vacation periods for all employees in that department. When setting the schedule for vacation, the department head shall respect the wishes of employees as far as the needs of the department permit.

(K) Because the police department works every day of the year (365 days), and to these employees a holiday is another working day, it shall be deemed in the best interest of the City to add their holidays and vacation days together each year and deduct their days off from this pooled total.

[Ord. G-99-9, passed 9-14-99; Ord. G-09-01, passed 2-10-09]

§32.15 PAYMENT OF POLICE OFFICERS FOR LONGEVITY SERVICE

(A) Any Police Officer of the City shall receive an additional payment of money upon the following conditions:

(1) Upon completion of five (5) through nine (9) years of continuous service as a member of the New Haven Police Department, the sum of $200.

(2) Upon completion of ten (10) through fourteen (14) years of continuous service as a member of the New Haven Police Department, the sum of $400.

(3) Upon completion of fifteen (15) years of continuous service as a member of the New Haven Police Department, the sum of $600.

(B) Payment for longevity service shall be made on the anniversary date on which the officer becomes eligible for the payment.

[Ord. G-10-75, passed 7-29-75; Ord. A-97-14, passed 7-28-97; Ord. G-09-01, passed 2-10-09]

§32.16 RETIREMENT OF EMPLOYEES

(A) The Common Council elects coverage under the Old-Age and Survivors Insurance as provided by IC 5-10.1-1-1 through 5-10.1-7-2 as amended, and as they may be amended or implemented by regulations of the state agency.

(B) All positions and employees of the City are to be covered by IC 5-10.1-1-1 through 5-10.1-7-2, as amended, excepting the following:

(1) All members of the New Haven Police Department.

(2) All members of the New Haven Fire Department.

(3) The consultant to the New Haven Planning and Zoning Commission and/or the Board of Zoning Appeals.

(4) The New Haven City Engineer, the compensation for which is on a fee basis.

(5) The New Haven City Attorneys and any Associate City Attorneys, the compensation for which is on a fee basis.

(C) For the purpose of carrying out the provisions of the Federal Social Security Act and amendments, the agreement entered into between the state agency with the approval of the Governor, and the Social Security Administrator is made an integral part of this section.

(D) This section is, in turn, a part of the federal agreement between the political subdivision and the state agency, and of the agreement or modification of the agreement between the state and the Social Security Administrator.

(E) The Common Council agrees that it will fully perform the obligation of a political subdivision under the federal-state agreement and IC 5-10.1-1-1 through 5-10.1-7-2 as amended, and as they may be amended or implemented by regulations of the state agency.

[Ord. G-10-72, passed 7-11-72; Ord. G-09-01, passed 2-10-09]

§32.17 PERSONAL DAYS

(A) To be considered eligible for personal days, an employee must complete ninety (90) days of continuous service.

(B) Each employee shall be entitled to five (5) days per year with pay at the regular hourly rate, as determined by the employee's regularly scheduled work hours per day. Personal days are designated for use to conduct personal business which cannot be taken care of outside normal working hours. Personal days may not be accumulated from year to year. The personal day privilege applies to all full-time employees.

(C) Notification of personal days taken must be made by the employee to the department head 24 hours prior to the requested day off. The day off will be at the discretion of the department head.

(D) If the need arises, an employee may use personal days on an extended sick leave situation.

(E) Department heads shall request personal days 24 hours prior to the requested day off. The personal day will be at the discretion of the Mayor.

(F) Personal days shall not be used as vacation days, nor may they be used to lengthen a vacation.

(G) Personal days not used may be applied to accumulated sick leave.

[Ord. G-98-11, passed 9-8-98; Ord. G-09-01, passed 2-10-09]

§32.18 FAMILY OR MEDICAL LEAVE

(A) General. As provided by the 1993 Family and Medical Leave Act (FMLA), all eligible employees shall be entitled to take up to 12 weeks of unpaid, job-protected leave during any 12 month period for specified family and medical reasons.

(B) Covered Family and Medical Reasons. An eligible employee shall be entitled to 12 weeks of unpaid leave during a 12-month period for one or more of the following reasons:

(1) the birth or placement of a child for adoption or foster care;

(2) to care for an immediate family member (spouse, child, or parent) with a serious health condition;

(3) to take medical leave when the employee is unable to work because of a serious health condition.

(C) A serious health condition shall be defined as an illness of a serious and long-term nature resulting in recurring or lengthy absences. Treatment of such an illness would occur in an inpatient situation at a hospital, hospice, or residential medical care facility, or would consist of continuing care provided by a licensed health care provider.

(D) An employee may take leave if a serious health condition makes the employee unable to perform functions of his/her position. Employees with questions about whether specific illnesses are covered should meet with their respective department head, as well as a licensed physician.

(E) Employee Eligibility. An employee shall be entitled to family leave when he/she meets the following criteria:

(1) The employee has worked for at least 12 months for the City. The twelve months need not have been consecutive. (If the employee was on the payroll for part of a week, the City will count the entire week. The City considers 52 weeks to be equal to twelve months.)

(2) The employee has to have worked for the City for at least 1,250 hours over the 12 months before the leave would begin.

(3) When both spouses are employed by the City, they are jointly entitled to a combined total of 12 work weeks of family leave for the birth or placement of a child for adoption or foster care, and to care for a parent who has a serious health condition.

[Ord. G-98-11, passed 9-8-98; Ord. G-09-01, passed 2-10-09]

§32.19 MILITARY LEAVE

(A) Active Duty. Employees who leave City employment for the Armed Forces are entitled to reinstatement without a break in service if:

(1) They have a certificate showing satisfactory completion of their military service;

(2) They report back to the City immediately upon release from military service.

Employees covered under this provision will be offered the same or an alternate job of equal seniority, status and pay. No benefits will accrue while on this type of leave.

(B) Reserves and National Guard. Any employee who is a member of the Indiana National Guard or a reserve member of the Armed Forces of the United States will:

(1) Receive his/her normal straight time pay for actual work days missed, not to exceed fifteen (15) days annually, if the leave is taken on City time.

(2) Be entitled to a temporary leave of absence without loss of time.

Notification papers and fulfillment papers must be given to the department head.

[Ord. G-98-11, passed 9-8-98; Ord. G-09-01, passed 2-10-09]

§32.20 JURY DUTY

(A) An employee required to serve on a jury, or who is subpoenaed to appear as a witness in a court of law, will be paid the difference between his/her regular straight time pay and that paid as a juror for each of his/her scheduled days of work on which he/she is required to serve on the jury or appear as a witness; as the case may be.

(B) It shall be the responsibility of each employee to present to the Clerk-Treasurer a copy of the court summons or subpoena and a certificate from the Clerk of the Court showing the days served as a juror or a witness, and the amount paid for the jury service.

[Ord. G-98-11, passed 9-8-98; Ord. G-09-01, passed 2-10-09]

§32.21 LEAVE OF ABSENCE

(A) Duration. Leave of absence must be requested in writing and may be granted to employees with the written approval of the Mayor. Leave of absence may be granted for a period of up to six (6) months and will be unpaid.

(B) Cessation of Benefits. During a leave of absence, the employee may retain his/her group insurance policy, but it will be the responsibility of the employee to pay the full group rate after 90 days, plus 2% to cover administration costs. During the leave, the employee will not accrue time, nor will they be eligible for any other benefit set out herein. (IC 5-10-8-2.1) The employee is covered under health benefits for the first ninety (90) days of leave.

(C) An employee on an approved leave should notify the Mayor of his/her intent to return at least two weeks in advance. The City will make every effort to place the employee in a job substantially the same in pay and duties as the one vacated at the time the leave began. However, there is no guarantee of return to the EXACT job vacated. The returning employee will be considered for open positions available at the time of return, but will not be eligible to displace any other employee. Failure to report for work assignment at the designated return date specified will result in termination unless an extension is requested and granted by the Mayor.

[Ord. G-98-11, passed 9-8-98; Ord. G-09-01, passed 2-10-09]

§32.25 REIMBURSEMENT FOR OFFICIAL USE OF A PRIVATE MOTOR VEHICLE

The use of a privately owned motor vehicle for City of New Haven business shall entitle the owner thereof to a per mile reimbursement equal in amount to the Standard Mileage Allowance adopted by the United States Department of the Treasury, Internal Revenue Service, for the business use of an automobile during the preceding year. Provided, however, that reimbursement shall only be allowed when use of the privately owned motor vehicle has been authorized in advance by the appropriate head.

[Ord. G-03-09, passed 4-22-03] **Compiler's Note:** Upon adoption, this section was originally assigned to §32.10. It was reassigned by the compiler to avoid a conflict.

EMPLOYEE RELATIONS

§32.60 OPEN MEETINGS

(A) The Common Council and members of the administration of the City shall twice each year hold an open meeting wherein any and all employees of the City may discuss concerns relative to the employment relationship, including, but not limited to, wage, benefits, and personnel policy.

(B) The Common Council shall fix, at the City's organizational meeting in January of each year, the two times upon which the open meetings will be held, one prior to budget adoption for the following year, and one prior to health insurance renewal.

(C) Notwithstanding the scheduled open meetings referred to in this section, any employee may at any time have access to either the Council or members of the administration to discuss matters pertaining to his employment relationship with the City.

[Ord. S-86-26, passed 1-13-87; Ord. G-09-01, passed 2-10-09]

§32.61 EMPLOYEES REPRESENTATIVE BOARD

Notwithstanding the scheduled open meetings referred to in §32.60, the City administration recognizes that it may be in the best interest of its employees that a representative board of employees, chosen by a vote of all employees, be established to negotiate and discuss employees concerns. Accordingly:

(A) An Employees Representative Board is established consisting of three members, all of which must be City employees who are chosen by a majority vote of all current City employees.

(B) This Representative Board shall confer with the Mayor and other administrative department heads and officials, at times designated by agreement between the Mayor and the Board.

(C) Nothing contained in this section shall be construed to supplant, amend, or rescind Police Department bargaining rights granted by the Common Council.

[Ord. S-86-26, passed 1-13-87; Ord. G-09-01, passed 2-10-09]

CHAPTER 33: MUNICIPAL FUNDS

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CUMULATIVE CAPITAL IMPROVEMENT FUND

§33.01 CREATION OF FUND

There is created a special fund to be known as the Cumulative Capital Improvement Fund of the city into which the cigarette taxes allotted to the City be reason of IC 6-7-1-30.1, together with such other funds as may be from time to time allocated by the City Council, shall be deposited. The Fund shall be cumulative, all of moneys deposited into it shall be appropriated and used solely for capital improvements as defined in §33.02, and none of the moneys shall revert to the general fund or be used for any purpose other than capital improvements.

[Ord. G-7-65, passed 7-13-65; Ord. G-02-14, passed 9-10-02]

§33.02 CAPITAL IMPROVEMENTS DEFINED

The term "CAPITAL IMPROVEMENTS" shall include the authority to do each of the following:

(1) purchase land, easements, or rights-of-way;
(2) purchase buildings;
(3) construct or improve city owned property;
(4) design, develop, purchase, lease, upgrade, maintain, or repair:
  (A) computer hardware;
  (B) computer software;
  (C) wiring and computer networks; and
  (D) communications access systems used to connect with computer networks or electronic gateways;
(5) pay for the services of full-time or part-time computer maintenance employees;
(6) conduct nonrecurring in-service technology training of unit employees;
(7) undertake Internet application development; or
(8) retire general obligation bonds issued by the city for one (1) of the purposes stated in section (1), (2), (3), (4), (5), or (6).

[Ord G-7-65, passed 7-13-65; Ord. G-90-27, passed 1-8-91; Ord. G-02-14, passed 9-10-02]

§33.03 AUTHORITY FOR EXPENDITURE OF CAPITAL FUNDS

Funds deposited in the Cumulative Capital Improvement Fund may be transferred to the General Fund or expended only by Ordinance or Resolution of the City Council.

[Ord. G-02-14, passed 9-10-02]

FIRE CUMULATIVE BUILDING AND EQUIPMENT FUND

§33.10 CREATION OF FUND

A. That there is hereby re-established for the City of New Haven, Indiana, a cumulative building and equipment fund.

B. That there shall be levied as additional tax at the rate of .0333 cents on each One Hundred Dollars ($100.00) of taxable property in the City of New Haven, Indiana. Said tax rate will be levied beginning with taxes for 2012 payable 2013 for said fund.

C. That notice of the determination to establish said cumulative building and equipment fund be given as provided by law and that all acts of the Common Council be certified thereafter to the Department of Local Government Finance of Indiana for further action.

[Ord. G-6-67, passed 4-11-78; Ord. G-4-73, passed 6-12-73; Ord. G-90-28, passed 1-8-91; Ord. G-93-9, passed 7-27-93; re-established by Ord. G-05-05, passed 5-24-05 and Ord. G-05-08, passed 8-23-05; Ord. G-09-05, passed 3-10-09; Ord. G-12-10, passed 7-24-12]

§33.11 PURPOSE OF FUND

The purpose of the Fire Cumulative Building and Equipment Fund is to provide monies for the acquisition of real estate, the erection of fire stations, the erection of additions to and the remodeling of the present buildings used to house fire-fighting equipment, and for the purchase of fire-fighting equipment and police radio equipment.

[Ord. G-6-67, passed 4-11-78; Ord. G-4-73, passed 6-12-73; Ord G-90-28, passed 1-8-91; Ord. G-93-9, passed 7-27-93; re-established by Ord. G-05-05, passed 5-24-05 and Ord. G-05-08, passed 8-23-05]

FIRE SPECIAL EQUIPMENT FUND

§33.13 CREATION OF FUND

A. There is hereby created a fund which shall be known as “Fire Special Equipment Fund” (the “Fund”).

B. Monies received by the New Haven-Adams Township Fire Department from donations, service charges and from the sale of retired or unnecessary equipment shall be deposited in the Fund.

C. Monies in the Fund may be used by the New Haven-Adams Township Fire Department to purchase special equipment or other items necessary or appropriate to the Department’s service, the need for which does not generally arise on a constant basis.

D. Monies in the Fund at the end of each fiscal year shall not revert to the General

Fund.

[Ord. A-03-07, passed 4-8-03]

EMERGENCY AMBULANCE VEHICLE AND EQUIPMENT FUND

§33.15 CREATION OF FUND

There is hereby established an Emergency Ambulance Vehicle and Equipment Fund for the New Haven Adams Township Governing Body. It shall be funded by the monies collected for the per loaded mile transportation fee of the New Haven Adams Township Governing Body.

[Ord. G-96-8, passed 8-13-96]

§33.16 PURPOSE OF FUND

The purpose of the Emergency Ambulance Vehicle and Equipment Fund is to provide monies for the purchase of emergency ambulance vehicles and equipment for the New Haven Adams Township Governing Body.

[Ord. G-96-8, passed 8-13-96]

DEFERRED PROSECUTION FEES

§33.17 DEFERRED PROSECUTION FEES

Deferred Prosecution Funds collected by the New Haven City Court from the Offiec of the Prosecuting Attorney for Allen County shall be authorized for deposit into the City of New Haven's User Fee Fund.

[Ord. G-05-12, passed 9-27-05]

CLERK'S RECORD PERPETUATION FUND

§33.18 CLERK'S RECORD PERPETUATION FUND

(A) There is hereby established a Clerk's Record Perpetuation Fund for the deposit of certain revenues and fees received by the Clerk of the New Haven City Court and required by law to be deposited into the Clerk's Record Perpetuation Fund.

(B) The Clerk of New Haven City Court shall collect the revenues and fees required to be deposited into the Clerk's Record Perpetuation Fund and shall remit the same to the Clerk-Treasurer for deposit into Clerk's Record Perpetuation Fund.

(C) The Clerk's Record Perpetuation Fund may only be expended after appropriation for court record-keeping improvements and equipment.

(D) Expenditures from the Clerk's Record Perpetuation Fund shall be processed, appropriated, claimed, and allowed in the same manner as other claims of the City of New Haven.

[Ord. G-01-16, passed 1-8-01]

SAFETY FUND

§33.20 CREATION OF FUND

(A) A Safety Fund is established from which expenditures shall be made as authorized by the Common Council in the interest of public safety.

(B) Purchases of street and traffic signs, equipment and supplies for the Police and Fire Departments, repair of curbing, sidewalks, and pavements maintained by the City and other expenditures in the interest of public safety may be made from this Fund.

[Ord. 614, passed 9-4-51]

PAYMENTS OF FUNDS

§33.25 PAYMENT OF MEMBERSHIP DUES TO ORGANIZATIONS

(A) The Common Council is authorized to budget and appropriate funds from the General Fund, or from other funds, to provide membership for the City and the elected and appointed officials and members of the municipality's boards, council, departments, or agencies in local, regional, state and national associations of a civic, educational or governmental nature, which have as their purpose the betterment and improvement of municipal operations.

(B) The Common Council is further authorized to budget and appropriate funds to pay the expenses of duly authorized representatives to attend the meetings and functions of organizations to which the municipality belongs.

[Ord. G-82-11, passed 7-27-82]

§33.26 PAYMENT OF CLAIMS IN ADVANCE OF BOARD ALLOWANCE

(A) The City fiscal officer may make claim payments in advance of board allowances for the following kinds of expenses:

(1) Property or services purchased or leased from the United States government, its agencies, or its political subdivisions.

(2) License or permit fees.

(3) Insurance premiums.

(4) Utility payments or utility connection charges.

(5) General grant programs where advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced.

(6) Grants of state funds authorized by statute.

(7) Maintenance or service agreements.

(8) Leases or rental agreements.

(9) Bond or coupon payments.

(10) Payroll.

(11) State, federal or county taxes.

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

(13) A product or service for which the City legislative body had accepted a bid.

(B) Each payment of expenses under this ordinance must be supported by a fully itemized invoice or bill and certifications by the fiscal officer.

(C) The City board having jurisdiction over the allowance of the claim shall review and allow the claim at its next regular or special meeting following the preapproved payment of the expense.

[Ord. G-95-19, passed 12-26-95]

§33.27 CITY PURCHASING

(A) The Board of Public Works and Safety is designated as the Purchasing Agency for the City of New Haven with all the powers and duties authorized under Indiana Code §5-22-8-1 through §5-22-8-3, as amended.

(B) For individual purchases of services or supplies not exceeding five thousand dollars ($5,000) in cost, the Board of Works may, but shall not be obligated to, authorize a City Department Head to complete the purchase on the open market without obtaining quotes or bids.

(C) For all other small purchases of services or supplies, as defined by Indiana Code §5-22-8-1 as amended, Board of Works' approval shall be required after the procedure of Code §5-22 *and following* has been followed.

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

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

(2) the price 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 supplies manufactured in the United States is substantially less than the quality of comparably priced available supplies manufactured elsewhere; or

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

[Ord. G-98-10, passed 9/8/98; Ord. G-07-12, passed 11/27/07]

FINE ARTS COMMISSION SPECIAL GIFT FUND

§33.30 CREATION OF FUND

(A) A Special Gift Fund is set up as prescribed by the State Board of Accounts. This fund is the collection of all monies donated to the Fine Arts Commission by the private sector and from private individuals.

(B) Monies from this fund shall be disbursed at the discretion of the Commission, as are other funds provided by the state and local governments.

(C) This fund shall be initiated by the Clerk Treasurer, and he shall treat the fund as any other in the City. This fund shall be under the auspices fo the State Board of Accounts.

[Ord S-86-13, passed 7-8-86]

SEWER REHABILITATION CAPITAL IMPROVEMENT FUND

§33.35 CREATION OF FUND

There is hereby established within the City Utility Department a fund to be know as the Capital Improvement Fund and $400 of the $900 per acre assessment fee for the Werling Road sewer on land south of Moeller Road shall be paid into the Fund.

[Ord. G-88-18, passed 1-10-89]

POLICE DEPARTMENT PETTY CASH FUND

§33.40 CREATION OF FUND

There is hereby established n the Police Department a Petty Cash Fund in the amount of $150, which Fund shall be used to pay small, incidental bills.

[Ord. A-89-2, passed 3-14-89]

POLICE DEPARTMENT DOCUMENT REPRODUCTION FEE

§33.42 FEE SCHEDULE

a) The City of New Haven Police Department shall charge the fees listed below, the proceeds of which shall be deposited in the Police Department Continuing Education Fund.

SERVICE	FEE
Initial Incident Report	No charge
Full Incident Report	$ 0.15 per page
Accident Report	$ 5.00
Limited Criminal History - Inspection	$ 3.00
Limited Criminal History - Release	$ 7.00
4 Year Hunting & Target License	$10.00/$5 Refundable*
4 Year Personal Protection License	$10.00/$5 Refundable*
Lifetime Hunting & Target License/No Current License	$50.00/$30 Refundable*
Lifetime Hunting & Target License/Current Valid License	$40.00/$30 Refundable*
Lifetime Personal Protection License/No Current License	$50.00/$30 Refundable*
Lifetime Personal Protection License/Current Valid License	$40.00/$30 Refundable*
Retired Police Officer Handgun License	No charge
Corrections Officer Handgun License	No charge
Firearms Dealer Handgun License	No charge
VIN Check	$ 5.00
Finger Printing	$ 5.00
Document Copying (11 x 14 or less)	$ .15 per page
Document Copying (greater than 11 x 14)	$ 1.00 per page

*Refundable to the applicant if the license is not issued.

b) In response to a subpoena issued by a Court of competent jurisdiction, the City of New Haven Police Department shall charge the fees listed below, the proceeds of which shall be deposited in the Police Department Continuing Education Fund.

SERVICE	FEE
Computer Disc Duplication	$25.00
Videotape Duplication	$40.00
Audio CD Duplication	$25.00
Photograph Reprint	$ 5.00 each
Photograph Reprint - Digitalized	$10.00
Thumbdrive	$20.00 each

[G-03-24, passed 11-25-03; Ord. G-06-04, passed 6-27-06; Ord. G-13-10, passed 7-23-13]

CITY COURT DOCUMENT REPRODUCTION FEE

§33.44 FEE SCHEDULE

The New Haven City Court shall charge the fees listed below, the proceeds of which shall be deposited in the Clerk's Record Perpetuation Fund.

SERVICE	FEE
Fax Transmission of SR-16	$ 2.00
Document Copying (11 x 14 or less)	$ .15 per page
Document Copying (greater than 11 x 14)	$ 1.00 per page
Videotape Duplication	$40.00
Audiotape Duplication	$25.00
Photograph Reprint	$ 5.00
Photograph Reprint - Digitalized	$10.00

[Ord. G-03-24, passed 11-25-03]

POLICE DEPARTMENT BUILDING AND EQUIPMENT FUND

§33.45 CREATION OF FUND

That the resources of the Building and Equipment Fund of the City of New Haven Police Department may be used to improve the present location, prepare plans for new facilities, to purchase new equipment or to pay for the unforseen operating expenses, including the expenses of confidential investigations. The fund is authorized to receive contributions, donations and gifts as well as civil forfeitures from criminal enterprises. Additionally, funds received from the sale of police cars shall not revert to the general fund but shall be placed in the Building and Equipment Fund of the City of New Haven Police Department.

[Ord. G-07-11, passed 11-27-07]

GENERAL REPRODUCTION FEE

§33.46 FEE SCHEDULE

a) Except as enumerated above, any City of New Haven Department required or requested to reproduce a document shall charge the following fees, proceeds of which shall be dposited to the General Fund.

SERVICE	FEE
Document Copying (11 x 14 or less)	$ .15
Document Copying (greater than 11 x 14)	$ 1.00 per page
Computer Disc Duplication	$25.00
Videotape Duplication	$40.00
Audio CD Duplication	$25.00
Photograph Reprint	$ 5.00 each
Photograph Reprint - Digitalized	$10.00
Document Copied by Outside Service	actual direct cost
Reprogramming to Separate Disclosable from Non-Disclosable Data	actual direct cost

[Ord. G-03-24, passed 11-25-03]

NEW HAVEN CITY COURT CASH CHANGE FUND

§33.50 NEW HAVEN CITY COURT CASH CHANGE FUND

In accordance with the provisions of IC 36-1-8-2, there is created a special fund in the amount of $500.00 to be known as the New Haven City Court Cash Change Fund. The fund shall be used to make change when collecting cash revenues. The Clerk of the New Haven City Court shall make such accountings for the fund as the City Clerk-Treasurer shall from time to time require.

[Ord. G-03-08, passed 4-22-03; Ord. G-05-11, passed 9-27-05]

CITY OF NEW HAVEN GRANT FUND

§33.55 GRANT FUND

There is created a special fund, to be known as "Fund 4-Grants" which shall serve as the repository for all grants received by the City of New Haven or any department thereof. The fund balance shall be managed in accordance with the rules and regulations from time to time promulgated by the Indiana State Board of Accounts.

[Ord G-03-11, passed 5-13-03]

GENERAL IMPROVEMENT FUND

§33.60 CREATION OF FUND

There is hereby established for the City of New Haven a General Improvement Fund pursuant to and in accordance with IC 36-9-17.

[Ord. G-92-9, passed 7-28-92]

§33.61 PURPOSE OF FUND

Subject to approval of the Board of Public Works of the City, the initial purpose of the General Improvement Fund is to provide for curb and gutter work, and related improvements, in Meadowbrook Subdivision Section 1, 2 and 3.

[Ord. G-92-9, passed 7-28-92]

§33.62 APPROPRIATIONS TO FUND

The General Improvement Fund shall consist of an appropriation made from the General Fund of the City in the amount of One Hundred Fifty Thousand and 00/100 Dollars ($150,000.00). Said appropriation shall be from the COIT Fund in the existing General Fund budget.

[Ord. G-92-9, passed 7-28-92]

NONREVERTING CAPITAL FUND
FOR THE PARK AND RECREATION DEPARTMENT

§33.70 CREATION OF FUND

(A) That there is created a Special Non-Reverting Capital Improvements Fund for the New Haven Park and Recreation Department. The Fund shall be cumulative and none of the moneys deposited into the Fund shall revert to the general fund or be used for any purpose other than Capital Improvements as herein defined.

(B) That the City Council may include, but shall not be required to include, in the New Haven Park and Recreation Department's Budget an item of $50,000.00 each year as an appropriation to the Special Non-Reverting Capital Improvements Fund.

(C) That the New Haven Park and Recreation Department may use funds from the Special Non-Reverting Capital Improvements Fund for the purpose of acquiring land, engineering and constructing an extension of the community trail and greenway with all details concerning said construction to be approved by majority vote of the New Haven Park and Recreation Board.

(D) That the New Haven Park and Recreation Department may use funds from the Special Non-Reverting Capital Improvements Fund for the purpose of acquiring land for new parks with the decisions concerning the acquisition of said land to be determined by the New Haven Park and Recreation Board.

(E) That the New Haven Park and Recreation Department may use funds from the Special Non-Reverting Capital Improvements Fund for the purpose of repairing and improving existing capital assets with all details concerning said improvements and repairs to be approved by majority vote of the New Haven Park and Recreation Board.

(F) That the New Haven Park and Recreation Department shall deposit into the Special Non-Reverting Capital Improvements Fund any donations which contain restrictions on the use of the donation, set by the donor, that are consistent with the uses of the Special Non-Reverting Capital Improvements Fund. Donations shall be deposited into the Fund only after said donations have been approved by the New Haven Park and Recreation Board in the manner required by Indiana law.

(G) That funds deposited into the Special Non-Reverting Capital Improvements Fund may be expended only by resolution of the New Haven Park and Recreation Board.

[Ord. A-90-11, passed 8-14-90; Ord. A-03-01, passed 2-11-03; Ord. A-07-01, passed 1-23-07]

NON-REVERTING BASEBALL DIAMOND FUND

§33.71 CREATION OF FUND

(A) That there is established for and on behalf of the City of New Haven Department of Parks and Recreation a Special Non-Reverting Baseball Diamond Maintenance Fund.

(B) That all user fees received by the Department of Parks and Recreation for baseball diamonds shall be deposited into said fund.

(C) That the fund may only be used for the purpose of baseball diamond maintenance and repair as directed by the New Haven Parks and Recreation Board.

[Ord. G-08-17, passed 1-13-09]

FESTIVAL FUND FOR THE PARK AND RECREATION DEPARTMENT

§33.72 CREATION OF FUND

(A) There is hereby created a Special Festival Fund for the New Haven Park and Recreation Department.

(B) The Festival Fund shall be designated as Fund 30 and any income earned by the Fund, after provision for expenses, shall be transferred to the Park Department's Operating Fund, Fund 23.

[Ord. A-09-07, passed 5-12-09]

NONREVERTING FUND FOR POOL REPAIRS AND RENOVATIONS

§33.73 CREATION OF FUND

(A) There is established for and on behalf of the New Haven Park and Recreation Department a Special Nonreverting Pool Maintenance Fund.

(B) Up to the sum of $50,000.00 shall be deposited into said fund from the general budget to the New Haven Park and Recreation Department annually.

(C) That the fund may only be used for the purpose of pool maintenance and repair as directed by the New Haven Adams Township Park and Recreation Board.

[Ord. A-03-18, passed 9-9-03]

NONREVERTING OPERATING FUND FOR THE PARK AND RECREATION DEPARTMENT

§33.74 CREATION OF FUND

(A) There is established for and on behalf of the New Haven Park and Recreation Department a Special Nonreverting Operating Fund. Said fund shall be cumulative and none of the moneys deposited into said fund shall revert to the General Fund.

(B) Only moneys paid to the Park Department as fees for programs which are conducted by the Park Board without tax subsidies and which are paid, in their entirety, to a non-Park Department entity which is providing program services to the Park Department shall be deposited into said Fund.

(C) Moneys deposited into the Fund shall only be paid to an entity which is providing non-tax subsidized program services to the Park Department or, in the case of a cancellation of a program, as a refund to the person who paid said fees to the Park Department. Moneys deposited into the Fund shall be expended only upon resolution of the New Haven Park and Recreation Board.

[Ord. A-03-02, passed 2-11-03]

NONREVERTING RESTRICTED CONTRIBUTIONS FUND FOR PARK AND RECREATION DEPARTMENT

§33.75 CREATION OF FUND

(A) There is established for and on behalf of the New Haven Park and Recreation Department a Special Nonreverting Restricted Donations Fund. Said fund shall be cumulative and none of the moneys deposited into said fund shall revert to the General Fund.

(B) Donations received by the New Haven Park and Recreation Department which contain use restrictions shall be placed into the Special Nonreverting Restricted Donations Fund.

(C) If the New Haven Park and Recreation Board determines that a donation contains restrictions dictating that the donation is to be used solely for capital improvements consistent with the Special Nonreverting Capital Improvements Fund, said donation may be deposited into the Special Nonreverting Capital Improvements Fund instead of this fund.

(D) Donations shall be deposited into the Fund only after said donations have been approved by the New Haven Park and Recreation Board in the manner required by Indiana law. Moneys deposited into the Fund shall be expended only for purposes consistent with the restrictions placed upon the gift by the donor. Moneys deposited into the Fund shall be expended only upon resolution of the New Haven Park and Recreation Board.

(E) The Fund is allowed to accept grants with restrictions as well as donations and hold and administer said grants according to the rules of said fund.

(F) If the New Haven Park and Recreation Board determines that a grant contains restrictions dictating that the grant is to be used solely for capital improvements consistent with the Special Nonreverting Capital Improvements Fund, said grant may be deposited into the Special Nonreverting Capital Improvements Fund instead of this fund.

[Ord. A-03-03, passed 2-11-03; Ord. A-03-19, passed 9-9-03]

PROMOTIONAL FUND

§33.80 CREATION OF FUND

There is hereby established, for the City of New Haven, the New Haven Promotional Fund.

[*Ord. G-90-15, passed 8-14-90; G-04-05, passed 6/8/04]*

§33.81 APPROPRIATIONS

The appropriation for the New Haven Promotional Fund shall be made each year in the annual budget of the City of New Haven.

[*Ord. G-90-15, passed 8-14-90; G-04-05, passed 6/8/04]*

§33.82 ADMINISTRATION

The New Haven Promotional Fund shall be administered by the Mayor of the City of New Haven at the discretion of the Mayor. Expenditures from the Promotional Fund may include, but not be limited to the cost of rental of meeting places, meals, decorations, memorabilia, awards, promotion of industrial, commercial or residential development of relations with other units of government together with any other matters deemed by the Mayor or the Common Council of the City of New Haven to be in the best interests of the City.

[*Ord. G-90-15, passed 8-14-90; G-04-05, passed 6/8/04]*

COMMERCIAL MOTOR VEHICLE OPERATOR CERTIFICATION FUND

§33.90 CREATION OF FUND

There is hereby established for the City of New Haven the Commercial Motor Vehicle Operator Certification Fund. It shall be funded annually through the Budget of the City of New Haven.

[Ord. G-90-16, passed 8-14-90]

§33.91 PURPOSE OF FUND

City employees who are, by Indiana law, required to receive certification and licensing to operate commercial equipment shall be licensed. The expenses associated with receiving a license, taking a written test, taking a skills test, or retaking a test shall be borne by the City of New Haven. Covered expenses shall be paid from the Commercial Motor Vehicle Operator Certification Fund.

[Ord. G-90-16, passed 8-14-90]

RAINY DAY FUND

§33.100 CREATION OF THE FUND

There is hereby established for the City of New Haven a “Rainy Day Fund” pursuant to the provisions of Indiana Code §36-1-8-5.1.

§33.102 PURPOSE OF THE FUND

The Rainy Day Fund shall be a repository for such unused and unencumbered balances as may remain in other City accounts. Monies in the Rainy Day Fund shall be held to meet unusual or unexpected expenses not otherwise provided for in the budget.

§33.104 TRANSFERS TO THE FUND

In any fiscal year, not more than ten percent (10%) of the City of New Haven’s total budget for that fiscal year may be transferred by the Common Council to the Rainy Day Fund.

§33.106 APPROPRIATIONS FROM THE FUND

Before making an appropriation from the Rainy Day Fund, the Common Council shall make a finding that the proposed use of the monies to be appropriated is consistent with the intent of the fund.

[Ord. G-02-16, passed 9-24-02]

REVOLVING FUND

§33.150 REVOLVING FUND

There is hereby created the City of New Haven Economic Development Revolving Fund, pursuant to Indiana Code §5-1-14-14(b).

§33.151 USE OF FUND

The City may lend the money in the revolving fund to any borrower if the City Council finds that the loan will be used by the borrower for one (1) or more of the following economic development purposes:

(1) Promoting significant opportunities for the gainful employment of the county’s or municipality’s residents.

(2) Attracting a major new business enterprise to the City of New Haven.

(3) Retaining or expanding a significant business enterprise in the City of New Haven.

Activities that may be undertaken by the borrower in carrying out an economic

development purpose include expenditures for any of the following:

(1) Acquisition of land.
(2) Acquisition of property interests.
(3) Site improvements.
(4) Infrastructure improvements.
(5) Buildings.
(6) Structures.
(7) Rehabilitation, renovation, or enlargement of buildings or structures.
(8) Machinery.
(9) Equipment.
(10) Furnishings.

§33.152 TERMS AND CONDITIONS OF LOAN

A Resolution of the City Council approving a loan from the Revolving Fund must contain the following:

(1) the term of the loan;
(2) the interest rate;
(3) the form of the note or notes;
(4) the medium of payment;
(5) the place and manner of payment;
(6) the manner of execution of the note or notes;
(7) the terms of redemption;
(8) any other provisions not inconsistent with this section.

§33.153 ISSUANCE OF BONDS

The City of New Haven may issue bonds pursuant to Indiana Code 36-9-32-7(b) through 36-9-32-7(j) for the economic development purposes listed in §33.151 and may repay the indebtedness solely from revenues derived from the repayment of loans made pursuant to §33.151 - 33.152.

§33.154 TRANSFER TO CEDIT FUND

Money in the Revolving Fund may at any time be transferred in whole or in part to the City's Economic Development Income Tax Fund.

§33.155 TRANSFER FROM CEDIT FUND

An initial amount of One Hundred Fifty Thousand Dollars ($150,000.00) shall be transferred from the City's Economic Development Income Tax Fund to the Revolving Fund. Such additional amounts may be transferred at any time.

[Ord. G-03-14, passed 6-24-03; Ord. G-03-28, passed 12/23/03]

RIVERBOAT REVENUE SHARING FUND

§33.160 RIVERBOAT REVENUE SHARING FUND

There is hereby created the City of New Haven Riverboat Revenue Sharing Fund.

§33.161 DEPOSITS

The City shall deposit to the Riverboat Revenue Sharing Fund all monies received by the City of New Haven from the State of Indiana riverboat wagering tax pursuant to Indiana Code 4-33-13-5.

§33.162 USE OF FUND

Monies deposited in the Riverboat Revenue Sharing Fund shall not revert to the General Fund and may be appropriated by the Common Council for any lawful purpose.

[Ord. G-03-30, passed 10-14-03]

STORM WATER IMPROVEMENT FUND

§33.165 STORM WATER IMPROVEMENT FUND

The Common Council of the City of New Haven, Indiana, hereby creates a Storm Water Improvement Fund for expenditures associated with the improvements, betterments, and replacements of Storm Water Systems, and the fund, which is used to pay the obligations of the Storm Water Utility on a day-to-day basis, shall heretofore be called the “Storm Water Operating” Fund.

[Ord. G-09-04, passed 3-10-09]

INSURANCE RESERVE FUND

§33.170 INSURANCE RESERVE FUND

(A) Establishment of fund: The city fiscal officer shall be authorized to establish an insurance reserve fund. The purpose of the fund will be to hold monies to offset future insurance increases and also allow the city flexibility to subsidize the cost of health insurance to city employees.

(B) Use of fund: Any monies placed into the fund may be applied to the city budget for the cost of health insurance or be partially allocated to city employees to assist them in paying out-of-pocket costs of health care. Any allocations to the employees may be made only by a majority vote of the City Council.

(C) Reversion to general fund if repealed: Should this Ordinance be repealed then any monies placed in the fund shall revert to the general fund.

[Ord. G-11-09, passed 12-27-11]

CUMULATIVE CAPITAL DEVELOPMENT FUND

§33.180 ESTABLISHMENT OF FUND

A. The City fiscal officer shall be authorized to establish a Cumulative Capital Development Fund. The purpose of the Fund will be to hold monies to offset future expenditures for any purpose authorized by Indiana Statute for Cumulative Capital Development Funds.

B. Tax shall be levied at the rate of .0333 cents on each One Hundred Dollars ($100.00) of taxable property in the City of New Haven, Indiana, for said Fund.

C. No Department may expend money from the Fund for operating costs of the Department.

[Ord. G-14-3, passed 4/8/14]

CHAPTER 34: BOARDS AND COMMISSIONS

Section

Department of Parks and Recreation and Board of Parks and Recreation

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34.02 Number of Members
34.03 Reestablishment in Accordance with New State Law
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Smoke Abatement Commission

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DEPARTMENT OF PARKS AND RECREATION AND BOARD OF PARKS AND RECREATION

§34.01 CREATION OF DEPARTMENT

It is deemed necessary to create and establish a Department of Parks and Recreation, to be governed by the New Haven Park and Recreation Board.

[Ord. 631, passed 11-10-55]

§34.02 NUMBER OF MEMBERS

The New Haven Park and Recreation Board shall be comprised of:

(A) Four (4) members to be appointed by the Mayor, and

(B) One (1) member to be appointed by the Judge of the Allen County Circuit Court.

[Ord. 631, passed 11-10-55; Ord. G-82-10, passed 6-8-82]

§34.03 REESTABLISHMENT IN ACCORDANCE WITH NEW STATE LAW

(A) The Department of Parks and Recreation is reaffirmed and reestablished and shall perform the administrative function and have all duties, powers, and authority assigned by the laws of the state not limited to, but to include, the powers and duties set forth under IC 36-10-3 et seq.

(B) The appointment of each member of the New Haven Park and Recreation Board is reaffirmed.

(C) The terms of office of each of the members of the Department of Parks and Recreation is reaffirmed.

(D) The Department of Parks and Recreation shall have all of the powers and duties set forth at IC 36-10-3 et seq. and those powers and duties are to be exercised in accordance therewith.

(E) The special nonreverting capital fund of the Department of Parks and Recreation is reaffirmed and reestablished.

(F) The extension of the jurisdiction of the Department of Parks and Recreation to the unincorporated area of Adams Township of Allen County, Indiana, as provided in Ord. 633, for park and recreational purposes and services is reaffirmed.

(G) All functions, powers, and authorities not limited to, but to include, its budget, funds, operations, employment of personnel, purchase and leasing of real and personal property, and all

other matters pertaining to the parks and recreational functions of the Department of Parks and Recreation are reestablished and/or affirmed.

(H) Upon the recommendation of the Mayor, the Common Council does adopt this section to reestablish and reaffirm the Department of Parks and Recreation so that the necessary functions and purposes of the Department can be rendered efficiently and uninterruptedly to fulfill the needs of the citizens of the City.

Compiler's Note: Indiana Code 36-10-3-22(b) authorizes a municipality to establish either a nonreverting operating fund or a nonreverting capital fund.

[Ord. G-82-10, passed 6-8-82]

§34.04 IMPOSITION OF FEES

(A) The City of New Haven Park & Recreation Board may determine and impose such service charges and user fees as it, from time to time, determines to be reasonable and just.

(B) The City of New Haven Department of Parks & Recreation shall maintain a list of all user charges and service fees in effect, which shall be available upon request.

[Ord. G-12-9, passed 5-7-12]

SMOKE ABATEMENT COMMISSION

§34.10 CREATION OF COMMISSION

There is established as a part of the Department of Public Works and Safety of the City a commission to be known as the Smoke Abatement Commission.

[Ord. G-20-65, passed 1-11-65]

§34.11 MEMBERSHIP; AUTHORITY AND SALARY

(A) The Commission shall consist of a member of the Board of Public Works and Safety, a member of the New Haven City Plan Commission, a member of the New Haven Board of Zoning Appeals, and two members to be appointed by the Mayor of the City who shall not be members of the same political party.

(B) The member of the Board of Works and Safety shall serve as Chairman of the Commission.

(C) The Commission shall have power to make any reasonable rules and regulations it deems advisable.

(D) The members shall serve without pay.

[Ord. G-20-65, passed 1-11-65]

§34.12 SMOKE INSPECTOR

The Commission has the authority to employ a Smoke Inspector at a salary to be fixed by Council, and the Commission shall furnish him the equipment as shall enable him to make the proper inspections and tests for the enforcement of this chapter.

[Ord. G-20-65, passed 1-11-66]

§34.13 DUTIES OF SMOKE INSPECTOR

(A) The duty of the Smoke Inspector is to examine and inspect the emission of smoke, and the emission and escape of foul or noxious gases and fumes of ash, dust, soot, and cinders in the City.

(B) Whenever he finds that the smoke, gases or fumes, or ash, dust, soot or cinders are in violation of any of §§93.20 through 93.23, it shall be his duty to notify in writing the persons causing the emission or escape to desist from so doing and to abate the nuisance within a period of ten days.

(C) After the expiration of the time, if the nuisance still continues, the Smoke Inspector shall file with the Commission of Smoke Abatement a written statement naming the person in violation and stating the facts constituting the violation.

[Ord. G-20-63, passed 1-11-65]

§34.14 NOTICE AND HEARING; RIGHT TO APPEAL

(A) Upon the filing of the written statement, the Smoke Abatement Commission shall fix a time for hearing upon the facts set forth in the statement of the Smoke Inspector, and shall cause notice to be served upon the person named as violating any of §§93.20 through 93.23 of the time and place of the hearing, together with a copy of the statement of the Smoke Inspector.

(1) At the hearing the person so named shall have the right to appear and be heard in person and by counsel, and if he fails to appear, the matter may be heard in his absence.

(2) Witnesses may be heard by either party to the proceedings.

(3) If, upon hearing, the Commission shall find that the facts stated in the report of the Smoke Inspector are true and that the person is guilty, the Board shall order and direct the abatement of the nuisance within such time and upon such conditions as the Board may decide; if the Board shall find that the facts stated in the report are not true, and that the person is not guilty, then the Board shall enter a finding to that effect and the proceedings shall terminate.

(B) Any person feeling aggrieved by the decision of the Board shall have a right to appeal from the finding and decision of the Board to the Allen Circuit Court, to the Superior Court of Allen County, or to Allen Superior Court No. 3 by filing his complaint setting forth the action of the Board, causing summons to be issued thereon as in civil cases and the cause shall be tried de novo in the court.

[Ord. G-25-65, passed 1-11-66]

§34.15 ABATEMENT OF NUISANCE

At the time fixed in the order of the Smoke Abatement Commission, unless the order has been appealed or in the event of appeal, at such time as the court shall fix, any person found guilty of violating any of §§93.20 through 93.23 shall have the nuisance abated.

[Ord. G-20-65, passed 1-11-66]

§34.16 FAILURE TO ABATE NUISANCE

If the person in violation fails to abate the nuisance, the Smoke Abatement Commission shall issue its warrant to the Chief of Police of the City or to the Smoke Inspector, ordering and directing that the nuisance be forthwith abated, and the person to whom the warrant shall have been issued shall forthwith execute the same by abating the nuisance.

[Ord. G-20-65, passed 1-11-66]

§34.17 EXPENSE OF ABATING THE NUISANCE

An accurate account of the expense of abating the nuisance shall be kept and a report thereof made to the Clerk Treasurer, who shall cause the amount of the expense to be charged against the person in violation upon the tax duplicate of the City, or cause suit to be brought against the person for the recovery thereof.

Nothing in this section shall be construed as prohibiting or preventing the collection of penalties provided for a violation of any provisions of §§93.20 through 93.23.

[Ord. G-20-65, passed 1-11-66]

HISTORIC DISTRICT BOARD OF REVIEW

§34.20 CREATION OF BOARD

There is created an Historic District Board of Review officially designated as the Historic District Board of Review of the City, as provided under IC 18-7-22-3.

§34.21 POWERS AND DUTIES

The Historic District Board of Review shall have all the powers and duties given under IC 18-7-22-4.

[Ord. G-5-80, passed 4-8-80]

§34.22 MEMBERS

(A) The Historic District Board of Review shall consist of five voting members to be appointed by the Mayor, subject to the approval of the Common Council, to serve for a term of three years. However, the initial term of one voting member shall be for one year, the initial term of two voting members shall be for two years, and the initial term of two voting members shall be for three years. All voting members shall be residents of the City.

(B) The Historic District Board of Review may appoint advisory members as the governing body deems appropriate.

[Ord. G-5-80, passed 4-8-80]

§34.23 ADMINISTRATOR

The City Engineer is designated to act as the administrator of the Historic District Board of Review as provided under IC 18-7-22-3 (c).

[Ord. G-5-80, passed 4-8-80]

BOARD OF ZONING APPEALS

§34.30 ORGANIZATION; DUTIES

For provisions governing the Board of Zoning Appeals, see §151.155.

FINE ARTS COMMISSION

§34.40 CREATION OF COMMISSION

There is created a Fine Arts Commission, officially designated as the Mayor's Commission on Fine Arts of the City.

[Ord. G-84-18, passed 8-14-84]

§34.41 VOTING MEMBERS

(A) The Fine Arts Commission shall consist of seven members with voting privileges to be appointed by the Mayor subject to the approval of the Common Council.

(B) The term of each voting member shall be for two years. All members shall be residents of the County. At least one voting member shall be also a member of the Common Council.

[Ord. G-84-18, passed 8-14-84; Am. Ord. G-85-7, passed 3-12-85]

§34.42 ADVISORY MEMBERS

Advisory members of the Fine Arts Commission shall include the immediate past Mayor of the City, the Superintendent of East Allen County Schools, and the current President of the New Haven Chamber of Commerce.

[Ord. G-84-18, passed 8-14-84]

§34.43 CHAIRPERSON

A voting member shall serve as Chairperson of the Fine Arts Commission and will be so chosen by a vote of the voting members. The Chairperson shall serve for a one-year term. The Chairperson shall designate any member, voting or advisory, to serve as Secretary.

[Ord. G-84-18, passed 8-14-84]

GRONAUER LOCK ADVISORY BOARD

§34.50 CREATION OF COMMISSION

There is created a Gronauer Lock Advisory Board.

[Ord. G-92-4, passed 4-l4-92]

§34.51 MEMBERSHIP OF COMMISSION

(A) One (1) person to be appointed by the New Haven Historical Society,

(B) One (1) person to be appointed by the Indiana Canal Society,

(C) One (1) person to be appointed by the Maumee Valley-Wabash and Erie Canal Society,

(D) One (1) person to be appointed by the Adams Township Park Board;

(E) One (1) person to be appointed by the River Greenway Society;

(F) Two (2) persons to be appointed by the Mayor.

[Ord. G-92-4, passed 4-14-92]

§34.52 TERM

Members shall serve for two (2) year terms, with the first term deemed to have commenced April l5, 1992.

[Ord. G-92-4, passed 4-14-92]

§34.53 OFFICERS

The Board shall elect from its membership a Chairman, Vice-Chairman, and a Secretary.

[Ord. G-92-4, passed 4-14-92]

§34.54 ADVICE TO CITY

The Board shall provide such advice or assistance as the City or its Parks and Recreation Department may request.

[Ord. G-92-4, passed 4-14-92]

NEW HAVEN REDEVELOPMENT COMMISSION

§34.60 CREATION OF COMMISSION

There is created the New Haven Redevelopment Commission to act with the duties and responsibilities described in Indiana Code §37-1-14-1, and following as the same is now written and is from time to time amended.

[Ord. G-06-11, passed 1-9-07]

§34.61 MEMBERSHIP

(A) The New Haven Redevelopment Commission shall be controlled by five (5) members, each to serve for one (1) year from the first (1st) day of January following his or her appointment or until replaced by a duly appointed and qualified member.

(B) Three (3) of the members shall be appointed by the Mayor and two (2) of the members shall be appointed by the City Council.

[Ord. G-06-11, passed 1-9-07]

§34.62 OFFICIAL BOND

The City of New Haven is duly authorized to purchase a Blanket Position Bond covering all members of the New Haven Redevelopment Commission.

[Ord. G-06-11, passed 1-9-07]

CHAPTER 35: CIVIL DEFENSE AND EMERGENCY PREPAREDNESS

Section

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35.02	Intent and Purpose
35.03	Definitions
35.04	Advisory Council
35.05	Director of Emergency Preparedness
35.06	Declaration of Emergency
35.07	Emergency Powers
35.08	Emergency Operations Plan
35.09	Annexes to Plan
35.10	City Liability
35.11	Private Liability
35.12	Conflicting Law Superseded
35.98	Violations
35.99	Penalty

§35.01 TITLE

This chapter shall be known as the "Civil Defense and Disaster Ordinance of New Haven."

[Ord. G-86-2, passed 2-11-86]

§35.02 INTENT AND PURPOSE

It is the intent and purpose of this chapter to establish a civil defense department to coordinate disaster and emergency preparedness.

[Ord. G-86-2, passed 2-11-86]

§35.03 DEFINITIONS

The following definitions shall apply in the interpretation of this chapter.

(A) Attack. A direct or indirect assault, including, but not limited to, bombing, chemical, biological, or radiological warfare, sabotage, violence, and civil disorder by unfriendly foreign or domestic elements.

(B) Civil Defense. A broad term meaning to carry out basic governmental functions of providing for the common defense, protecting the public peace, health, and safety, and preserving the lives and property of the people. It shall not, however, include any activity that is the primary responsibility of the military forces of the United States. It does include, without limitation, firefighting services, police services, medical and health service, rescue, engineering, warning services, communications, chemical, biological, radiological, and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, plant protection, temporary restoration of public utility services, and other like services.

(C) Civil Defense Forces. The employees, equipment, and facilities of all City departments, boards, and commissions; and all volunteer personnel, equipment, and facilities contributed by or obtained from volunteer persons or agencies.

(D) Civil Defense Volunteer. Any person duly registered, identified, and appointed by the Director of Emergency Preparedness and assigned to participate in civil defense activity.

(E) Director. The City Director of Emergency Preparedness, as established under this chapter.

(F) Disaster. The occurrence of imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including, but

not limited to, fire, flood, earthquake, wind, storm, wave action, oil spill, other water contamination requiring emergency action to avert danger or damage, air contamination, drought, explosion, riot, or "Attack" as defined by this section.

(G) Regulations. Plans, programs, and other emergency procedures deemed essential to civil defense.

(H) Volunteer. One who contributes a service, equipment, or facilities to the civil defense organization without remuneration.

§35.04 ADVISORY COUNCIL

The Mayor shall appoint an advisory council, known as the City Emergency Preparedness Advisory Council, which shall exercise general supervision over planning a civil defense and disaster program.

(A) The City Chief of Police and Fire Chief shall be members of this Council.

(B) Members of the Board of Public Works and Safety shall be members of this Council.

(C) The City Works Superintendent shall be a member of this Council.

(D) From time to time, the Mayor may appoint to the Council private citizens and representatives of those volunteer organizations and City offices and departments deemed appropriate for effective civil defense and disaster preparedness planning. All appointments shall be for one year, unless otherwise provided for by the Mayor.

(E) The Director of Emergency Preparedness shall be a permanent member of the Advisory Council.

(F) The Council shall elect its own officers -- President, Vice President, and Secretary; and shall meet as necessary to effectively plan a civil defense and disaster program.

[Ord. G-86-2, passed 2-11-86]

§35.05 DIRECTOR OF EMERGENCY PREPAREDNESS

(A) The office of the City Director of Emergency Preparedness shall be directly responsible to the Mayor for the organization, administration, and operation of the City's civil defense and disaster program.

(B) The Director shall coordinate the civil defense forces and the volunteer persons and agencies who offer acceptable service to the City.

(C) The Mayor may authorize the Director to obtain vital supplies, equipment, and other properties found lacking and as necessary for the adequate civil defense, and bind the City for the fair value thereof.

[Ord. G-86-2, passed 2-11-86]

§35.06 DECLARATION OF EMERGENCY

The Mayor may declare a local disaster emergency, and such a declaration shall activate all necessary aspects of the appropriate civil defense plans and authorize the furnishings of aid and assistance under same.

[Ord. G-86-2, passed 2-11-86]

§35.07 EMERGENCY POWERS

(A) After declaring a local disaster emergency, the Mayor may make, amend, and rescind such regulations as may be necessary. Such regulations shall have the full force and effect of law, and may include, but shall not be limited to, the following:

(1) Restricting or prohibiting the movement of vehicles or pedestrians in order to facilitate the work of civil defense forces.

(2) Authorizing and directing the mass movement of persons from areas within the City deemed critical, hazardous, or vulnerable to disaster.

(B) Such regulations shall be in force for 30 days after enacted, unless extended by the Mayor.

[Ord. G-86-2, passed 2-11-86]

§35.08 EMERGENCY OPERATIONS PLAN

A comprehensive civil defense and emergency operations plan shall be adopted and maintained by resolution of the City Emergency Preparedness Advisory Council and approval by the Mayor. The plan shall be considered supplementary to this chapter and shall have the force and effect of law whenever a “Disaster” as defined in §35.03 has been declared.

[Ord. G-86-2, passed 2-11-86]

§35.09 ANNEXES TO PLAN

Each service chief and department head assigned responsibilities in the emergency operations plan shall be responsible for carrying out all duties and functions assigned therein. Duties will include the organization and training of assigned City employees and volunteers. Each chief and department head shall formulate the operational plan for his service or department, which, when approved, shall be an annex to and a part of this plan.

[Ord. G-86-2, passed 2-11-86]

§35.10 CITY LIABILITY

This chapter is an exercise by the City of its governmental functions for the protection of the public peace, health, and safety, and neither the City nor agents and representatives of the City, or any individual, receiver, firm, partnership, corporation, association, or trustee, or any of the agents thereof, in good faith carrying out and complying with this chapter or with any regulation promulgated pursuant to the provisions of this chapter, shall be liable for any damage sustained to persons or property as the result of that compliance or attempted compliance.

[Ord. G-86-2, passed 2-11-86]

§35.11 PRIVATE LIABILITY

Any person owning or controlling real estate or other premises who voluntarily and without compensation grants the City the right to inspect, designate, or use the whole or any part thereof for the purpose of sheltering persons during any actual, impending, or practice attack or disaster shall not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege, or other permission, or for loss of or damage to the property of such person.

[Ord. G-86-2, passed 2-11-86]

§35.12 CONFLICTING LAW SUPERSEDED

At all times when the regulations made and promulgated pursuant to this chapter shall be in effect, they shall supersede all existing ordinances, orders, rules, and regulations insofar as the latter may be inconsistent therewith.

[Ord. G-86-2, passed 2-11-86]

§35.98 VIOLATIONS

It shall be unlawful for any person to violate any of the provisions of this chapter or of the regulations or plan issued pursuant to the authority contained herein, or to willfully obstruct, hinder, or delay any member of the civil defense organization herein described in the enforcement of the provisions of this chapter or of any regulation or plan issued hereunder.

[Ord. G-86-2, passed 2-11-86]

§35.99 PENALTY

Any person, firm, or corporation violating any provision of this chapter or any regulation or plan promulgated hereunder, upon conviction thereof, shall be punished by a fine of not more than $100 plus cost of prosecution.

[Ord. G-86-2, passed 2-11-86]

CHAPTER 36: CITY OFFICIALS

Section

36.01 Executive Office Secretary
36.02 City Zoning Administrator

§36.01 EXECUTIVE OFFICE SECRETARY

(A) There is hereby established the position of Executive Office Secretary.

(B) The Executive Office Secretary shall serve as the primary secretary of the City Executive.

(C) The Executive Office Secretary shall perform such tasks as assigned by the City Executive.

(D) In addition to the duties assigned by the City Executive, the Executive Office Secretary shall provide office assistance to other appointed or elected City officials as directed by the Mayor and the members of the Common Council in the conduct of City business.

(E) The Executive Office Secretary shall be appointed by the City Executive and shall serve at his pleasure.

(F) The Executive Office Secretary shall receive compensation based on an hourly wage, which wage shall be paid in bi-weekly payments.

(G) The Executive Office Secretary shall receive other employment benefits commonly provided for full-time employees of the City.

[Ord. G-90-1, passed 2-13-90]

§36.02 CITY ZONING ADMINISTRATOR

(A) There is hereby established the position of City Zoning Administrator.

(B) The City Zoning Administrator shall be the primary assistant to the Board of Zoning Appeals and the City Plan Commission and shall be responsible for the day-to-day conduct of business coming within the jurisdiction of the City Plan Commission and Board of Zoning Appeals.

(C) The City Zoning Administrator shall be appointed by the City Executive and shall serve at his pleasure.

(D) The City Zoning Administrator shall receive an annual salary, which salary shall be paid in bi-weekly installments.

(E) The City Zoning Administrator shall receive other employment benefits commonly provided for full-time employees of the City.

[Ord. G-88-3, passed 1-12-88]

CHAPTER 37: CITY FINANCE

Section

37.01	Investment of Municipal Funds
37.02	Charge for Processing Bad Checks
37.03	Mileage Allowance
37.10	Capitalization Policy
37.15	Methods of Payment for City Service
37.16	Methods of Payment for Services of the City of New Haven Department of Parks and Recreation
37.20	Payment of Pre-approved Claims

§37.01 INVESTMENT OF MUNICIPAL FUNDS

The City Clerk Treasurer may invest funds within her control in any or all of the following:

(A) Certificates of deposit issued by any state or federally chartered bank having offices in Allen County, Indiana.

(B) In repurchase or resale agreements involving the purchase and guaranteed resale of any interest-bearing obligations issued or fully insured or guaranteed by the United States or any United States government agency in which type of agreement the amount of money must be fully collateralized by interest-bearing obligations as determined by the current market value computed on the date the agreement is effective.

(C) In those interest-bearing accounts of duly designated depositories, commonly known as passbook savings accounts and money market deposit accounts.

(D) In passbook savings accounts, money market deposit accounts, and certificates of deposit issued by state building and loan associations or federal savings and loan associations or savings banks.

(E) In negotiable or transferable instruments for the purpose of making transfers to third persons generally known as negotiable orders of withdrawal (NOW) accounts of any:

(1) Bank, trust company, or mutual savings incorporated under Indiana law;

(2) National banking association;

(3) State chartered building and loan association operated as a deposit association;

(4) Federally chartered savings and loan association operated as a deposit association;

(5) Federally chartered savings bank; or

(6) State chartered credit union having assets of $3,000,000 or more which is federally insured, provided that the financial institution has a principal office or branch in Allen County, Indiana.

[Ord. G-89-4, passed 2-14-89]

§37.02 CHARGE FOR PROCESSING BAD CHECKS

The Clerk Treasurer shall be authorized to impose a fee for the processing of bad checks received by the City in an amount equaling the maximum which is, from time to time, authorized by the State Legislature.

[Ord. G-89-6, passed 4-11-89]

§37.03 MILEAGE ALLOWANCE

Compiler's note: Mileage allowances for the use of a private vehicle on City business are established from time to time by the City Council.

[Ord. G-93-8, passed 7-27-93; Ord. G-97-8, passed 6-24-97]

§37.10 CAPITALIZATION POLICY

(A) Definitions

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

Capital Outlays. Expenditures which benefit both the current and future fiscal periods. This includes costs of acquiring land or structures; construction or improvement of buildings, structures or other fixed assets; and equipment purchases having an appreciable and calculable period of usefulness. These are expenditures resulting in the acquisition of or addition to the government's general fixed assets.

Enterprise Funds. Those funds used to account for operations (a) that are financed and operated in a manner similar to private business enterprise - where the intent of the governing body is that the costs (expenses, including depreciation) of providing goods or services to the general public on a continuing basis be financed or recovered primarily through user charges; or (b) where the governing body has decided that periodic determination of revenues earned, expenses incurred, and/or net income is appropriate for capital maintenance, public policy, management control, accountability and other purposes.

Fixed Assets. Tangible assets of a durable nature employed in the operating activities of the unit and that are relatively permanent and are needed for the production or sale of goods or services are termed property, plant and equipment, or fixed assets. These assets are not held for sale in the ordinary course of business. This broad group is usually separated into classes according to the physical characteristics of the items (e.g. land, buildings, improvements other than buildings, machinery and equipment, furniture and fixtures).

Historical Cost. The case equivalent price exchanged for goods or services at the date of acquisition. Land, buildings, equipment, and most inventories are common examples of items recognized under the historical cost attribute.

Improvements Other Than Buildings. Betterments affixed to real estate, other than buildings, having a useful life of greater than two (2) years. Examples would include, but not be limited to sidewalks, parking lots, fountains, fences and retaining walls. Excluded are roads, streets, or other infrastructure open to the public for use without limitation or charge. Roads or streets open as thoroughfares are excluded. Roads or drives providing ingress to and egress from City buildings are assets. A sidewalk adjacent to public streets are capital assets.

Machinery and Equipment. An apparatus, tool, or conglomeration of pieces to form a tool. The tool will stand alone and not become a part of a basic structure or building.

Tangible Assets. Assets that can be observed by one or more of the physical senses. They may be seen and touched and, in some environments, heard and smelled.

(B) Provisions for Land

(1) The City will capitalize all land purchases, regardless of cost.

(2) Exceptions to land capitalization are interests purchased for rights-of-way for infrastructure. Examples of infrastructures are roads and streets, street lighting systems, bridges, overpasses, sidewalks, curbs, parking meters, street signs, viaducts, wharfs, and storm water collection.

(3) Original cost of land will include the full value given to the seller, including relocation, legal services, incidental to the purchase (including title work and opinion), appraisal and negotiation fees, surveying and costs for preparing the land for its intended purpose (including contractors and/or City workers [salary and benefits], such as demolishing buildings, excavating, clean up and/or inspection.

(4) A department will record donated land at fair market value on the date of transfer plus any associated costs.

(5) Purchases made using Federal or State funding will follow the source funding policies and above procedures.

(C) Provisions for Machinery and Equipment

(1) The City will capitalize and tag items with an individual value equal to or greater than $5,000. Machinery combined with other machinery to form one unit with a total value greater than the above mentioned limit will be one unit.

(2) Shipping charges, consultant fees, and any other cost directly associated with the purchase, delivery, or set up, (including contractors and/or City works [salary and benefits]), which makes such equipment operable for its intended purpose will be capitalized.

(3) Improvements or renovations to existing machinery and equipment will be capitalized only if the result of the change meets all of the following conditions:

(a) total cost exceeds $5,000,
(b) the useful life is extended two or more years, and
(c) the total costs will be greater than the current book value and less than the fair market value.

(4) Examples include:

(a) A work truck being equipped with screens, lights, or radios for use as a single unit throughout its life expectancy is considered one unit.

(b) If police cars are constantly changing light bars or radios to other vehicles, the City will capitalize each piece of equipment separately, if it meets the required dollar amount.

(5) A department's computer (CPU, monitor, keyboard, and printer) is considered one unit.

(6) A department will record donated machinery and equipment at fair market value on the date of transfer with any associated costs.

(7) Purchases made using Federal or State funding will follow the source funding policies and above procedures.

(D) <u>Provisions for Buildings</u>

(1) A department will capitalize buildings at full cost with no subcategories for tracking the cost of attachments. Examples of attachments are roofs, heating, cooling, plumbing, lighting, or sprinkler systems, or any part of the basic building. The department will include the cost of items designed or purchased exclusively for the building.

(2) A department's new building will be capitalized only if it meets the following conditions:

(a) the total cost exceeds $5,000, and
(b) the useful life is greater than two years.

(3) A department improving or renovating an existing building will capitalize the cost only if the result meets all of the following conditions:
(a) the total cost exceeds $5,000, and

(b) the useful life is extended two or more years, and

(c) the total cost will be greater than the current book blue and less than the fair market value.

(4) Capital building costs will include preparation of land for the building, architectural and engineering fees, bond issuance fees, interest cost (while under construction), accounting costs if material, and any costs directly attributable to the construction of a building.

(5) A department will record donated buildings at fair market value on the date of transfer with any associated costs.

(6) Purchases made during Federal or State funding will follow the source funding policies and above procedures.

(E) Provisions For Improvements Other than Buildings

(1) This City will capitalize new improvements other than buildings only if it meets the following conditions:

(a) the total cost exceeds $5,000, and

(b) the useful life is greater than two years.

(2) A department will capitalize improvements or renovations to existing improvements other than buildings only if the result meets the following conditions:

(a) the total cost exceeds $5,000, and

(b) the asset's useful life is extended two or more years, and

(c) the total cost will be greater than the current book value and less than the fair market value.

(3) Purchases made suing Federal or State funding will follow the source funding policies and above procedures.

(F) Recording and Accounting

(1) The City and its various departments shall classify capital expenditures as capital outlays within the fund from which the expenditure was made in accordance with the Chart of accounts of the Cities and Towns Accounting manual. The cost of property, plant and equipment includes all expenditures necessary to put the asset into position and ready for use. For purposes of recording fixed assets of the city and its Departments, the valuation of assets shall be based on historical cost or where the historical cost is indeterminable, by estimation for those assets in existence.

(2) The City's municipally owned utilities shall record acquisition of Fixed Assets in accordance with generally accepted accounting principles. When as asset is purchased for cash, the acquisition shall be recorded at the amount of cash paid, including all outlays

relating to its purchase and preparation for intended use. Assets may be acquired under a number of other arrangements including:

(a) Assets acquired for a lump-sum purchase price
(b) purchase on deferred payment contract
(c) Acquisition under capital lease
(d) Acquisition by exchange of nonmonetary assets
(e) Acquisition by issuance of securities
(f) Acquisition by self-construction
(g) Acquisition by donation or discovery

In addition, an asset register, in the form prescribed by the State Board of accounts, shall be maintained to provide reasonable assurances that:

(a) Capital expenditures made by the City, its various Departments and Utilities be in accordance with management's authorization as documented in the minutes.

(b) transactions of the utilities be recorded as necessary to permit preparation of financial statements in conformity with generally accepted principles.

(c) Adequate detail records be maintained to assure accountability for city and Utility owned assets.

(d) Access to assets be permitted in accordance with management's authorization.

(e) The recorded accountability for assets be compared with the existing assets at least every two years and appropriate action be taken with respect to any differences.

[Ord. G-01-14, passed 11-13-01]

§37.15 METHODS OF PAYMENT FOR CITY SERVICE

(A) Methods of Payment. The City of New Haven may accept payment by any of the following methods:

1. Cash
2. Check
3. Bank Draft
4. Money Order
5. Bank Card or Credit Card
6. Electronic Funds Transfer

(B) Service Charge. If there is any charge to the City for the use of any of the above described payment methods, that charge shall be added to the amount originally owing and shall be paid to the person or entity requesting payment by that method.

(C) Credit Cards. The Clerk-Treasurer is authorized to contract with a bank card or credit card vendor for acceptance of bank cards or credit cards.

[Ord. G-07-08, passed 9-11-07; Ord. G-08-04, passed 7-8-08]

§37.16 METHODS OF PAYMENT FOR SERVICES OF THE CITY OF NEW HAVEN DEPARTMENT OF PARKS AND RECREATION

(A) Methods of Payment.

The City of New Haven Department of Parks and Recreation may accept payment by any of the following methods:

1. Cash
2. Check
3. Bank draft
4. Money order
5. Bank card or credit card
6. Electronic funds transfer

(B) Service Charge.

If there is any charge to the Department of Parks and Recreation for the use of any of the above described payment methods, that charge shall be added to the amount originally owing and shall be paid to the person or entity requesting payment by that method.

(C) Credit Cards.

The Clerk-Treasurer is authorized to contract with a bank card or credit card vender for acceptance of bank cards or credit cards.

[Ord. G-07-10, passed 11-27-07]

§37.20 PAYMENT OF PRE-APPROVED CLAIMS

(A) Types of Claims.

The city fiscal officer may make claim payments for preapproved claims of the following kinds:

1. Property or services purchased or leased from the United States government, its agencies, or its political subdivisions.
2. License or permit fees.
3. Insurance premiums.
4. Utility payments or utility connection charges.
5. General grant programs where advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced.
6. Grants of state funds authorized by statute.
7. Maintenance or service agreements.
8. Leases or rental agreements.
9. Bond or coupon payments.
10. Payroll
11. State, federal or county taxes.
12. Expenses that must be paid because of emergency circumstances.
13. A product or service for which the Board of Works or the Parks & Recreation Board has an accepted bid.

(B) Documentation.

Each payment of expenses under this ordinance must be supported by a fully itemized invoice or bill and certifications by the fiscal officer.

(C) Review by Board.

The city board having jurisdiction over the allowance of the claim shall review and allow the claim at its next regular or special meeting following the preapproved payment of the expense.

[Ord. G-10-01, passed 5-25-10]

CHAPTER 38: POLICE MERIT BOARD

Section

38.01 Board Membership and Qualifications
38.02 Operation
38.03 Other Benefits

§38.01 BOARD MEMBERSHIP AND QUALIFICATIONS

(A) The Police Merit Board (hereafter referred to as Board) shall consist of three members:

(1) One (1) shall be appointed by the Mayor of the City of New Haven;

(2) One (1) shall be appointed by a majority vote of all full-time Police Officers;

(3) One (1) shall be appointed by a majority vote of the Common Council of the City of New Haven by their normal power of ordinance procedures.

(B) Initial Appointments. For the initial appointments to the Board, the following schedule shall be used:

(1) The Mayor shall appoint one (1) member for three (3) years;

(2) The Police Officers shall appoint one (1) member for two (2) years; and,

(3) The City Council shall appoint one (1) member for one (1) year.

(C) Removal. A Board member serves at the pleasure of the appointing authority and may be removed at any time.

(D) Tenure After the initial appointment in (B) above, the Board member shall serve for a period of three (3) years.

(E) Vacancies. A vacancy on the Board shall be filled within thirty (30) days by the appointing authority. This selection is for the remainder of the unexpired term.

(F) Qualifications.

(1) All members of the Board must be residents of the City of New Haven;

(2) No member may be a Police Officer of the City of New Haven, an elected official of the City of New Haven, or an employee of the City of New Haven.

(3) Each member must be at least twenty-one (21) years of age.

(G) Officers. The Board will elect a President, who shall preside at all meetings under Roberts Rules of Order, and a Secretary, who shall record all proceedings.

(H) Compensation. Each member of the Board shall receive a per diem compensation for each day of service in the amount fixed by the Common Council at its annual budget meeting.

[Ord. G-89-17, passed 11-14-89; Ord. G-96-10, passed 10-08-96; Ord. G-13-08, passed 4-9-13]

§38.02 OPERATION

(A) The Board will establish rules and regulations to carry on its function as it sees fit, subject to those specifically required or limited by this ordinance.

(B) The Board shall meet at least once every six months, and, in addition, whenever necessary to fulfill its obligations. The President of the Board may call for such meetings at his/her discretion.

(C) Board action shall be limited to issues of the hiring dismissal, promoting from one rank to the next, and demoting from one rank to the next of sworn full-time Officers within the police department except Upper Level Policymaking Positions shall be appointed by the Mayor, and promotion and demotion to and from the rank of Detective shall be made by the Chief. "Upper Level Policymaking Positions" shall mean the Chief of Police and the next rank and pay grade immediately below Chief.

(D) Promotion.

(1) Officers of the Police Department shall be promoted from one rank to the next higher rank, and shall hold that rank for a period of at least two (2) years before being promoted to the next rank;

(2) Qualifications for rank within the Police Department shall be based upon the following point system:

(a)	Interview	20%
(b)	Seniority	10%
(c)	Written Examination	40%
(d)	Performance Record	30%

(3) New Officers shall attain at least twenty-four (24) months seniority before being considered for promotion.

(4) The Chief of the Police Department will submit job classifications, and a manning docket listing the organizational structure of, and ranks within, the department to the Common Council in June for the following year. The Council must approve these before they take effect. Once approved, the Chief may make emergency changes for a period not to exceed 30 days, and shall notify the Council of each change at the next regularly scheduled Council meeting.

(5) The Chief of the Police Department shall return to his or her prior rank after

completing tenure as Chief.

(E) Demotion.

(1) Officers will be demoted only one rank at a time;

(2) Specific charges shall be brought against the Officer by the Chief;

(3) At the request of the demoted officer, a hearing will be conducted pursuant to Section (G), below.

(4) All Officers shall have right to counsel during the hearing.

(F) Suspensions or Dismissal.

(1) Suspensions (with, or without pay) of five (5) days or less shall be made by the Chief and shall not be governed by the Board.

(2) Suspensions exceeding five (5) days, but less than one (1) month, shall be decided by the Board.

(3) There shall not be suspensions in excess of one (1) month. Instead, discipline in excess of one (1) month shall result in dismissal of the Officer.

(4) Specific charges shall be brought against an Officer by the Chief.

(5) At the request of the demoted officer, a hearing will be conducted pursuant to Section (G), below.

(6) All accused Officers shall have the right to be represented at each hearing by the counsel of their choice.

(7) Every accused Officer shall have the right to appeal the Chief's decision to the Board, and the Board's decision to the appropriate Court of jurisdiction.

(G) Hearing; Notice; Requisites; Procedures; Appeal. For any hearing described in Sections (E) and (F), the following procedures will apply:

(1) Written notice of the hearing shall be served upon the accused member in person or by a copy left at the member’s last and usual place of residence at least fourteen (14) days before the date set for the hearing. The notice must state:

(a) the time and place of the hearing;

(b) the charges against the member;

(c) the specific conduct that comprises the charges;

(d) that the member is entitled to be represented by counsel or another representative of the member's choice;

(e) that the member is entitled to call and cross-examine witnesses;

(f) that the member is entitled to require the production of evidence; and

(g) that the member is entitled to have subpoenas issued, served, and executed.

(2) If a hearing is required, the parties may, by agreement, designate a hearing officer who is qualified by education, training or experience. If the parties cannot agree on a hearing officer, the Board may hold the hearing or select the hearing officer. The designated hearing officer must be qualified by education, training or experience to conduct such a hearing. The hearing officer may not hold an Upper Level Policymaking Position. The hearing conducted under this subsection shall be held within thirty (30) days after it is requested by the Member.

(3) The Board may:

(a) compel the attendance of witnesses by issuing subpoenas;

(b) examine witnesses under oath; and

(c) order the production of books, papers, and other evidence by issuing subpoenas.

(4) If a witness refuses to appear at a hearing of the Board after having received written notice requiring the witness's attendance, or refuses to produce evidence that the Board requests by written notice, the Board may file an affidavit in the Circuit Court of Allen County setting forth the facts of the refusal as provided in IC 36-8-3.5-17(f).

(5) A decision to discipline an officer may be made only if the preponderance of the evidence presented at the hearing indicates such a course of action.

(6) An officer who is aggrieved by the decision of a person or board designated to conduct a disciplinary hearing under subsection C may appeal to the Board within ten (10) days of the decision. The Board shall on appeal review the record and either affirm, modify, or reverse the decision on the basis of the record and such oral or written testimony that the Board determines, including additional or newly discovered evidence.

(7) The Clerk-Treasurer shall keep a record of the proceedings in cases of suspension, demotion, or dismissal. The Board shall give a free copy of the transcript to the officer upon request if an appeal is filed.

(H) Appeal to Court; Suspension or Dismissal; Procedure**.** An officer who is aggrieved by a decision of the Board to suspend the officer for a period greater than ten (10) calendar days, demote the officer, or dismiss the officer may seek judicial review of any such decision as provided in IC 36-8-3.5-18, subject to the time limitations and procedural requirements set forth in said statute."

(I) Hiring of New Officers.

(1) The Board shall establish rules for candidates desiring employment as full-time members of the Department.

(2) The most current hiring process may be utilized for the purposes of hiring new Officers only if 12 months or less has passed since the process began.

(3) Should the Board be unable to focus on a suitable candidate from the most recent process, a new process will be undertaken by the Board, regardless of the age of the most recent process.

(J) Power to Hire Services. The Board may request the City Attorney to appoint an independent legal advisor, and shall have the power to retain administrative support as it sees fit on a case-by-case basis.

[Ord. G-89-17, passed 11-14-89; Ord. G-96-10, passed 10-08-96; Ord. G-13-08, passed 4-9-13]

§38.03 OTHER BENEFITS

The Board of Works and Safety, and the Common Council, shall govern other benefits not regulated by this Ordinance. These may include, but not be limited to vacations, sick pay, shift preference, and others.

[Ord. G-89-17, passed 11-14-89; Ord. G-96-10, passed 10-08-96; Ord. G-05-02, passed 3-22-05; Ord. G-13-08, passed 4-9-13]

CHAPTER 39: NEW HAVEN CITY COURT

Section

39.01	New Haven City Court Established
39.02	Jurisdiction
39.03	Court Sessions

NEW HAVEN CITY COURT

§39.01 NEW HAVEN CITY COURT ESTABLISHED

There is hereby established the New Haven City Court.

§39.02 JURISDICTION

The New Haven City Court shall have all jurisdiction as provided in Indiana Code 33-10.1-1-1 et seq. as from time to time amended and supplemented.

§39.03 COURT SESSIONS

The New Haven City Court shall hold its regular sessions in such room or rooms of the New Haven City Hall as shall from time to time be designated by City Council.

[Ord. G-98-17, passed 10-27-98]

TITLE V: PUBLIC WORKS

CHAPTER 50: WATER AND WATER SUPPLY

CHAPTER 51: SEWERS AND SEWERAGE SYSTEM

CHAPTER 52: GARBAGE AND REFUSE COLLECTION

CHAPTER 53: CABLE TELEVISION REGULATIONS

CHAPTER 54: DEPARTMENT OF STORM WATER MANAGEMENT

CHAPTER 50: WATER AND WATER SUPPLY

Section

Water Rates and Charges

50.01 Metered Rates per Month
50.02 Sprinkler System Connection Rates
50.03 Tap Charge
50.04 Temporary Users
50.05 Minimum Charges
50.06 Fire Hydrant Rental

Rules and Regulations

50.15 Billing Procedure for Regular Users
50.16 Billing Procedure for Temporary Users
50.17 Discontinuance of Service
50.18 Service Pipes
50.19 Taking Water from Hydrants or Fixtures Without Authorization
50.20 Permit Required for Temporary Use
50.21 Interference with Water Installations
50.22 Cancellation of Water Supply Permits
50.23 Service to be Metered
50.24 Usage of Water During Emergencies
50.25 Deposits
50.26 Refund of Deposits
50.27 Granting of Service to Users Outside the City

Removal of Jurisdiction

50.30 Removal of Jurisdiction

WATER RATES AND CHARGES

§50.01 METERED RATES PER MONTH

There are established, for the use of and the service rendered by the waterworks system of the City, the following rates and charges based on the use of water supplied by the waterworks system:

(A) RATES FOR SERVICE WITHIN THE CITY LIMITS:

Metered Rates per Month	Rate per 1000 Gallons
For the first 2,500 gallons per month	$5.99
For the next 5,000 gallons per month	5.38
For the next 10,500 gallons per month	4.82
For the next 18,000 gallons per month	4.51
For the next 24,000 gallons per month	4.22
For the next 940,000 gallons per month	3.89
For any quantity in excess of 1,000,000 gallons per month	3.58

(B) RATES FOR SERVICE WITHOUT THE CITY LIMITS:

Metered Rates per Month	Rate per 1000 Gallons
For the first 2,500 gallons per month	$7.17
For the next 5,000 gallons per month	6.45
For the next 10,500 gallons per month	5.78
For the next 18,000 gallons per month	5.43
For the next 24,000 gallons per month	5.07
For the next 940,000 gallons per month	4.67
For any quantity in excess of 1,000,000 gallons per month	4.29

[Ord. G-95-2, passed 3-28-95; Ord. G-01-9, passed 8-14-01; Ord. G-10-8, passed 5-24-11]

§50.02 SPRINKLER SYSTEM CONNECTION RATES

The following rates shall be charged per annum for sprinkler system connections:

4-inch connection	$347.02
6-inch connection	468.49
8-inch connection	582.51
10-inch connection	919.61
12-inch connection	1,318.69

[Ord. G-95-2, passed 3-28-95; Ord. G-01-9, passed 8-14-01; Ord. G-10-8, passed 5-24-11]

§50.03 TAP CHARGE

(A) A tap charge shall be collected from each customer prior to connection to the water system, in an amount sufficient to reimburse the City for labor, material, and overhead necessary for tapping the main, installation of service from the main to the property line (including the curb stop), and the cost of the furnishing and installing a suitable water meter.

(B) The Board of Public Works and Safety of the City shall by resolution establish the charges to be made by the City Waterworks to the users thereof for the furnishing of water meters and the connections or tap charges to the water mains of the City Waterworks.

(C) The property owner shall be liable for all costs and charges that may be required for obtaining necessary highway and other permits to make a water tap to the user's premises.

[Ord. G-95-2, passed 3-28-95]

§50.04 TEMPORARY USERS

Water furnished to temporary users, such as contractors and the like, shall be charged on the basis of the metered rates set forth in §50.01, as estimated and established by the Waterworks Superintendent.

[Ord. G-95-2, passed 3-28-95]

§50.05 MINIMUM CHARGES

Each user shall pay a minimum monthly charge in accordance with the size of meter installed, for which the user will be entitled to the quantity of water set in the metered schedule of rates.

(A) MINIMUM RATES FOR SERVICE WITHIN THE CITY LIMITS:

Size of Meter	Minimum Monthly
3/4 inch water meter	$11.97
1 inch water meter	22.08
1 ¼ inch water meter	32.33
1 ½ inch water meter	40.37
2 inch water meter	68.27
3 inch water meter	122.08

4 inch water meter	189.39
6 inch water meter	303.70

(B) MINIMUM RATES FOR SERVICE WITHOUT THE CITY LIMITS:

Size of Meter	Minimum Monthly
3/4 inch water meter	$14.33
1 inch water meter	26.52
1 ¼ inch water meter	38.81
1 ½ inch water meter	48.46
2 inch water meter	81.93
3 inch water meter	146.51
4 inch water meter	227.27
6 inch water meter	364.45

[Ord. G-95-2, passed 3-28-95;Ord. G-01-9, passed 8-14-01; Ord. G-10-8, passed 5-24-11]

§50.06 FIRE HYDRANT RENTAL

The charge for fire hydrant rental shall be $468.49 per year for each fire hydrant located within the City Limits and $562.18 per year for each fire hydrant located outside the City Limits, payable annually.

[Ord. G-95-2, passed 3-28-95; Ord. G-01-9, passed 8-14-01; Ord. G-10-8, passed 5-24-11]

RULES AND REGULATIONS

§50.15 BILLING PROCEDURE FOR REGULAR USERS

(A) The Superintendent of Utilities shall be responsible for billing regular users and shall have the authority, upon approval by the Board of Works and Safety, to appoint personnel to collect those fees.

(B) All water collected for regular users shall be billed monthly and shall be due and payable on the first day of the month following the date of billing.

(C) All bills for water service not paid within 15 days from the due date shall be deemed delinquent and subject to a collection charge of 10% on water on the first $3 and 3% on all over $3. If the sewage charge is not paid by the penalty date, a 10% penalty will be added.

[Ord. 688, passed 8-23-61; Ord. G-82-83, passed 10-12-82; Ord. G-84-26, passed 12-11-84]

§50.16 BILLING PROCEDURE FOR TEMPORARY USERS

(A) In case of temporary users, the Waterworks Superintendent is authorized to demand payment in advance for the amount of water estimated to be required by the temporary users, in case the temporary use will be for a period of less than one week.

(B) Where temporary use will be required for a period in excess of one week, the Waterworks Superintendent is authorized to require a deposit equal to the amount of water to be used the first week of the temporary use, and thereafter to require a deposit in advance from week to week.

(C) Where water is furnished under a special contract, the Waterworks Superintendent shall collect the charges in accordance with the provisions of the contract.

[Ord. 688, passed 8-23-61; Ord. G-82-23, passed 10-12-82]

§50.17 DISCONTINUANCE OF SERVICE

(A) In the event service charges are not paid before the close of the second succeeding calendar month following the date of billing, notice shall be issued to the user in default that service shall be discontinued. The notice shall provide that the user may have the opportunity to dispute the appropriateness of the disconnection by requesting a hearing before the Department of the Board of Works by sending a written notice within seven (7) days of the date of the disconnection notice to the City of New Haven Utility Department. If a written dispute is

received from the user, it shall be placed on the agenda and heard at the next scheduled Board of Works meeting and the issue shall be decided by a majority of the Board of Works.

(B) For service to be reinstated, payments on shut-off notices must be paid at the utility office, and cannot be paid at any of the payment centers in the community. All payment centers should post a sign stating they will not be responsible for late payment charges or shut-offs if a bill is paid at that location.

(C) If disconnection for nonpayment occurs, the unpaid previous balance plus a $10 reconnection fee must be paid prior to restoration of service.

(D) A utility meter must be read at a minimum of once every six months by an authorized utility representative. In addition to discontinuance of service for the customer's failure to provide the utility access for regular meter readings, and after a period of six months without a read, the utility will require the customer to install a remote reading device to insure future reads. The customer shall pay the utility the cost of $15 for installation. The failure of the customer to provide the utility access for such installation shall be grounds for discontinuance of service. Arrangements with the utility for installation of the device shall be made within ten days after notification of such required installation.

(E) The City Auditor/Utilities Office Manager is authorized and directed to cause duly qualified representatives of the Utility Department, or other employee in charge of the operation, to shut off and reinstate water service in accordance with the provisions of this section.

[Ord. 653, passed 12-1-58; Ord. 688, passed 8-23-61; Ord. G-9-78, passed 9-12-78; Ord. G-84-26, passed 12-11-84; Ord. G-86-6, passed 3-11-86; Ord. No. G-13-11, passed 7-23-13]

§50.18 SERVICE PIPES

(A) Service pipes intended to supply two or more district premises or tenants must be provided with a separate stopcock for each tenant on the outside of each premises. Where only one stopcock is used, the owner of the service shall pay the water rate for the parties who are thus supplied, and on the failure of anyone to pay the water rates when due or to comply with the rules and regulations of the waterworks system, the supply of water will be withheld without any liability on the part of the City to any of the parties.

(B) Consumers shall not turn the water on or off at the curbcock. All service pipes must have a stopccok and wastecock placed between the curb and the premises, to shut the water off and drain pipes to keep them from freezing and to make repairs.

(C) Any changes necessary to be made in the location of a curbcock will be made at the expense of the property owner. Notice will be given to the agent or owner, and if the work is not done within a reasonable length of time, the City will do the work and the expense will be

charged to the owner; and if not paid on or before the next following payment of water rent, the water service will be shut off until payment is made.

(D) In cases of new installations, no service pipes will be allowed to run across lots, from one lot to another, but each lot shall be served by a service pipe taken direct from the main serving the premises.

(E) In case of new installation, no two separate premises shall be supplied from one service pipe. A separate service shall be installed by each separate premises; however, apartment houses, duplex flats, and double houses are excepted.

(F) In all cases where service is connected direct to boilers or other hot water fixtures that are likely to cause a backwater pressure, a check valve must be installed on the service pipe to prevent injury to the meter, and all damages caused to meters by back pressure shall be paid for by the consumer where the damage occurs
.

[Ord. 688, passed 8-23-61]

§50.19 TAKING WATER FROM HYDRANTS OR FIXTURES WITHOUT AUTHORIZATION

(A) All owners are strictly prohibited from furnishing water or allowing it to be taken from their hydrants or fixtures by other persons unless the persons secure a permit from the Waterworks Superintendent.

(B) No person shall take water from any hydrant except for fire purposes or for cleaning streets.

(C) Whoever, without the consent of the Waterworks Department by its proper officers, unlawfully and intentionally diverts water from any pipe line of the Waterworks, or otherwise unlawfully and intentionally uses or causes to be used without the consent of the Waterworks, any water distributed by the Waterworks, shall upon conviction of each offense, be punished by a fine not exceeding $100.

[Ord. 653, passed 12-1-58; Ord. 688, passed 8-23-61]

§50.20 PERMIT REQUIRED FOR TEMPORARY USE

Contractors using water for building purposes, and other temporary users, must secure a permit from the Waterworks Department.

[Ord. 688, passed 8-23-61]

§50.21 INTERFERENCE WITH WATER INSTALLATIONS

All persons are forbidden to cover up or in any way interfere with any curb box, valve box, or hydrant.

[Ord. 688, passed 8-23-61]

§50.22 CANCELLATION OF WATER SUPPLY PERMITS

All permits for water supply may be canceled at the option of the City and service discontinued for the following reasons:

(A) The wasting or improper use of water through the use of defective or imperfect fixtures, or in any other manner.

(B) For refusal or neglect to pay bills promptly, or any other charges accruing, in the manner and at the time herein provided.

(C) For interference or tampering with the water meterbox, meterseals, or any service or appliances of the waterworks system used for controlling or regulating the supply of water.

(D) For failure to apply for a permit in case of change of ownership or tenancy.

(E) For defrauding the Waterworks Department in any other manner.

[Ord. 688, passed 8-23-61]

§50.23 SERVICE TO BE METERED

(A) Any and all services may be metered. The size of the meter to be used shall be determined by the Superintendent or other person in charge of the Waterworks Department.

(B) Any changes in the service pipes or fixtures that may be necessary to set the meter properly to avoid freezing and to make all water used on any premises pass through the meter shall be made at the expense of the property owner or consumer, and the cost thereof shall be paid before the water is turned on.

(C) Where meters are set in basements or cellars, the consumer will be required to keep the surroundings of the meter clean and with ease of access and protect the same from freezing or injury.

(D) “Premises” shall include all buildings or divisions under one common roof, owned by one party, and all dwellings or buildings owned by one party and supplied through one service pipe from the main; and one or more meters may be placed on service pipes leading into the premises, and all charges will be made against each rental unit or customer served.

(E) In case any meter shall become out of order and fail to register the quantity of water passing through it, the consumer shall be charged at the rate of average consumption registered by the meter before it became out of repair.

(F) Any person, firm, or corporation vacating premises without paying for all water rents up to the time of the vacation, shall not thereafter be supplied with water through any service until all back water rents are paid.

[Ord. 688, passed 8-23-61]

§50.24 USAGE OF WATER DURING EMERGENCIES

(A) Application. The provisions of this section shall apply to all persons, firms, partnerships, associations, corporations, companies or organizations or any kind connected to the City water supply system or purchasing or using water therefrom (all such persons or entities are hereinafter referred to as "users").

(B) Declaration of Need. Upon a determination by the Mayor or the Board of Works and Safety that the City public water system is in imminent danger of a shortage of water or is experiencing a shortage of water, the Mayor shall declare a water conservation emergency and establish the appropriate water conservation measures as set forth in this section and the duration thereof.

(C) Voluntary Conservation. If notice of a voluntary water conservation emergency is given, users may be requested to reduce consumption by practicing voluntary conservation techniques. The Board of Public Works and Safety shall suggest reasonable and meaningful actions which will alleviate existing or potential water shortage, which suggestions should include, but not necessarily be limited to:

(1) Sprinkling, watering or irrigating of shrubbery, trees, grass, ground covers, plants, vines, gardens, vegetables, or any other vegetation, other than that done by the use of hand-held watering containers, or that necessary for the production of food, maintenance of livestock and pets, maintenance of stock by commercial nurseries, or maintenance of arboretums and public gardens of national, state or regional significance to preserve specimens.

(2) Washing of automobiles, trucks, trailers, mobile homes, railroad cars or any other type of mobile equipment, other than by commercial car washes.

(3) Cleaning or spraying of sidewalks, driveways, paved areas, or any other outdoor surfaces.

(4) Non-essential washing and cleaning of any business equipment or machinery.

(5) The filling of swimming pools, wading pools with a 50 gallon or more capacity, and/or ornamental fountains.

(6) Knowingly allowing defective plumbing.

(D) Rationing. If notice of a water rationing emergency is given, users, in addition to the voluntary conservation measures identified above, shall be limited to water use in accordance with a schedule established by the Board of Public Works and Safety for residential use, business use, commercial use and industrial use.

In determining an appropriate schedule or schedules for the rationing of water use, the Board of Public Works and Safety shall consider the volume of water used by the user during the corresponding month of the preceding year or, in the event that the user was not residing in or in business in or operating in the area served by the City public water system, the Board of Public Works and Safety shall consider the average monthly volume of water used during the number of months such user was residing in, in business in, or operating in the City public water system area.

(E) Exceptions. Alternative conservation or rationing requirements may be established for the following:

(1) Health care providers.

(2) The 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 well-being.

(F) Notice. Notice of voluntary conservation measures shall be by whatever means deemed appropriate by the Mayor or the Board of Public Works and Safety. Said notice shall be effective upon publication.

Notice of mandatory conservation measures 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. Said notice shall be deemed effective at the conclusion of door-to-door distribution, or at 12:00 noon on the third day after depositing same in the United States mail.

(G) Enforcement. Any user who violates any provision of this section may be punished by 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 this section.

[Ord. G-88-11, passed 9-13-88]

§50.25 DEPOSITS

(A) All persons, firms, or corporations requesting water service for residential use shall deposit the sum of $25 with the Clerk Treasurer for every single residential unit to be served, or for each meter to be installed for residential water purposes.

(B) All persons, firms, or corporations requesting water service for commercial use (including multiple dwellings and apartments unless each unit is metered individually) shall deposit with the Clerk Treasurer of the City an amount equal to the estimated cost of water to be used for a two-month period, all to be determined by the Board of Public Works and Safety or the Superintendent of the Waterworks Department.

(C) A deposit made by any person, firm, or corporation shall be made prior to the giving of any water service by the City and the deposit shall be retained by the Clerk Treasurer and used by him to pay any charge for water service rendered a user which may become delinquent.

(D) Any person, firm, or corporation vacating premises without paying all water rents and charges in full to the time of the vacation, or any person, firm, or corporation having its water service discontinued for the nonpayment of water rents and charges shall not thereafter be supplied with water through any service until all back water rents and charges are paid and the deposit in the above amounts made in full to the Clerk Treasurer.

[Ord. G-8-68, passed 5-14-68]

§50.26 REFUND OF DEPOSITS

The Superintendent of Utilities shall direct the Clerk Treasurer to return to any person owning and occupying a single-family residence the deposit made as a prerequisite for water purposes, without interest, provided:

(A) A written application or request is made to the Superintendent of Utilities by the owner occupying the single-family residence, and

(B) The application for the refund is approved by the Superintendent of Utilities and the refund made only in the event that the water deposit was made at least one year prior to the request or application for refund, and the applicant as the residential owner of the real estate has paid all charges made for the water service without any charge for the water service having become delinquent during the preceding one-year period.

[Ord. G-17-70, passed 8-11-70; Ord. G-84-26, passed 12-11-84]

§50.27 GRANTING OF SERVICE TO USERS OUTSIDE THE CITY

(A) No person, firm, or corporation shall be authorized to tap into any water line or main of the City without obtaining the written approval of the Board of Public Works and Safety.

(B) No person, firm, or corporation shall be permitted to install any water line or main and connect it to the water lines or mains of the City without obtaining from the Board of Public Works and Safety written approval that the lines and mains have been or will be constructed and installed in accordance with standards adopted or recommended by the Board of Public Works and Safety.

(C) No extension of water facilities and services shall be made by the City, nor shall the City allow an extension to be made to any territory outside the present City limits, until a written agreement has been duly and properly executed by and between the person, firm, corporation, land developer, land owner, or user and the Board of Public Works and Safety, and ratified and confirmed by the Common Council.

(1) The agreement shall be entitled "An Agreement for Water Utility."

(2) The agreement shall contain, in addition to other matters, a legal description of the territory to be served by the facilities and shall provide that the person or persons, firm, corporation, land developer, land owner or owners, or user or users, for itself or themselves, his, her, its, or their heirs, assigns, and transferees, agree that the City shall at any time after the execution of the agreement have the right at its discretion to annex the described territory to the City.

(D) The agreement shall contain the further provision that the person, firm, corporation, land developer, land owner or user, his her, their, and its heirs, assigns, transferees, or successors in interest conclusively and absolutely waive and release any right any of them may have had, may now have or may in the future have to remonstrate against or otherwise in any manner object to, interfere with or oppose any present or future annexation by the City of the territory described in the agreement.

(E) The agreement shall be recorded by the person, firm, corporation, land developer, land owner, or user in the Recorder's Office of Allen County, Indiana and no water service shall be rendered by the City or made available in any manner to the territory until proof of the recording of the agreement has been furnished to the Board of Public Works and Safety of the City.

[Ord. G-13-78, passed 7-22-78]

REMOVAL OF JURISDICTION

§50.30 REMOVAL OF JURISDICTION

The New Haven Waterworks System is hereby removed from the jurisdiction of the Indiana Utility Regulatory Commission for the approval of rates and charges and of the issuance of stocks, bonds, notes and other evidence of indebtedness.

[Ord. G-92-5, passed 7-28-92]

CHAPTER 51: SEWERS AND SEWERAGE SYSTEM

Section

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(Revised 05/03/2004)

GENERAL PROVISIONS

§51.01 DEFINITIONS

Unless the context specifically indicates otherwise, the meanings of the following terms as used in this Chapter and as used in the rules and regulations adopted by the Board of Public Works implementing the provisions of this Chapter are as set out below respectively:

(A) Act. The Federal Water Pollution Control Act, also known as the "The Clean Water Act," as amended, 33 U.S.C. 466, as referred to in IC 13-1-4-1.

(B) Applicable Pretreatment Standards. Any pretreatment limit or prohibitive standard (Federal, State, and/or Local) contained in the ordinance and considered to be the more restrictive with which non-domestic users shall be required to comply.

(C) Biochemical Oxygen Demand (BOD). The quantity of dissolved oxygen, in milligrams per liter, required during the stabilization of the decomposable organic matter by aerobic biochemical action of sewage, sewage effluent, polluted waters, or industrial wastes under standard laboratory procedures for five days at 20 degrees centigrade. The laboratory determinations shall be made in accordance with procedures set forth in "Standard Methods" (see paragraph (MM) below).

(D) Building (or House) Drain. That part of the lowest horizontal piping of a building drainage system that receives the discharge from soil, waste, or other drainage pipes inside walls of the building and conveys it to a point outside the foundation wall of the building.

(E) Building (or House) Drain Connection. The point where the building (or House) sewer is connected to the building drain at a location approximately three (3) feet outside the foundation wall of the building.

(F) Building (or House) Sewer. The pipe which is connected to the building (or House) drain at a point three (3) feet outside the foundation wall of the building and which conveys the building's discharge from that point to the public sewer or the place of disposal.

(G) Building (or House) Sewer Connection. The point where the building sewer is connected to the public sewer. This connection to the public sewer may be accomplished as follows:

(1) Where a tap-in connection is employed, the point of connection shall be where the end of the building sewer meets the inside face of the sewage system and the tapping "saddle and/or joint" shall be considered part of the building sewer.

(2) Where fittings (T's or Y's) are employed, the connection shall be where the end of the first pipe meets the end of the fitting and the said T or Y fitting shall be considered a part of the building sewer.

(H) Bulk Waste. Any containerized solid, liquid or gaseous substance discarded or to be discarded as worthless, defective, or of no use to the person discarding said substance.

(I) Chemical Oxygen Demand (COD). A measure of oxygen equivalent to that portion of the organic matter in a sample of sewage, sewage effluent, polluted waters, or industrial wastes that is susceptible to oxidation by a strong chemical oxidant. The laboratory determinations shall be made in accordance with procedures set forth in "Standard Methods".

(J) City. The City of New Haven, Allen County, Indiana.

(K) Classification of Users.

(1) Domestic Class User. A user discharging only “normal domestic sewage”, as herein defined, into the system.

(2) Commercial Class User. A user falling within Division G of the "Standard Industrial Classification Manual", United States Office of Management and Budget as currently amended and supplemented. A copy is on file in the Office of the City of New Haven's Clerk Treasurer.

(3) Industrial Class User. A user falling within Division A, B, D, E, or I of the "Standard Industrial Classification Manual", United States Office of Management and Budget, as currently amended and supplemented. A user described in the divisions listed herein may be excluded if it is determined, by the City, that such user will introduce primarily segregated domestic waste or waste from sanitary conveniences. Users not listed therein may be included in this class of customers because of the production of excess strength of waste or toxics in excess of limits described hereinafter.

(L) Control Authority. City of Fort Wayne.

(M) Dwelling. A building, or portion thereof, under one roof used primarily as the abode of one or more persons, but not including hotels, motels, lodging or boarding houses or tourist homes.

(N) Effluent. The water, together with any wastes that may be present, flowing out of a drain, sewer, receptacle or outlet.

(O) Emergency. An unforeseen circumstance or combination of circumstances that may cause an eminent endangerment to the health and/or welfare of persons, the environment or which may interfere with the operation of the sewer collection system or the Water Pollution Control Plant.

(P) Garbage. Any solid wastes from the preparation, cooking, or dispensing of food or from the handling, storage or sale of produce.

(Q) Ground Garbage. Garbage that is shredded to such a degree that all particles will be carried freely in suspension under the conditions normally prevailing the public sewers, with no particle being greater than one-half (½) inch in any dimension.

(R) Industrial Wastes. Any solid, liquid, or gaseous substance or form of energy discharged, permitted to flow or escape from an industrial, manufacturing, commercial or business operation or process from the development, recovery or processing of any natural resource carried on by any person.

(S) Influent. The water, together with any wastes that may be present, flowing into a drain, sewer, receptacle or outlet.

(T) Major Industrial User. A user of the City's sanitary sewerage system that:

(1) Has a flow of 50,000 gallons of water or more per average work day;

(2) Has a flow of waste greater than 5% of the flow carried by any part of the City system receiving the waste;

(3) Has in its waste, a toxic pollutant in amounts as defined in standards issued under Section 307 (a) of the Federal Act; or

(4) Is found by the Indiana Department of Environmental Management, in connection with the issuance of the NPDES Permit to the City of Fort Wayne's treatment works receiving the waste, to have significant impact whether singularly or in combination with other contributing industries, on that treatment works.

(U) Normal Domestic Sewage. Sewage having an average daily suspended solids concentration of not more than 300 milligrams per liter, an average daily BOD concentration of not more than 300 milligrams per liter, and an average daily phosphorus concentration of not more than 10 milligrams per liter and an average daily ammonia concentration of not more than 15 milligrams per liter.

(V) NPDES Permit. The National Pollutant Discharge Elimination System Permit issued by the Indiana Stream Pollution Control Board for discharges of waste waters to navigable waters of the United States pursuant to Section 402 of 33 U.S.C 466.

(W) Operation and Maintenance Costs. All costs direct and indirect other than debt services including replacement costs as defined in paragraph (CC) necessary to insure adequate wastewater treatment on a continuing basis conforming with Federal, State or Local requirements, and to insure long-term management.

(X) Outlet. Any outlet, natural or constructed, which is the point of final discharge of sewage or of treatment plant effluent into any water course, pond, ditch, lake, or other body of surface or ground water.

(Y) Person. Any individual, firm, partnership, company, municipal or private corporation, commercial establishment, association, society, institution, enterprise, governmental agency or other legal unit or entity.

(Z) pH. The logarithm (to the base 10) of the reciprocal of the hydrogen ion concentration of a solution expressed on gram-atoms per liter of solution.

(AA) Pollutants:

(1) Compatible Pollutants. Waste containing biochemical oxygen demand, chemical oxygen suspended solids, phosphorus, pH, and fecal conform bacterial and ammonia.

(2) Incompatible Pollutants. Wastes containing pollutants that are not "compatible pollutants.

(BB) Receiving Stream. The watercourse, stream or body of water receiving the waters finally discharged from the sewage treatment plant.

(CC) Replacement Cost. That cost, stated in current monetary values, as an operating cost which represents and measures the day-to-day consumption and attrition of physical assets in rendering service to users.

(DD) Sanitary Sewage. Sewage discharged from the sanitary conveniences of dwellings, apartment houses, condominiums, motels, hotels, lodging or boarding houses, office buildings, factories or institutions free from storm waters, service waters and industrial wastes.

(EE) Service Charge. The basic assessment levied on all users of the public sewerage system for wastes which do not exceed in strength the concentration values above which a strength-of-waste surcharge will be made.

(FF) Sewage. The water-carried wastes from residences, business buildings, institutions, and industrial establishments, singular or in any combination together with such ground, surface and stormwaters as may be present.

(GG) Sewage Treatment Plant or Water Pollution Control Plant. The City of Fort Wayne's arrangement of devices, structures, and equipment used for treating and disposing of sewage and sludge.

(HH) Sewage Utility. All facilities and systems for collecting, transporting and pumping of sewage, including the sewerage collection system.

(II) Sewer. A pipe or conduit for carrying sewage and other waste liquids as differentiated below:

(1) Combined or Combination Sewer. A sewer which carries storm, surface and groundwater runoff as well as sewage.

(2) Public Sewer. A sewer to the use of which all owners of abutting property have equal rights and is controlled and maintained by the City or other public authority.

(3) Sanitary Sewer. A sewer which carries sanitary sewage and to which storm, surface, groundwaters and unpolluted industrial waste water are not intentionally admitted.

(4) Storm Sewer. A sewer which carries storm, surface and groundwater drainage but excludes sanitary sewage.

(JJ) Sewer Engineer. The Chief Sewer Engineer of the City or his duly authorized representative.

(KK) Sewerage System. The network of sewers and appurtenances used for collecting, transporting and pumping sewage.

(LL) Shall means mandatory; May means permissible.

(MM) Standard Methods. The examination and analytical procedures set forth in the most recent addition of "Standard Methods for the Examination of Water and Wastewater", published jointly by the American Water Works Association and the Water Pollution Control Federation.

(NN) Strength-of-Waste Surcharge. The additional charge for sewage service collected from users discharging sewage into the system having a strength measurement in excess of the limits imposed by the provisions of this Chapter.

(OO) Superintendent. The Utility Superintendent of the municipal works of the City of New Haven, Indiana or his authorized deputy, agent or representative.

(PP) Suspended Solids. Solids which either float on the surface of or are in suspension in water, sewage or other liquid and which are removable by laboratory filtration. Their concentration is expressed in milligrams per liter. Quantitative determinations are made in accordance with procedures set forth in "Standard Methods".

(QQ) Waste Surveillance Charge. A monthly charge collected from users, qualifying as Industrial or Commercial class users, to defray the cost of evaluating the user's waste by metering, sampling, laboratory analysis, and/or other methods deemed necessary. Said charges are set forth in Chapter 51.

(RR) Watercourse. A channel in which a flow of water occurs either continuously or intermittently.

[Ord. G-93-5, passed 6-8-93]

§51.02 RULES AND REGULATIONS; BOARD OF WORKS AUTHORITY

The Board of Public Works of the City shall, in accordance with the Statutes of the State of Indiana, and subject to the provisions and requirements of this Chapter, make and enforce appropriate rules and regulations for the safe, economical and efficient management and operation of the City's Sewerage System, for the construction and use of sewers, building sewers, appurtenances, and connections to the sewerage system; for the regulations, collection and refunding of rates and charges for sewerage service; and for the implementation of the provisions of this Chapter.

[Ord. G-93-5, passed 6-8-93]

§51.03 REQUIREMENTS FOR CONNECTION TO PUBLIC SEWERS

(A) No owner or occupant of any real property shall tap or drain either directly or indirectly into any public sewer until a sewer tap permit has been obtained from the City and until the owner has satisfied the obligation to pay all assessments, reimbursements and pro rata shares of sewers extension costs laid against that property for public sewers which serve it. A sewer tap permit given in error shall not operate to nullify any such obligation that has been duly recorded nor stop the City from charging and collecting such costs at any subsequent time.

(B) Notwithstanding the foregoing, the Utility may, in accordance with policies and procedures adopted by the Board of Public Works from time to time, permit an owner or occupant to tap or drain into a public sewer and to defer, in whole or in part, payment of the obligation, upon the execution and delivery to the Utility of a note, mortgage, lien document or other evidence or obligation acceptable to the Utility.

(C) All such deferred obligations shall be considered for the purposes of Indiana Code Sections 36-9-23-31 through 36-9-23-34 to be fees assessed against real property.

(D) Installments of deferred obligations, including any finance charges or interest chargeable thereon, shall be deemed to be charges for sewerage service for the purposes of this Chapter.

(E) Sewer tap permits shall be obtained from the City's Utility Office and shall be issued only to licensed sewer tap contractors, who shall pay to the City a fee as determined, from time to time,
by the Board of Works. Not later than forty-eight (48) hours after making each sewer tap and building of the sewer installation, the tap contractor or property owner shall notify the Utility Office of such connections so that an inspection may be made by the Utility prior to backfilling the said sewer installation.

(F) No person shall connect any roof downspout, exterior foundation drain, or other source of surface runoff or groundwater to a building sewer or building drain which is connected either directly or indirectly to a sanitary sewer of the City.

(G) The Board of Public Works shall have authority to require an owner of real property to disconnect any downspouts, yard drains, or other drains which carry the runoff of natural precipitation from the building sewer which drains into a sanitary sewer. Property owners shall have a period of ninety (90) days to comply with this requirement. Notwithstanding the foregoing, the City of New Haven Director of Engineering's Office may, in accordance with policies and procedures adopted by the Board of Works, extend the time for compliance with this subsection for a period of up to one hundred eighty (180) days upon written application from a property owner filed prior to the expiration of the ninety (90) day period .

(H) A new connection may be made to a City sewer or sewers connected to the City system only after there has been adequate assurance to the City that the downstream facilities of the sewage works have adequate capacity to transmit and treat the new waste loadings.

(I) At such time as the City installs a sanitary sewer or separates existing combination sewers into a sanitary sewer and a storm sewer, the following shall apply:

(1) When separate sewer connections become available to a property, the property owner shall be required to make separate connections to the sanitary sewer for sanitary flows and to the storm sewer for inflow-clear water flows. Property owners shall have a period of ninety (90) days to comply with this requirement.

(2) If any new building construction takes place in an existing combined sewer area, a separate connection to the sanitary sewer for the conveyance of sanitary sewage and to the storm water connection for the conveyance of storm surface and groundwater drainage shall be constructed at the expense of the property owner. Such connection shall be joined as close to the property line adjacent to the sewer as is practical.

Notwithstanding the foregoing, the City of New Haven Director of Engineering's Office may, in accordance with policies and procedures adopted by the Board of Works, extend the time for compliance with this subsection for a period of up to one hundred eighty (180) days upon written application from a property owner filed prior to the expiration of the ninety (90) day period .

(J) All work of any nature (including, without limitation, connections, extensions, alterations, or replacements) performed on any combination or sanitary sewer shall conform to the City of New Haven's Standards & Specifications as adopted by the City of New Haven Board of Public Works and Safety unless otherwise expressly regulated by this Chapter.

(K) The requirement for a separate storm sewer connection will be waived where the property owner can establish to the satisfaction of the City Director of Engineering's Office that there is no contribution of storm surface or groundwater to the sanitary sewer system by the

property or any activity thereon. The decision of the Director of Engineering may be appealed by petition to the Board of Works, submitted within thirty (30) days.

(L) No person shall make use of a sewer tap or backfill or otherwise conceal a sewer installation unless and until the same has been inspected and approved by the Utility. In addition to all other remedies, the Utility may cause the said installation of sewer tap to be excavated and exposed, may terminate the connection, and may require the owner or occupant to pay or reimburse the Utility for its costs and expenses in such excavation, exposure, termination, reconnection and restoration. Such costs and expenses shall be considered as charges for sewerage treatment services and may be collected in accordance with the provisions of Indiana Code 36-9-23-31 through 36-9-23-34 and this Chapter.

[Ord. G-01-8, passed 7-10-01]

§51.04 EXTENSIONS OF SEWERS OUTSIDE CORPORATE LIMITS

The installation, construction, or extension of sanitary sewers by private developers or by the City outside the corporate limits of the City and the connection of said sanitary sewers into the City's sewage system from, by, to or for properties located outside such limits is prohibited, except with the approval of the Board of Public Works by duly enacted resolution, provided that a resolution ratifying an agreement and/or contract for such construction and connection shall be deemed to constitute such approval.

[Ord. G-93-5, passed 6-8-93]

§51.05 CONNECTIONS TO SEWERAGE SYSTEM BY CERTAIN OUT-OF-CITY PROPERTIES

Notwithstanding the provisions of §51.04, the Board of Public Works shall have the authority to permit a property located outside the corporate limits of the City to connect to an existing sanitary sewer which is part of the City's sewerage system when the property abuts, adjoins, or is immediately contiguous to the street, alley or easement in which such sewer is located and provided the property owner or occupant has complied with the requirements prescribed by §51.03 of this Chapter.

[Ord. G-93-5, passed 6-8-93]

§51.06 ENFORCEMENT

The provisions of this Chapter shall be enforced by the Board of Public Works and Safety appointed for such purposes. Whenever said agent shall deem it appropriate to charge a

landowner with a violation(s) of this Chapter, he shall issue to such landowner a Notice of Violation and/or Summons, which shall be processed according to the provisions of Indiana Code 34-4-32-1.

[Ord. G-93-5, passed 6-8-93]

§51.07 PENALTY FOR VIOLATIONS

Any person, landowner, firm or corporation who violates or fails to comply with any provisions of this Chapter or of the Rules and Regulations of the Board of Public Works pertaining thereto, shall be deemed to have committed a Class B infraction and upon conviction thereof be subject to a fine of up to One Thousand Dollars ($1,000.00) per infraction as provided by Indiana Code 34-45-32-4. Each day that such violation(s) or noncompliance continues shall constitute a separate offense.

[Ord. G-93-5, passed 6-8-93]

§51.08 DAMAGE TO CITY PROHIBITED

It shall be unlawful for any unauthorized person, firm or corporation to maliciously, willfully, or negligently break, damage, destroy, remove, deface or tamper with any structure, appurtenance or equipment which is part of the City sewage system.

[Ord. G-93-5, passed 6-8-93]

§51.09 DILUTION

It shall be unlawful for any person, firm or corporation to increase the use of potable water or process water in any way, or mix separate wastestreams for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with applicable standards.

[Ord. G-93-5, passed 6-8-93]

§51.10 ACCIDENTAL DISCHARGES

(A) Each discharger must provide protection from accidental discharge of prohibited or regulated materials or substances to sewers of the City of New Haven. Where necessary, procedures and facilities to prevent the accidental discharge of prohibited materials must be provided and maintained at the discharger's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review and be approved by the City before construction of the facility. Review and approval of the plans and

operating procedures by the City shall not relieve the discharger from responsibility to modify its facility as necessary to meet applicable Federal, State and Local requirements.

(B) Dischargers shall notify the Superintendent, or his representative, immediately when an accidental discharge occurs. A written report shall be submitted within five (5) days of the incident. The notification must include the location of the discharge, date and time of occurrence, type of waste, concentration, volume, and corrective actions taken. Any industrial user who discharges a "slug load" of prohibited materials will be liable for any expense, including loss or damage to the Water Pollution Control Utility sewerage system in addition to the amount of any fines imposed upon the City under State or Federal law.

(C) Signs must be permanently posted in conspicuous places on the discharger's premises, advising employees whom to call in the event of an accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge as to the emergency notification procedures.

[Ord. G-93-5, passed 6-8-93]

§51.11 SEPTIC TANKS, PRIVIES PROHIBITED

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

(B) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located a public sanitary or combined sewer of the City, is hereby required at his expense to install suitable toilet facilities therein, and to connect these facilities directly with the proper public sewer in accordance with the provisions of this subchapter, <u>within 90 days after the date of official notice to do so.</u> <u>However, a public sewer must be within 300 feet of the property line.</u>

[Ord. G-93-5, passed 6-8-93]

§51.12 PRIVATE SEWAGE DISPOSAL SYSTEMS

(A) Where a public sanitary or combined sewer is not available under the provisions of §51.22, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

(B) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the Superintendent. The application for the

permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information deemed necessary by the Superintendent. A permit and inspection fee of $25 shall be paid to the City, at the time the application is filed.

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

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

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

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

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

(H) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.

[Ord. G-93-5, passed 6-8-93]

§51.13 BUILDING SEWERS

(A) A sewer tap permit must be obtained from the City of New Haven Utility Department prior to the construction of any building sewer connection.

(B) A home owner may install his or her own service line without posting a bond; however, a contractor must have a building sewer bond with the City.

(C) No roof drains, foundations drains or any other source of rain or surface run-off water will be permitted to be connected to the sanitary sewers.

(D) All tap connections and building sewer installations must be inspected and approved by the City of New Haven's inspector prior to backfilling the excavation.

(E) Tap permits shall be obtained at least twenty-four (24) hours prior to construction. The contractor shall notify the City of New Haven's inspector at least four (4) hours prior to the required building sewer inspection.

(F) The size of the building sewer shall be six inches (6") in diameter and shall be connected to the house or building sewer no greater than three feet (3') from the structure.

(G) The various sewer pipes allowed are as follows:

	Type of Pipe Spec	ASTM Pipe Spec	ASTM Joint
(1)	PVC (Poly Vinyl Chloride)	D-3034/SDR35	D-1869

(2) Any necessary adapters may be obtained by the property owner.

(H) The sewer service line shall be bedded its entire length with a granular material, specifically #5, #8, or #9 crushed limestone.

(I) An outside cleanout must be placed on the building sewer line at or near the building being serviced. A second outside cleanout must be installed if the sewer line exceeds 150 feet.

(J) The minimum slope for building sewers shall not be less than 1/8" per foot. A uniform slope and alignment shall be maintained.

(K) Building sewers should have minimum of twenty-four inches (24") of cover.

(L) Any septic tank must be pumped and filled with clean sand, gravel or other similar material.

[Ord. G-01-8, passed 7-10-01]

§51.14 DISCHARGE OF UNPOLLUTED WATER

Unpolluted water from air conditioners, cooling or condensing systems, or swimming pools, shall be discharged to a storm sewer, where it is available or to a combined sewer approved by the City. Where a storm sewer is not available, discharge may be to a natural outlet approved by the City and by the State. Where a storm sewer, combined sewer, or natural

sewer is not available, unpolluted water may be discharged to a sanitary sewer pending written approval by the City.

[Ord. G-93-5, passed 6-8-93]

§51.15 PRETREATMENT OF INDUSTRIAL COOLING WATER

Industrial cooling water, which may be polluted with insoluble oils or great or suspended solids, shall be pretreated for removal of pollutants and the resultant clear water shall be discharged in accordance with §51.14.

[Ord. G-93-5, passed 6-8-93]

§51.16 CONSTRUCTION OF COMBINATION SEWERS PROHIBITED

No new combination sewers shall be constructed.

[Ord. G-01-8, passed 7-10-01]

PERMITTED COMMERCIAL AND INDUSTRIAL WASTES

§51.21 PRIOR APPROVAL FOR CERTAIN WASTES

Review and acceptance by the Control Authority shall be obtained prior to the discharge into the public sewers by any commercial or industrial class customers of sewage whose wastes have:

(A) Either a BOD content greater than 300 milligrams per liter or a COD greater than 600 milligrams per liter.

(B) A suspended solids content greater than 300 milligrams per liter.

(C) A phosphorus content greater than 10 milligrams per liter.

(D) An ammonia content greater than 15 milligrams per liter.

(E) Other contaminants which from either nature or quantity will:

(1) Interfere with the operations of any portion of the Sewage Utility;

(2) Pass through the treatment works or otherwise be incompatible with such works;

(3) Prevent the reclamation and/or recycling of municipal wastewaters or sludge.

[Ord. G-93-5, passed 6-8-93]

§51.22 PRETREATMENT FACILITIES; GENERAL

When, after making such a review, the Control Authority concludes that, before the owner discharges waste into the public sewers, the owner must modify or eliminate those constituents which would be harmful to the structures, processes or operations of any portion of the Sewage Utility or injurious to health, then that owner shall either modify the wastes at the point of origin or shall provide and operate, at owner's expense, such preliminary treatment and processing facilities as may be deemed necessary to render owner's waste acceptable for admission into the public sewers.

[Ord. G-93-5, passed 6-8-93]

§51.23 PRETREATMENT FACILITIES; PRIOR APPROVAL

Plans, specifications, and any other pertinent information relating to proposed preliminary treatment or processing facilities shall be submitted to the Control Authority for examination and approval. No construction of such facilities shall begin until the owner has been given written approval. Such approval shall not exempt the person from the obligation to make further reasonable adaptations of such facilities when such adaptations prove necessary to secure the results of acceptable waste concentrations desired. The approval of proposed facilities and/or equipment will function in the manner that is described by their constructor or manufacturer, nor shall it relieve an owner, firm or corporation of the responsibility of enlarging or otherwise modifying such facilities to accomplish the intended purpose.

[Ord. G-93-5, passed 6-8-93]

§51.24 PRETREATMENT FACILITIES; OPERATION

Where such preliminary treatment facilities are provided, they shall be maintained continuously in satisfactory and effective operating condition by the person at his own expense and shall be subject to periodic inspection by the Control Authority. The person shall maintain suitable operating records which shall be open to inspection by the Control Authority, and shall submit to the Control Authority such monthly summary reports of the character of the influent and effluent as the Control Authority may require. All records and reports shall be retained for a minimum of three (3) years. All industry, whether Categorical or Noncategorical industry, shall comply with all requirements of 40 CFR 403.12.

[Ord. G-93-5, passed 6-8-93]

§51.25 CATEGORICAL PRETREATMENT STANDARDS

As part of this ordinance, the City shall enforce all Federal Categorical Pretreatment Standards upon the Categorical Industries within the service area.

[Ord. G-93-5, passed 6-8-93]

§51.26 PROHIBITIONS AND LIMITATIONS

Except as hereinafter provided, no owner shall discharge or cause or permit to be discharged into the public sewer any of the following described substances, wastes, or waters:

(A) Any liquid or vapor having a temperature greater than 140 degrees Fahrenheit or causing the temperature at the influent to POTW to exceed 104 degrees Fahrenheit.

(B) Any waters or wastes containing more than 100 milligrams per liter of grease, oils, fats and waxes.

(C) Any gasoline, benzene, naphtha, fuel oil, mineral oil, or any other flammable or explosive solid, liquid or gas.

(D) Any noxious or malodorous gas or substance which, either alone or by interaction with other wastes, is capable of creating a public nuisance or hazard to life, or of preventing entry into the sewer for their maintenance or repair.

(E) Any garbage that has not been properly pretreated and reduced per §51.01(Q).

(F) Any ashes, cinders, sand, mud, straw, shavings, wood, metal, glass, rags, feathers, tar plastics, paunch, manure, butchers offal, or any other solid or viscous substances capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewerage system or the Sewage Treatment Plant.

(G) Any waters or wastes having a pH less than 6.0 or greater than 10.0, or having any other corrosive property capable of causing damage or posing hazards to the structures, equipment, or personnel of the Sewage Utility.

(H) Any waters or wastes containing toxic substances, as defined under Section 307 (b) and (c) of the Clean Water Act, in sufficient quantity to interfere with the biological process of the City of Fort Wayne's Sewage Treatment Plant, or that will pass through the Plant into the receiving stream in amounts exceeding the standards set by Federal, Interstate, State or other competent authority having jurisdiction, or will prevent the disposal of the sludges by the Plant in accordance with Section 405 of said Act.

(I) Any toxic radioactive isotopes, without a special permit. The radioactive isotopes of I 131 and P 32 used in hospitals are not prohibited, if they are properly diluted before being discharged into the sewerage system, as further defined in the General Rules and Regulations.

(J) Any waters or wastes that for a duration of 15 minutes or more have a concentration of more than 5 times the average concentration of BOD or suspended solids of the user's sewage discharged during a 24-hour period of normal operation.

(K) Any waters or wastes containing suspended solids of such character and quantity that unusual provisions, attention and expense would be required to handle such materials at the City of Fort Wayne's Sewage Treatment Plant, the City of New Haven's pumping stations, or other facilities.

(L) Any waters or wastes containing incompatible pollutants as herein described.

(M) Any waters or wastes containing any toxic substances in quantities that are sufficient to interfere with the biochemical processes of the City of Fort Wayne's Sewage Treatment Plant, that will pass through the plant into receiving waters, or accumulate in the

sludges in an amount exceeding the limitations set forth by any Federal, State, Interstate, or Local authority, whichever is more stringent. Specifically excluded are any waters or wastes containing toxic ion, compounds, or substances in concentrations or amounts exceeding the limitations, set forth by the Board of Public Works and published in the General Rules and Regulations.

(N) Any bulk waste, either industrial or domestic, without prior written approval of the Superintendent.

(O) Any substance with objectionable color not removed by the treatment process such as, but not limited to, dye waste and vegetable tanning solutions.

(P) The City reserves the right to refuse, deny, or revoke the connections of any user in the event the sewage service requirements of the users could or would impose an excessive burden on the utility or in the event the user is or has been in violation of this Ordinance. The City further reserves the right, in the event of any emergency, to restrict the allowable discharge received from any or all users of the sewage system during the time of such emergency.

[Ord. G-93-5, passed 6-8-93]

§51.27 RESPONSIBILITY FOR OBSTRUCTING OR DAMAGING SEWERS

If the public sewer becomes obstructed or damaged because any of the aforementioned substances were discharged, the person or persons responsible for such discharges shall reimburse the City for any expense of whatever nature incurred by the City, which expenses may be added to, and collected in the same fashion as, the sewage bill otherwise owing by such person.

[Ord. G-93-5, passed 6-8-93]

CONTROL OF ADMISSIBLE INDUSTRIAL AND COMMERCIAL WASTE

§51.31 SUBMISSION OF DATA ON INDUSTRIAL INFORMATION

(A) Any owner who discharges industrial waste into the City's sewerage system either directly or indirectly shall forthwith fill out and file an Industrial Waste Questionnaire, the form for which will be furnished by the City in which he shall set out the quantity and characteristics of the wastes discharged into the City's sewerage system. Any owner desiring to establish a new connection to the public sewer or to establish a new account with Utility for the purpose of discharging industrial or commercial waste shall first fill out and file such a questionnaire which shall set out the actual or predicted data relating to the quantity and characteristics of the wastes to be discharged.

(B) Any industry who changes or proposes to change manufacturing or pretreatment processes shall first notify the Control Authority, in writing, and submit a new or revised Industrial Waste Questionnaire for review by the Control Authority.

(C) Any person who knowingly makes any false statement, representation, or certification, in any application, report or other document, required by the municipal ordinance or other applicable regulations, shall, upon conviction, be punished by the imposition of a civil penalty as required by local and/or state statutes.

(D) When special circumstances render it an unreasonable burden to comply with the time
schedule determined by the Utility for the correction of any industrial waste discharge problem, an extension of time, not to exceed 90 days, may be granted by the Control Authority upon presentation in writing of an application for such relief.

[Ord. G-93-5, passed 6-8-93]

§51.32 CONFIDENTIAL INFORMATION

Information and data furnished to the Control Authority by a discharger shall be made available to the public or other governmental agencies without restriction unless the discharger specifically requests and is able to demonstrate as per 40 CFR 2.203 and 330 IAC 5-1.5-8 that the release of such information would divulge information, methods of production entitled to protection as trade secrets, or proprietary information of the discharger. However, under no circumstances may the volume nor the components of the discharge be considered confidential. All requests, by the discharger, for confidentiality of information shall be made in accordance with and be governed by the provisions of 330 IAC 5 and 40 CFR 2.

[Ord. G-93-5, passed 6-8-93]

§51.33 CONTROL MANHOLES

Any owner who discharges or may discharge industrial wastes into public sewer via any means such as floor drains, sinks, catch basins, or the like, is required to construct and maintain, at his own expense, one or more control manholes, at a specified location or locations, to facilitate the observation, measurement and sampling of owner's waste. Such manholes shall be constructed in accordance with the standards and specifications from time to time added by the Board of Works. The Board may also require the person to install and maintain in any such manhole, at said person's expense, an approved volume-measuring device. Plans and/or shop drawings for the installation of control manholes and related equipment must be approved by the City Engineer before any construction is begun.

[Ord. G-93-5, passed 6-8-93]

§51.34 GREASE AND SAND TRAPS

Whenever the City of New Haven's Board of Works, through the City Engineer or Superintendent of Utilities, determines that interceptors or traps are needed to protect the sewerage collection system or the City of Fort Wayne's Sewage Treatment Plant from grease, oil, sand, or similar substances occurring in the user's sewage and so notifies the user, then such traps shall be promptly installed by the user, at owner's lines, at owner's expense, and shall be so maintained by owner that none of such substances can be carried over into the public sewers. All traps or interceptors shall meet the City's standards as to construction, location and installation.

[Ord. G-93-5, passed 6-8-93]

§51.35 WASTE SAMPLING

(A) Any industrial user shall be subject to periodic inspection by the Control Authority for the purpose of determining compliance limits, solvent management plans or spill prevention plans, identifying dilution streams or to categorize regulated processes. These inspections may consist of monitoring waste streams, inspection of the premises, inspection and/or copying of production records, pretreatment operating records, and other records or data deemed necessary by the inspector for the purposes stated above.

(B) The installation, operation, and maintenance of the sampling facilities shall be the responsibility of the owner discharging the wastes and shall be subject to the approval of the Superintendent. Access to the sampling facilities shall be granted, at all times, to the Control Authority.

(C) Where an owner's operations have security measures in force which require proper identification and clearance before entry onto said owner's property is granted, such owner(s) shall make the necessary arrangements with their security personnel that upon showing of proper identification, personnel from the Control Authority shall be permitted to enter, without delay, for the purpose of observing or monitoring of wastes being discharged at a given point or points or that owner(s) shall install suitable control manholes outside of the security control area(s) which at all
times will be immediately available to the Control Authority.

[Ord. G-93-5, passed 6-8-93]

§51.36 WASTE ANALYSIS PROCEDURES AND CHARGES

Alternate methods for certain analyses of industrial wastes may be used subject to mutual agreement between the Control Authority and the user. In the event of a dispute between the Control Authority and the user as to the characteristics, strength, toxic nature or other particulars of the sample taken and analyzed by the Control Authority, either party may request that the sample in dispute be analyzed by a mutually acceptable referee who charges shall be paid by the party requesting the analysis. Analyses made by the Control Authority at the request of the user shall be charged to the user according to the Utility's standard work order billing procedure. All such analyses shall be binding in determining the strength-of-waste surcharge and other matters dependent upon the character and concentration of wastes.

[Ord. G-93-5, passed 6-8-93]

§51.37 USE OF REPRESENTATIVE ANALYSIS

Until an adequate analysis of a representative sample of user's wastes has been obtained, the Control Authority may, for the purpose of this Chapter, make a determination of the character and concentration of his wastes by using data based on analyses of similar processes or data for his type of business that are available from the United States Environmental Protection Agency or from industry-recognized authoritative sources. This method, if selected by the Control Authority, shall continue at the Control Authority's pleasure or until an adequate analysis has been made.

[Ord. G-93-5, passed 6-8-93]

SERVICE CHARGES BASED ON WATER USAGE

§51.41 WATER OBTAINED FROM THE CITY'S WATER UTILITY

The charges made for sewerage service rendered to each lot, parcel of real estate or building having any connection with the City's sewerage system or otherwise discharging sewage into the system, either directly or indirectly, shall be based upon the quantity of water presumed to enter the public sewers after being used in or on the property, as the quantity is measured by the water meter or meters there in use by the City's Water Utility, except as herein otherwise provided.

[Ord. G-93-5, passed 6-8-93]

§51.42 WATER OBTAINED FROM OTHER SOURCES

Where the property obtains any part or all of the water used from sources other than the City's Water Utility, the owner or the tenant may be required by the City to install and maintain at his own expense a meter or meters acceptable to the City for the quantity of water obtained from these other sources.

[Ord. G-93-5, passed 6-8-93]

§51.43 EXEMPT WATER; GENERAL

Where a significant portion of the metered water does not and cannot enter the sewerage system, either directly or indirectly, the person having charge of the property may request permission from the City to install at his own expense either an approved meter or meters to determine the quantity of water that cannot enter the sewerage system or an approved sewage-measuring device or devices to determine the volume of sewage that actually enters the sewerage system, when appropriate. In any case, the service charge shall be based on the quantity of water that can or actually does enter the public sewers but in no case shall it be less than the minimum charge for the class of users served.

[Ord. G-93-5, passed 6-8-93]

§51.44 METERING OF SEWAGE

The City may require a person to install and maintain at his own expense an approved device to measure directly the volumes of wastes discharged to the sewerage system if these volumes cannot otherwise be determined from the metered-water consumption records. The City shall inspect and approve such installation and no such service, once installed, shall be removed without the City's approval.

[Ord. G-93-5, dated 6-8-93]

CHAPTER 52: DOMESTIC SOLID WASTE COLLECTION

Section

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§52.01 DEFINITIONS

CONTAINER. A metal or plastic can of not more than 32 gallons capacity having a tight-fitting cover, and equipped with handles so that it may be lifted and carried by one person; or, if provided by the City under a contract with a hauler as provided in this Chapter, a toter or can on wheels of any size or material.

DEBRIS. Any waste from demolition of or removal of trees, structures or fill material, such as, but not limited to, concrete, lumber, stumps and major branches (exceeding two inches in diameter), rocks, vehicles and their parts and similar material.

DOMESTIC SOLID WASTE. Garbage, Refuse, Yard Wastes and Prunings.

GARBAGE. Rejected food waste, including waste accumulation of animal, fruit or vegetable matter used or intended for food or that attends the preparation, use, cooking, dealing or storing of meat, fish, fowl, fruit or vegetables.

HAZARDOUS MATERIAL. Any substance defined as a hazardous material in any city, state or federal ordinance, statute, rule, or regulation.

MISCELLANEOUS WASTE. All other materials, including, but not limited to, manufacturing or trade waste, human or animal waste, dead animals and similar material.

MULTI-FAMILY DWELLING. A parcel of real estate containing three or more dwelling units, such dwelling units being designed for residential use and occupancy by families living independently of one another.

OWNER. A person, partnership, corporation, association, estate, trust or other organization which holds title to a residence within the corporate boundaries of the City.

PICKUP LOCATION. The place specified by the Board of Public Works and Safety for each improved lot and improved parcel of real estate within the City to which service is available under this Chapter.

PRUNINGS. Woody wastes and branches up to two inches in diameter and less than four feet long which can be tied into bundles (includes Christmas trees).

REFUSE. General waste materials not associated with food preparation including, but not limited to, ash, cans, bottles, paper, and other similar material.

USER. The Owner or occupant of each unit within the City, and each such use by an Owner or occupant shall be deemed a separate User.

YARD WASTE. Grass clippings, sod, leaves, weeds, and garden and hedge trimmings.
[Ord. G-05-04, passed 6-28-05]

§52.02 CONTRACT FOR DOMESTIC SOLID WASTE COLLECTION

A) The Board of Public Works and Safety is authorized and directed to enter into a contract, pursuant to I.C. §36-9-30-5, to provide collection, disposal, and recycling services required or permitted under the provisions of this Chapter, under such terms and conditions as the Board of Public Works and Safety deems necessary, useful or beneficial to effectuate the intent and purpose of this Chapter.

B) No such contract shall be effective until after approval by the Common Council.

[Ord. G-05-04, passed 6-28-05]

§52.03 ALTERNATIVE DISPOSAL METHODS

Nothing in this Chapter shall prohibit the City from implementing alternative methods of providing Domestic Solid Waste disposal such as recycling.

[Ord. G-05-04, passed 6-28-05]

§52.04 COST STUDY

The Board of Public Works and Safety from time to time shall prepare cost studies showing the cost of providing regular and any experimental service in the manner provided in this Chapter, including all costs of collecting materials, any monies saved by alternative methods of disposal of materials, and all monies received from the sale of recyclable materials either by the City or its contractor.

[Ord. G-05-04, passed 6-28-05]

§52.10 DESCRIPTION OF SERVICE

Domestic Solid Waste collection service shall be provided once a week to all residences within the City of New Haven. Unless this Chapter is modified or amended, the City shall not contract for collection, disposal or recycling services to commercial or industrial establishments or to Mult-Family Dwellings.

[Ord. G-05-04, passed 6-28-05]

§52.11 UNACCEPTABLE MATERIALS

Unacceptable materials for collection in this Chapter, and except as otherwise provided herein, shall include, but not be limited to, debris, hazardous waste, and Miscellaneous Waste.

[Ord. G-05-04, passed 6-28-05]

§52.12 METHOD OF DISPOSAL FOR DOMESTIC SOLID WASTE

A) It shall be unlawful to place or permit to remain anywhere in the City any Domestic Solid Waste except according to the provisions of this Chapter.

B) The Owner or occupant of a residence shall dispose of Domestic Solid Waste as follows:

(1) Unless the City provides a Container pursuant to a contract authorized by this Chapter, the Owner or occupant of a residence shall provide and maintain in good order and repair garbage or trash receptacles of sufficient number to contain the Domestic Solid Waste that will accumulate on the premises.

(2) Containers shall be of a durable grade of galvanized metal, polyethylene, or other suitable material approved by the Board of Public Works and Safety. The Containers shall be without inside protrusions, and the contents shall be loosely packed or in bags so that they shall discharge freely when the receptacle is inverted.

(3) The Board of Public Works and Safety may provide for a maximum weight of each Container and a maximum number of Containers to be placed for collection each week.

(4) Domestic Solid Waste Containers shall be placed at such Pickup Locations as the Board of Public Works and Safety shall find and designate to be the most accessible for collection and removal. When alleys or streets become impassable because of inclement weather or other unusual conditions, the City may notify Owners or occupants to place Refuse receptacles at a temporary Pickup Location which is accessible to Refuse removal vehicles.

(5) Domestic Solid Waste disposal Containers intended for collection shall be placed by the Owner or occupant at the Pickup Location no earlier than 7:00 p.m. of the day proceeding the collection and no later than 6:00 a.m. on the day of collection. Such Containers shall be removed from the Pickup Location after collection by 7:00 p.m. on the date of collection.

[Ord. G-05-04, passed 6-28-05]

§52.13 SCHEDULE OF ROUTES

The schedule of routes and days for the weekly Domestic Solid Waste collection created by this Chapter shall be determined by the Board of Public Works and Safety.

[Ord. G-05-04, passed 6-28-05]

§52.14 BULK ITEMS

Bulk items acceptable for limited collection under the provisions of this Chapter shall include, but not be limited to, debris, empty cartons, crates, boxes, wrapping materials, discarded furniture, appliances, tires, large crates, toys, bicycles, plumbing fixtures and barrels. Such acceptable bulk items shall not be collected during regular weekly collection of Domestic Solid Waste, but rather may be collected on such occasional schedule as shall be from time to time determined by the Board of Public Works and Safety. Such items shall be deposited by the Owner or occupant during said time at the regular Pickup Location.

[Ord. G-05-04, passed 6-28-05]

§52.15 COLLECTION OF RECYCLABLE MATERIALS BY CIVIC ORGANIZATIONS

No person shall, without authorization from the city, collect any newspapers, glass, or aluminum or metal cans or Containers or any other Domestic Solid Waste Containers that are placed at the curb or alley for collection under the terms of this Chapter; provided, however, that nothing herein shall be deemed to prohibit the collection by religious or civic organizations of recyclable materials not placed at a Pickup Location pursuant to this Chapter.

[Ord. G-05-04, passed 6-28-05]

§52.20 USER FEE

A) Upon approval of the collection contract by the New Haven City Council, a monthly User fee shall be established for Domestic Solid Waste Collection. The fee shall be adjusted from time to time by the Council but may not exceed an amount necessary to reasonably cover the cost of the City of operating its waste collection program.

B) Charges for services in subsection A, above, shall be billed by the Clerk-Treasurer, or by his or her designated nominee, on a monthly basis.

[Ord. G-05-04, passed 6-28-05; Ord. G-06-09, passed 12-12-06]

§52.21 SOLID WASTE REVENUE FUND

A) There is hereby established a Solid Waste Revenue Fund on the books and accounts of the City.

B) All User fees collected by the City for the collection, receipt, acceptance and disposal of Domestic Solid Waste under the provisions of this Chapter shall be deposited in the Solid Waste Revenue Fund.

C) The Solid Waste Revenue Fund shall be subject to all of the provisions of state law with respect to the deposit of funds, the filing of claims for payments therefrom, and funds therefrom shall be paid by the Clerk-Treasurer only upon the appropriation and approval for payment as provided by law.

[Ord. G-05-04, passed 6-28-05]

§52.22 APPEALS OF CITY DECISIONS

(A) If, in the opinion of any Customer, any decision by or on behalf of the City of New Haven with regard to this Chapter is inaccurate or incorrect, the Customer shall have the right to appeal that decision in the following manner.

(B) The Customer shall file a written statement of the appeal, together with verifiable documentation supporting the Customer's claim, with the City of New Haven, Superintendent of Utilities. The City may adopt a form upon which the appeal must be filed.

(C) The Superintendent, or his or her designee, shall investigate the Customer's claim and, upon review thereof, shall render a written opinion affirming or modifying the determination subject to the appeal.

(D) The Superintendent's opinion shall be forwarded to Customer by certified mail, return receipt requested.

(E) The written opinion of the Superintendent or his or her designee may be challenged by the Customer by a written request to the Board of Public Works and Safety for formal consideration within 15 days of receipt of the Superintendent's opinion.

(F) The Board shall conduct a hearing and issue a written determination which shall be administratively final. The hearing shall be electronically recorded and shall be treated for all purposes as a public document.

(G) A party or person aggrieved by the final Board determination shall have the right to judicial review of such determination in accordance with State law.

(H) The pendency of any appeal pursuant to this Section shall not relieve the Customer from liability for payment of any monthly fee except to the extent that relief is granted by the Superintendent or Board.

(I) The User Fee specified in Code §52.20 shall not be subject to appeal pursuant to this Section.

[Ord. G-05-04, passed 6-28-05]

§52.23 PENALTY

Any person who violates any of the applicable provisions of this Chapter for which another penalty is now provided shall, upon conviction, be liable for an infraction punishable by a fine of not more than $500 for each violation.

[Ord. G-05-04, passed 6-28-05]

CHAPTER 54: DEPARTMENT OF STORM WATER MANAGEMENT

Section

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§54.01 DEPARTMENT OF STORM WATER MANAGEMENT

(A) Adoption of State law. The provisions of Indiana Code §8-1.5-5 are hereby adopted in their entirety, and the following entities are established or re-established:

(1) The City of New Haven Department of Storm Water Management.

(2) The City of New Haven Storm Water Taxing District.

(3) The Department of Storm Water Management shall be managed by the Board of Public Works and Safety of the City of New Haven.

(4) A Department of Storm Water Management District, extending to the corporate boundaries of the City is hereby established for the purpose of providing for the collection and disposal of storm water of the City in a manner which protects the public health and welfare, and for the purpose of assessing fees to pay for the cost of storm water facilities and services. As the corporate boundaries of the City change, whether through annexation or otherwise, so shall the boundaries of the Storm Water District change.

(B) Powers of the Board. The Board of Public Works and Safety shall have exclusive jurisdiction over the collection and disposal of storm water within the District, and shall possess all the powers and duties set forth in Indiana Code §8-1.5-3-4 and §8-1.5-5-6 including but not limited to the power to:

(1) Recommend to the City Council of the City of New Haven rules and regulations governing the Department of Storm Water Management.

(2) Hold hearings following public notice.

(3) Make findings and determinations.

(4) Install, maintain and operate a storm water collection and disposal system.

(5) Make all necessary or desirable improvements of the grounds and premises under its control.

(6) Recommend to the City Council reasonable and just rates and charges for services to the Customers of the District.

(7) Prepare a budget for the operation of the Department on an annual basis which budget shall be subject to approval by the City Council. The issuance of bonds or other methods for making or financing capital improvements shall be approved by the City Council as provided by law.

[Ord. G-04-02, passed 4-27-04; Ord. G-05-03, passed 4-26-05]

§54.02 PURPOSE AND OBJECTIVE

(A) The function of the Department of Storm Water Management is to provide for the safe and efficient capture and conveyance of storm water runoff; mitigate the damaging effects of storm water runoff; correct storm water collection and conveyance problems; and fund the activities of storm water management including design, planning, regulation, education, coordination, construction, operation, maintenance, inspection and enforcement activities, all for the protection of the public health, welfare and safety. It is the further function of the Department of Storm Water Management to insure the City's compliance with its NPDES storm water discharge permit(s).

(B) It is hereby determined necessary for the protection of public health, safety and welfare and to conform with federal, State and local laws and regulations that a system of charges for storm water service in the City be established which allocates the cost of providing storm water service to each user in such a manner that the charges assessed are proportionate to the cost of providing storm water service to that user, insofar as those costs can reasonably be determined.

[Ord. G-04-02, passed 4-27-04]

§54.03 DEFINITIONS

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

ABATEMENT. Any action taken to remedy, correct or eliminate a condition within, associated with, or impacting a storm water drainage system.

AGRICULTURAL PROPERTY. A parcel or lot of land used to support agricultural activities.

APARTMENT/CONDOMINIUM PROPERTY. A lot or parcel of real estate on which is situated a building containing five or greater single-family dwelling units, or on which two or more buildings each containing multiple single-family dwelling units are situated.

APPROVED PLANS. Plans approved by the Department of Storm Water Management according to a permits and plan review which will govern all improvements made within the City that require storm water facilities or changes or alterations to existing storm water facilities.

AS BUILT PLANS. Drawings depicting conditions as they were actually constructed.

BEST MANAGEMENT PRACTICES (BMPs). Physical, structural, and/or managerial practices that, when used singly or in combination, temporarily store or treat storm water runoff to prevent or reduce pollution of water, flooding, and provide other amenities that

have been approved by the City of New Haven Department of Storm Water Management.

BOARD. The Board of Public Works and Safety of the City of New Haven.

CITY. The City of New Haven.

CODE. New Haven Code of Ordinances.

COMBINED SEWERS. Pipe or conduit primarily designed to convey sanitary sewage and secondarily intended to convey storm water.

CUSTOMER. The owner of a lot or parcel of residential or non-residential property shall be considered the Department of Storm Water Management's customer for the purpose of assessing storm water service charges.

DETENTION. The temporary storage of storm water runoff in a basin, pond or other structure to control the peak discharge rates by holding the storm water for a lengthened period of time and which provides some gravity settling of particulates.

DSM. New Haven Department of Storm Water Management.

EQUIVALENT RESIDENTIAL UNIT (ERU). A unit value, equal to the average residential amount of impervious area of a single family residential property within the City, and established at 2,534 square feet of (measured) impervious area. It is also the basis for calculating the proper assessment of storm water charges to all user of the City storm water system.

ILLICIT CONNECTIONS. Illegal and/or unauthorized connections to the municipal separate storm water system whether or not such connections result in discharges into that system.

ILLICIT DISCHARGE. Any discharge to the municipal separate storm sewer system that is not composed entirely of storm water.

IMPERVIOUS AREA. Areas that have been paved and/or covered with buildings and materials which include, but are not limited to, concrete, asphalt, rooftop and blacktop, such that the infiltration of water into the soil is prevented. Excluded from this definition are undisturbed land, lawns and fields.

INFILTRATION. Infiltration is a complex process of allowing runoff to penetrate the ground surface and flow through the upper soil surface.

NON-RESIDENTIAL REAL ESTATE. All real estate not described by the definition of Residential Real Estate shall be defined as Non-Residential. Non-Residential Real Estate will include:

(1) Agricultural real estate;
(2) Apartment and condominium real estate;

(3) Mobile home parks;

(4) Commerical real estate;

(5) Industrial real estate;

(6) Institutional real estate;

(7) Churches;

(8) Schools;

(9) Federal, State and local government real estate; and

(10) Any other real estate not mentioned in this or the list or residential properties below.

NPDES. National Pollutant Discharge Elimination System. Regulations for storm water discharges are described in the Federal Register, 40 CFR Parts 122, 123 and 124, and IAC 327 15-13.

NPDES PERMIT. Permit issued to the City pursuant to IAC 327 15-13.

PEAK DISCHARGE. The peak discharge, sometimes called peak flow, is the maximum rate of flow of water passing a given point during or after a rainfall event.

PRIVATE STORM WATER FACILITIES. Various storm water and drainage works not under the control or ownership of the City, County, State and/or Federal Government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, other structural components and equipment designed to transport, move or regulate storm water.

PUBLIC STORM WATER FACILITIES. The various storm water and drainage works under the control and/or ownership of the City, County, State or Federal Government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, other structural components and equipment designed to transport, move or regulate storm water.

RESIDENTIAL REAL ESTATE. For the purpose of this Section, this definition refers to a lot or parcel of real estate on which a building or mobile home is situated which building contains a group of rooms forming a single inhabitable dwelling unit with facilities which are used or are intended to be used primarily for living, sleeping, cooking and eating. This definition also includes a lot containing not more than one individual building containing four or fewer separate or contiguous single-family dwelling units. Each and every residential property shall be assigned one ERU. A lot or parcel of real estate occupied in part by a non-residential use shall be deemed Residential Real Estate only if the non-residential use is deemed minor or incidental to the residential use.

RETENTION. The holding of storm water runoff in a constructed basin or pond or in a natural body of water without release except by means of evaporation, infiltration or emergency bypass.

SQUARE FOOTAGE OF IMPERVIOUS AREA. For the purpose of assigning an appropriate number of ERUs to a parcel of real property, the square footage of all impervious area using the outside boundary dimensions of the impervious area to include the total enclosed square footage, without regard to topographic features of the enclosed surface.

STORM SEWER. A sewer designed or intended to convey only storm water, surface runoff, street wash waters, and drainage, and not intended for sanitary sewage and industrial wastes other than unpolluted cooling water. The portion of a sewer intended to carry storm water only, which begins at the grating or opening where water enters said sewer, through the sewer and any other conduits to the outlet structure where water enters a channel, natural watercourse or combined sewer.

STORM WATER SERVICE CHARGE. A charge imposed on users of the City's storm water collection, impounding and transportation system.

STORM WATER SYSTEM. All constructed facilities, including combined sewers, structures and natural watercourses under the ownership, and/or control of the City used for collecting and conducting storm water to, through and from drainage areas to the point of final outlet, including, but not limited to, any and all of the following: inlets, conduits and appurtenant features, creeks, channels, catch basins, ditches, streams, culverts, retention or detention basins and pumping stations; and excluding therefore, any part of the system of drains and watercourses under the jurisdiction of the Allen County Drainage Board or the City of Fort Wayne.

SUPERINTENDENT. The Superintendent of the City of New Haven Utilities Department shall also serve as Superintendent of the City of New Haven Department of Storm Water Management.

[Ord. G-04-02, passed 4-27-04; Ord. G-05-03, passed 4-26-05]

§54.04 STORM WATER SERVICE CHARGE

A storm water service charge shall be imposed on each and every lot and parcel of land within the City which directly or indirectly contributes to the storm water system of the City, which charge shall be assessed against the Customer thereof, who shall be considered the user for the purposes of this Section. This charge is deemed reasonable and is necessary to pay for the repair, replacement, planning, improvement, operation, regulation and maintenance of the existing and future City storm water system.

[Ord. G-04-02, passed 4-27-04]

§54.05 STORM WATER RATES

(A) The storm water residential service rate shall be $5.35 per home per month.

(B) The storm water non-residential rate shall be $8.89 per ERU per month, not to exceed $257.81 per month, the equivalent of the rate for 29 ERUs.

(C) This storm water rate is designed to recover the cost of rendering storm water service to the users of the storm water system, and shall be the basis for assessment of the City's storm water service charge. This rate is established so as to maintain adequate fund reserves to provide for reasonably expected variations in the cost of providing services, as well as variations in the demand for services.

(D) This rate shall be evaluated and may be adjusted by the City Council bi-annually, or more often as necessary, with regard to its sufficiency to satisfy the needs of the DSM.

[Ord. G-04-02, passed 4-27-04]

§54.06 RATE STRUCTURE AND CALCULATION

(A) For the purposes stated in §§54.02 and 54.05 there is hereby assessed a storm water service charge to each Customer in an amount as determined below.

(B) For any such real estate which contributes directly or indirectly to the storm water system of the City, such charge shall be based upon the quantity of impervious area situated thereon.

(C) All real estate having impervious area within the City will be assigned an Equivalent Residential Unit (ERU), or a multiple thereof, with all properties having impervious area assigned at least one ERU and no more than 29 ERUs.

(1) Residential real estate. A monthly flat-rate charge for storm water service rendered to residential properties shall be charged to each account within the City limits according to the service address. Each separate parcel of residential real estate shall be assigned one ERU.

(2) Non-Residential real estate. Each parcel of Non-Residential real estate shall be assigned an ERU multiple based upon the parcel's individually measured impervious area (in square feet) divided by 2,534 square feet (one ERU). This division will be calculated to the first decimal place.

(3) Only whole ERUs shall be used. All rounding necessary to reach the appropriate whole ERU shall be done according to mathematical convention (0-0.4 rounded down to nearest whole ERU; 0.5-0.9 rounded up to nearest whole ERU).

(D) There shall be no exceptions or exemptions from the assignment of gross storm water ERUs, except for roadways owned and operated by a public entity.

[Ord. G-04-02; passed 4-27-04; Ord. G-05-03, passed 4-26-05]

§54.07 BILLINGS; TERMS OF PAYMENT

(A) Billings. All storm water service bills shall be rendered on a monthly basis, along with the Customer's charges for other City utility services.

(B) Terms of payment. The storm water service charges prescribed in §§54.05 and 54.06 shall be due 15 days after mailing or on such later date set out on the bill. It shall be a violation of this Section to fail to pay a storm water service bill when due. All bills for storm water services not paid on or before the due date, shall be subject to a collection or deferred payment charge of 10% on outstanding balance per month, or portion thereof, together with attorney fees and costs of collection.

(C) Payment priority. Partial payments made on combined bills of the Storm Water Utility and the City of New Haven Water & Sewer Utility shall be applied first to satisfy Water Utility fees, second to Wastewater Utility fees, and third to Storm Water Utility fees.

(D) Any Storm Water Service charge not paid when due may be added to a charge, pursuant to Indiana Code §8-1.5-5-7(c), to the semi-annual property tax statement of the affected property Customer.

(E) Collection. In addition to any other remedies provided by law, delinquent storm water service charges may be collected in a civil action along with other delinquent utility charges, reasonable attorney fees and court costs.

[Ord. G-04-02, passed 4-27-04; Ord. G-05-03, passed 4-26-05]; [Ord. G-11-06, passed 9-27-11]

§54.08 APPEALS OF DSM DECISIONS

(A) If, in the opinion of any Customer, any decision by or on behalf of the DSM is inaccurate or incorrect, the Customer shall have the right to appeal that decision in the following manner.

(B) The Customer shall file a written statement of appeal, together with verifiable documentation supporting the Customer's claim, with the Superintendent. The DSM may adopt a form upon which the appeal must be filed.

(C) The Superintendent, or his or her designee, shall investigate the Customer's claim, and, upon review thereof, shall render a written opinion affirming or modifying the determination subject to the appeal.

(D) The Superintendent's opinion shall be forwarded to Customer by certified mail, return receipt requested.

(E) The written opinion of the Superintendent or his or her designee may be challenged by the Customer by a written request to the Board for formal consideration within 15 days of receipt of the Superintendent's opinion.

(F) The Board shall conduct a hearing and issue a written determination which shall be administratively final. The hearing shall be electronically recorded and shall be treated for all purposes as a public document.

(G) A party or person aggrieved by the final Board determination shall have the right to judicial review of such determination in accordance with State law.

(H) The pendancy of any appeal pursuant to this Section shall not relieve the Customer from liability for payment of any monthly fee except to the extent that relief is granted by the Superintendent or Board.

(I) The Storm Water Rate specified in Code §54.05 or as determined pursuant to Indiana Code §8-1.5-5-7 shall not be subject to appeal pursuant to this Section.

[Ord. G-04-02, passed 4-27-04; Ord. G-05-03, passed 4-26-05]

§54.09 STORM WATER FUND

All revenues earned and fees collected for storm water service, including but not limited to, drainage service charges, permit and inspection fees, direct charges and interest earnings on any unused funds shall be deposited in an account entitled, "City of New Haven Storm Water Fund". Disbursements from this account will be authorized by the Board of Works. Such disbursements will be used exclusively for the operation, maintenance and improvement of the City's storm water system. Funds from this account shall not revert to any other City utilities or Civil City Fund and may not be transferred for any other purpose.

[Ord. G-04-02, passed 4-27-04]

§54.10 VIOLATIONS; ENFORCEMENT

(A) In order to protect the integrity of the City storm water utility, it is determined to be a violation of this Section for any person or entity to permit, allow or engage in the dumping or disposal of materials other than storm water into the City's municipal separate storm water system.

(B) It shall be a violation of this Section for any person or entity to permit, allow or engage in the discharge of domestic sewage or industrial waste into any waterway of the United States including, but not limited to, the Maumee River, any of its tributaries or streams or any streets, storm sewers or drains, ditches or drainage ways leading to any such waterway of the

United States.

(C) It shall be a violation of this Section for any person or entity to store polluting substances, as identified by USEPA or IDEM, in a manner which violates any federal, State or local statute, ordinance or regulation relating to the protection of the public health, safety and welfare or environment, when such storage is shown to have the potential of allowing discharge to any waterway of the United States including, but not limited to, the Maumee River, any of its tributaries or streams or any streets, storm sewers or drains, ditches or drainage ways leading to any such waterway of the United States.

(D) Violations of this Section shall be prosecuted in the name of the City of New Haven pursuant to Indiana Code §34-28-5.

[Ord. G-04-02, passed 4-27-04; Ord. G-05-03, passed 4-26-05]

§54.11 PENALTY

(A) Any person or entity found in violation of §54.10 shall be subject to a fine of up to $2,500 per day. In addition, that person or entity may also be held responsible for any costs incurred by the City in correcting the violation or remediating any damage to the waterways of the United States and/or to the public Storm Water System caused by the violation.

(B) Each day that such violation(s) or non-compliance continues shall constitute a separate offense. Any fine assessed by the court shall be deemed a civil judgment.

[Ord. G-04-02, passed 4-27-04; Ord. G-05-03, passed 4-26-05]

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CHAPTER 70: MOTOR VEHICLES AND TRAFFIC

CHAPTER 71: PARKING SCHEDULES

CHAPTER 72: TRAFFIC SCHEDULES

CHAPTER 73: SNOWMOBILES AND OFF-ROAD VEHICLES

CHAPTER 74: SEVERABILITY

CHAPTER 75: HAZARDOUS MATERIALS TRANSPORTATION

CHAPTER 76: MOPEDS AND POCKET BIKES

CHAPTER 70: MOTOR VEHICLES AND TRAFFIC

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GENERAL PROVISIONS

§70.01 DEFINITIONS

For the purposes of this Traffic Code, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

(A) Adult School Crossing Guard. An adult employed to aid school children in crossing the street by stopping traffic so that pedestrians may cross safely.

(B) Alley. A right-of-way other than a street, road, crosswalk or easement, designed for the special accommodation of the property it reaches.

(C) Authorized Emergency Vehicle. Vehicles of the Fire Department, Police Department, and such ambulances and other vehicles having a public emergency use as are authorized and designated by the Board of Public Works and Safety.

(D) Bicycle. Any foot-propelled vehicle, irrespective of the number of wheels in contact with the ground.

(E) Clear Vision Area. An area contained within either of the following:

(1) An area formed by the intersection of the right-of-way lines of two public roadways and a line connecting the points found on the right-of-way lines measured twenty-five (25) feet from the intersection of these right-of-way lines, or

(2) An area contained within a strip five (5) feet wide contiguous to and outside of the right-of-way line of every public roadway.

(F) Crosswalk:

(1) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or in the absence of curbs from the edges of the traversable roadway.

(2) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings.

(G) Curb Loading Zone. A space adjacent to a curb, or lateral boundary line of a roadway, reserved for the exclusive use of vehicles while loading or unloading passengers or materials.

(H) Driver. Every person who drives or is in actual physical control of a vehicle.

(I) Intersection. The area embraced within the prolongation or connection of the lateral curb lines or, if none, then the lateral boundary lines of the roadways of two streets which join one another at an angle.

(J) Motorcycle. Every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground.

(K) Motor Vehicle. Every vehicle which is self-propelled but not operated on rails.

(L) Official Traffic-Control Devices. All signs, signals, markings and devices not inconsistent with this Traffic Code placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

(M) One-Way Streets. Streets and alleys upon which traffic is allowed to proceed in only one direction instead of two directions.

(O) Parking. The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

(P) Pedestrian. Any person afoot.

(Q) Police Officer. Every member of the Police Department of this City, or any person specifically authorized by the Board of Pubic Works and Safety to direct or regulate traffic or to make arrests for violations of traffic regulations.

(R) Private Road or Driveway. Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(S) Railroad. A carrier of persons or property upon cars operated upon stationery rails.

(T) Railroad Train. An engine, whether powered by steam, gasoline, electric, diesel or other type motor, with or without cars coupled thereto, operated upon rails.

(U) Right-of-Way. The privilege of the immediate use of the roadway; or, the land covered by a path, street, or highway, including any legal easements, which lawfully may be used for travel.

(V) Roadway. That portion of a street improved, designed or ordinarily used for vehicular travel.

(W) Sidewalk. That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

(X) Stop. Complete cessation of movement.

(Y) Stop Intersection. An intersection where traffic on one street is required by law to stop before entering or crossing the same when “Stop” signs are erected as provided in this Traffic Code.

(Z) Stop, Stopping or Standing. Any stopping or standing of a vehicle whether occupied or not, except when necessary to avoid conflict with traffic or in compliance with the direction of a Police Officer or traffic-control sign or signal.

(AA) Street or Highway. The entire width between the boundary lines of every way publicly maintained, except alleys, when any part thereof is open to the use of the public for purposes of vehicular travel.

(BB) Traffic. The movement of persons, vehicles and other conveyances, either singly or together, for purposes of travel.

(CC) Traffic-Control Signal. Any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed, or is otherwise controlled.

(DD) Vehicle. Every device in, upon or by which any person or property is or may be transported or drawn upon or across a street.

(EE) Yield Intersection. An intersection where traffic entering on one street is required to slow down to a speed reasonable for existing conditions, or stop if necessary before entering or crossing the same, when "Yield" signs are erected as provided in this Traffic Code.

[G-00-13, passed 12-12-00]

§70.02 EFFECT OF TRAFFIC CODE

(A) This entire Traffic Code shall be deemed and construed to be an exercise of the police powers of this City for the preservation and protection of public safety, and all of its provisions shall be liberally construed with a view to the effectuation of such purpose.

(B) The traffic laws of the State of Indiana and the traffic ordinances of Allen County, Indiana, in effect in a territory which is annexed by the City of New Haven shall, immediately upon the effective date of an annexation, become traffic ordinances of the City of New Haven.

[G-00-13, passed 12-12-00]

ADMINISTRATION AND ENFORCEMENT OF TRAFFIC CODE

Division 1. Generally

§70.03 REQUIRED OBEDIENCE TO TRAFFIC REGULATIONS

It is unlawful for any person to do any act forbidden or fail to perform any act required in this Traffic Code. Violations of the acts forbidden herein will result in a civil action with a possible fine penalty upon proof of the violation pursuant to IC 34-28-5.

[G-00-13, passed 12-12-00]

§70.04 BOARD OF PUBLIC WORKS AND SAFETY

(A) The Board of Public Works and Safety is empowered:

(1) To make regulations necessary to make effective the provisions of this Traffic Code.

(2) To make regulations to carry out its delegated authority hereunder.

(B) All regulations of the Board of Public Works and Safety shall be adopted by such Board by formal resolution which resolution shall recite the provision of this Traffic Code to be made effective by such regulation, the section of this Traffic Code under which delegated authority is carried out or the emergency or special condition requiring the temporary or experimental regulation provided therein, as the case may be.

(C) The Board of Public Works and Safety shall have the authority to:

(1) Place and maintain traffic-control signs, signals and devices when and as required to make effective the provisions of this Traffic Code or other traffic ordinances of this City, or to facilitate the movement or promote the safety of traffic at an intersection, and to place and maintain such additional traffic-control devices as it may deem necessary to regulate traffic under State law.

(2) Authorize or designate authorized emergency vehicles.

(3) Designate "stop" intersections.

(4) Establish speed limits.

(5) Designate "yield" intersections.

(6) Determine angle parking locations.

(7) Restrict parking.

(8) Designate curb loading zones.

(9) Designate bus and taxi stands.

(10) Designate crosswalks, safety zones, and mark traffic lanes.

(11) Determine turn restrictions.

(12) Designate one-way streets and alleys.

(13) Designate weight restrictions and truck routes.

(14) Designate routes and operating requirements for motor vehicles transporting hazardous materials in and through the City of New Haven.

[Ord. G-00-13, passed 12-12-00]

Division 2. Penalties and Procedure of Arrest

§70.05 PENALTIES

Unless another penalty is expressly provided by law, every person convicted of a violation of any provision of this Traffic Code shall be punished by a fine of not more than $1,000.00 per violation.

[Ord. G-00-13, passed 12-12-00]

§70.06 FORMS FOR NOTICES OF VIOLATION AND APPEARANCE

The City Clerk Treasurer shall provide, in triplicate, suitable, serially numbered forms for notifying violators to appear and answer to charges of violating this Traffic Code and other laws and ordinances of this City. Such forms shall be issued to and receipted for by the Chief of Police or other person acting for him. The City Clerk Treasurer shall each month report to the Mayor the disposal made by the Police of all triplicate forms issued to them. For this purpose, the City Clerk Treasurer or his/her representative shall have access to the necessary records of the Police Department. These reports shall be public records.

[Ord. G-00-13, passed 12-12-00]

§70.07 PROCEDURE UPON CITATION FOR VIOLATION

Any Police Officer, upon observing violation of this Traffic Code or other traffic ordinances of this City, shall take the name, address and operator's license number of the alleged violator and the registered number of the motor vehicle involved, and shall issue to him in writing, on the form provided by the City Clerk Treasurer, a notice to answer to the charge against him at a place and at a time at least five days thereafter, to be specified in the notice.

[Ord. G-00-13, passed 12-12-00]

§70.08 NOTICE ON ILLEGALLY PARKED VEHICLES

Whenever any motor vehicle without a driver is found parked, standing or stopped in violation of any of the restrictions imposed by this Traffic Code or other ordinance of this City, or by State law, the Officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its owner, and shall conspicuously affix to such vehicle a notice in writing, on the form provided by the Police Chief for the driver to answer to the charge against him within 48 hours.

[Ord. G-00-13, passed 12-12-00]

§70.09 FAILURE TO COMPLY WITH NOTICE ATTACHED TO PARKED VEHICLE

If a violator of the restrictions on stopping, standing or parking under this Traffic Code or other traffic laws or ordinances does not appear in response to a notice affixed to such motor vehicle within a period of 48 hours, the Police Department shall send to the owner of the motor vehicle to which the Police affixed a notice a letter informing him of the violation and warning him that in the event such violator continues to disregard the notice, a complaint will be filed and warrant for the arrest issued.

[Ord. G-00-13, passed 12-12-00]

§70.10 WHEN COMPLAINT TO BE ISSUED

In the event any person fails to comply with a notice given to such person or attached to a vehicle or fails to make appearance pursuant to a summons directing an appearance, the City Clerk Treasurer shall forthwith have a complaint entered against such person.

[Ord. G-00-13, passed 12-12-00]

ENFORCEMENT OF AND OBEDIENCE TO TRAFFIC REGULATIONS

§70.11 AUTHORITY OF POLICE OFFICERS; AUTHORITY OF MEMBERS OF FIRE DEPARTMENT TO ASSIST POLICE AT FIRE

(A) It shall be the duty of the Officers of the Police Department of this City to enforce all traffic laws of this City and all State laws applicable to traffic in this City.

(B) Officers of the Police Department of this City are hereby authorized to direct all traffic in conformance with all traffic laws and regulations; provided, that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, Officers of the Police Department shall direct traffic without regard to traffic laws and regulations.

(C) Members of the Fire Department, when at the scene of a fire, may direct or assist the Police in directing traffic thereat or in the immediate vicinity thereof.

[Ord. G-00-13, passed 12-12-00]

§70.12 OBEDIENCE TO POLICE AND FIRE DEPARTMENT OFFICIALS

No person shall willfully fail to refuse to comply with any lawful order or direction of a Police Officer or Fire Department official.

[Ord. G-00-13, passed 12-12-00]

§70.13 PERSONS PROPELLING PUSHCARTS OR RIDING ANIMALS TO OBEY TRAFFIC REGULATIONS

Every person propelling any pushcart or riding an animal upon a street, and every person driving any animal-drawn vehicle shall be subject to the provisions of this Traffic Code applicable to the driver of any vehicle, except those provisions of this Traffic Code which by their very nature can have no application.

[Ord. G-00-13, passed 12-12-00]

§70.14 USE OF COASTERS, ROLLER SKATES, AND SIMILAR DEVICES RESTRICTED

No person upon roller skates or riding in or by means of any coaster or similar device, except bicycles when operated in accordance with this Traffic Code, shall go upon any roadway except while crossing a street on a crosswalk, and when so crossing, such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians.

[Ord. G-00-13, passed 12-12-00]

§70.15 PUBLIC EMPLOYEES TO OBEY TRAFFIC REGULATIONS

The provisions of this Traffic Code shall apply to the driver of any vehicle owned by or used in the service of the United States government, this State, county, township, or this City, and it shall be unlawful for any such driver to violate any of the provisions of this Traffic Code, except as otherwise permitted in this Traffic Code or by State statutes.

[Ord. G-00-13, passed 12-12-00]

§70.16 SPECIAL EXEMPTIONS FOR AUTHORIZED EMERGENCY VEHICLES

(A) The provisions of this Traffic Code shall apply to a driver of an authorized emergency vehicle as defined in this Traffic Code; except, when such vehicle is employed in the performance of an emergency duty or in lawful pursuit, unless otherwise directed by a Police Officer, the driver may:

(1) Park or stand notwithstanding the provisions of this Traffic Code.

(2) Proceed past a red or stop signal, yellow or caution signal, or Stop sign, but only after slowing down as may be necessary to avoid endangering life or property.

(3) Exceed the prima facie speed limits so long as he/she does not endanger life or property.

(4) Disregard regulations governing direction of movement or turning in specified directions, so long as he/she does not endanger life or property.

(B) The exemptions hereinbefore granted in reference to the movement of an emergency vehicle shall apply only when the driver of such vehicle sounds a siren, bell or exhaust whistle as may be reasonably necessary, and the vehicle displays a lighted red lamp visible from the front under normal atmospheric conditions a distance of 500 feet as a warning to others.

[Ord. G-00-13, passed 12-12-00]

§70.17 OPERATION OF VEHICLES ON APPROACH OF AUTHORIZED EMERGENCY VEHICLES

Upon the immediate approach of an authorized emergency vehicle equipped with at least one lighted lamp exhibiting red light visible from the front under normal atmospheric conditions a distance of 500 feet, and when the driver is giving audible signal by siren, exhaust whistle or bell, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to and as close as possible to the curb of the roadway, clear of any intersection, and shall stop and remain in such position until such authorized emergency vehicle has passed, except when otherwise directed by a Police Officer.

[Ord. G-00-13, passed 12-12-00]

§70.18 IMMEDIATE REPORT OF ACCIDENT

The driver of a vehicle involved in an accident resulting in injury to or death of any person or in property damage shall immediately, by the quickest means of communication, give notice of such accident to the Police Department.

[Ord. G-00-13, passed 12-12-00]

OPERATION OF VEHICLES GENERALLY

Division 1. Generally

§70.19 FOLLOWING FIRE APPARATUS

No driver of any vehicle, other than one on official business in connection with a fire, shall follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

[Ord. G-00-13, passed 12-12-00]

§70.20 CROSSING FIRE HOSE

No vehicle shall be driven over any unprotected hose of a Fire Department when laid down on any street, alley or private driveway to be used at any fire or alarm of fire, without the consent of the Fire Department official in command.

[Ord. G-00-13, passed 12-12-00]

§70.21 DRIVING THROUGH FUNERAL OR OTHER PROCESSION

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this Traffic Code.

[Ord. G-00-13, passed 12-12-00]

§70.22 DRIVING IN PROCESSION

Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as close as is practical and safe.

[Ord. G-00-13, passed 12-12-00]

§70.23 FUNERAL PROCESSIONS TO BE IDENTIFIED

A funeral composed of a procession of vehicles shall be identified as such by the display upon the outside of each vehicle of pennant or other identifying insignia.

[Ord. G-00-13, passed 12-12-00]

§70.24 WHEN PERMITS REQUIRED FOR PARADES AND PROCESSIONS

No funeral procession or parade containing 200 or more persons or 50 or more vehicles, excepting the military forces of the United States, the military forces of this State, and the forces of the Police and Fire Departments, shall occupy, march or proceed along any street except in accordance with a permit issued by the Chief of Police and such other regulations as are set forth in this Traffic Code which may apply.

[Ord. G-00-13, passed 12-12-00]

§70.25 VEHICLES NOT TO BE DRIVEN ON SIDEWALK

The driver of a vehicle shall not drive in, on or across any sidewalk, except at a permanent or temporary driveway or alley.

[Ord. G-00-13, passed 12-12-00]

§70.26 LIMITATIONS ON BACKING INTO INTERSECTION

No driver of a vehicle shall back such vehicle across any marked or unmarked crosswalk or into any intersection, nor shall he/she back such vehicle at any other place unless such movement can be made with reasonable safety and without interfering with other traffic.

[Ord. G-00-13, passed 12-12-00]

§70.27 RIDING ON MOTORCYCLES OR MOPEDS

A person operating a motorcycle or moped shall not ride other than upon the permanent and regular seat attached thereto or carry any other person, nor shall any other person ride upon such motorcycle other than upon a firmly attached seat to the rear or side of the operator.

[Ord. G-00-13, passed 12-12-00]

§70.28 CLINGING TO MOVING VEHICLES

No person riding upon any bicycle, motorcycle, coaster, sled, roller skates or any toy vehicle shall attach the same or himself to any moving vehicle upon any roadway.

[Ord. G-00-13, passed 12-12-00]

§70.29 LIMITED ACCESS ROADWAYS

No person shall drive a vehicle onto or from any limited access roadway, except at such entrances and exits as are established by public authority.

[Ord. G-00-13, passed 12-12-00]

§70.30 BOARDING OR ALIGHTING FROM VEHICLES

No person shall board or alight from any vehicle when such vehicle is in motion.

[Ord. G-00-13, passed 12-12-00]

§70.31 UNLAWFUL RIDING

No person shall ride on any vehicle or upon any portion thereof not designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty, or to persons riding within truck bodies in space intended for merchandise.

[Ord. G-00-13, passed 12-12-00]

§70.32 DRIVING IN ALLEYS

No driver of any vehicle shall drive into, on or through any alley or any portion thereof except for the purpose of going to or departing from a place or property abutting on the section or block of such alley which such driver has caused his/her vehicle to enter.

[Ord. G-00-13, passed 12-12-00]

§70.33 VEHICLE NOISE AND EXHAUST LIMITATIONS

(A) No person shall use or operate, except in emergency situations, on any street within the City of New Haven, any vehicle engine compression brake, commonly known as a "Jake Brake."

(B) No motor vehicle shall be used or operated within the City when such motor vehicle has attached or installed to it any device which causes fire or flame to be thrown from the exhaust pipe of such motor vehicle.

[G-04-18, passed 12-28-04]

Division 2. Speed Regulations

§70.34 APPLICABILITY OF STATE SPEED LAWS

The laws of the State establishing or regulating speed limits for vehicles on public streets or highways shall apply to all public streets or highways within the City, except in the circumstances where such limits have been increased or decreased. It shall be unlawful for any person to drive or operate a vehicle in excess of any speed so determined, when signs are in place giving notice thereof. A listing of each City street, highway or portion thereof upon which the speed limit has been increased or decreased by local authorities of the City, as herein authorized, shall be forwarded to the City Clerk Treasurer, who shall make such list available for public inspection. (See also Chapter 72 Schedule I). All changes in such listing may be made by Resolution of the Board of Public Works and Safety and shall be promptly attached to such listing by the City Clerk Treasurer.

[Ord. G-00-13, passed 12-12-00]

§70.35 SPEED LIMITS IN PUBLIC PARKS

A speed limit of 15 miles per hour shall be declared the prima facie limit upon all streets and roads of the City park system; provided, that at or near hazardous or congested locations, a speed limit less than that specified in this Section may be established, and traffic speed control devices installed, when deemed necessary by Resolution of the Board of Public Works and Safety.

[Ord. G-00-13, passed 12-12-00]

Division 3. Turns

§70.36 REQUIRED POSITION AND METHOD OF TURNING AT INTERSECTIONS

The driver of a vehicle intending to turn at an intersection shall do so as follows:

(A) Both the approach for a right turn and the right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(B) The approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof, and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered.

(C) The approach for a left turn from a two-way street into a one-way street shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection. A left turn from a one-way street into a two-way street shall be made by passing to the right of the center line of the street being entered upon leaving the intersection.

(D) Where both streets or roadways are one-way, both the approach for a left turn and a left turn shall be made as close as practicable to the left-hand curb or edge of the roadway.

[Ord. G-00-13, passed 12-12-00]

§70.37 OBEDIENCE TO TURNING MARKERS

When authorized markers, traffic lanes or other indicators are placed indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indicators.

[Ord. G-00-13, passed 12-12-00]

§70.38 OBEDIENCE TO NO-TURN SIGNS

Whenever authorized signs are erected indicating that no right, left or "U" turn is permitted, no driver of a vehicle shall disobey the directions of any such signs.

[Ord. G-00-13, passed 12-12-00]

§70.39 LIMITATIONS ON TURNING AROUND

No driver of any vehicle shall turn such vehicle so as to proceed in the opposite direction, herein otherwise referred to as a "U" turn, upon any street unless such movement can be made in safety and without interfering with other traffic.

[Ord. G-00-13, passed 12-12-00]

Division 4. One-Way Streets and Alleys

§70.40 OPERATION OF VEHICLES ON DESIGNATED ONE-WAY STREETS AND ALLEYS

Upon those streets and parts of streets and in those alleys described on a list maintained on file in the Office of the City Clerk Treasurer (see also Chapter 72 Schedule II), vehicular traffic shall move only in one direction and movement in the opposite direction is prohibited; provided, that signs indicating the direction in which the traffic is allowed to proceed must be maintained at every intersection where a one-way street has been designated.

[Ord. G-00-13, passed 12-12-00]

Division 5. Stop Intersections and Yield Intersections

§70.41 STOP SIGNS; AUTHORITY TO ERECT

Whenever this Traffic Code or any ordinance of this City designates and describes a stop intersection, it shall be the duty of the City Engineer to place and maintain a Stop sign on each street intersecting that portion thereof which is described and designated in the list of stop intersections maintained on file in the Office of the City Clerk Treasurer.

[Ord. G-00-13, passed 12-12-00]

§70.42 STOPS SIGNS; DUTY TO STOP

A person who drives a vehicle shall stop at an intersection where a stop sign is erected and proceed cautiously, yielding to vehicles that are not required to stop.

[Ord. G-00-13, passed 12-12-00]

§70.43 YIELD INTERSECTIONS

(A) Yield signs; authority to erect. Whenever this Traffic Code or any ordinance of this City designates and describes a yield intersection, it shall be the duty of the City Engineer to place and maintain a Yield sign on each street intersecting that portion thereof which is described and designated in the list of yield intersections maintained on file in the Office of the City Clerk Treasurer. (See also Chapter 72 Schedule IV).

(B) Obedience to signs. A person who drives a vehicle approaching a yield sign shall slow down to a speed reasonable for the existing conditions or stop if necessary. The person shall yield the right-of-way to a pedestrian legally crossing the roadway and to a vehicle in the intersection or approaching on another highway or street so closely as to present an immediate hazard. After yielding, the person may proceed, and all other vehicles approaching the intersection shall yield to the vehicle proceeding.

[Ord. G-00-13, passed 12-12-00]

TRAFFIC CONTROL SIGNALS AND DEVICES

§70.44 MANUAL AND SPECIFICATIONS FOR TRAFFIC-CONTROL DEVICES

All traffic-control signs, signals and devices shall conform to the manual and specifications approved by the State Highway Department. All signs required by this Traffic Code for a particular purpose shall be uniform as to type and location throughout the City. All traffic-control devices so erected and not inconsistent with the provisions of State law or this Traffic Code shall be official traffic-control devices.

[Ord. G-00-13, passed 12-12-00]

§70.45 OBEDIENCE TO OFFICIAL TRAFFIC-CONTROL DEVICES

A pedestrian or the driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with this Traffic Code or other ordinances of this City, unless otherwise directed by a Police Officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this Traffic Code.

[Ord. G-00-13, passed 12-12-00]

§70.46 FLASHING SIGNALS

Whenever flashing red or yellow signals are used, they shall require obedience by traffic as follows:

(A) Flashing red (stop signal). When a red lens is illuminated with rapid intermittent flashes, traffic shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked or, if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a Stop sign.

(B) Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, traffic may proceed through the intersection or past such signal only with caution.

[Ord. G-00-13, passed 12-12-00]

§70.47 DISPLAY OF UNAUTHORIZED SIGNS, SIGNALS AND MARKINGS

(A) No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, which attempts to direct the movement of traffic, or which hides from view any device or any railroad sign or signal; and no person shall place or maintain, nor shall any public authority permit, upon any streets any traffic sign or signal bearing thereon any commercial advertising. No person shall place, maintain or display any flashing, rotating or alternating light, beacon or other lighted device which is visible from any highway and which may be mistaken for or confused with a traffic-control device or for an authorized warning device or an emergency vehicle. This shall not be deemed to prohibit the erection, upon private property adjacent to highways, of signs giving useful directional information and a type that cannot be mistaken for official signs.

(B) Every such prohibited sign, signal, device or marking is declared to be a public nuisance, and the Police Department is empowered and required to remove the same without notice.

[Ord. G-00-13, passed 12-12-00]

§70.48 INTERFERENCE WITH OFFICIAL TRAFFIC-CONTROL DEVICES OR RAILROAD SIGNS OR SIGNALS

No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down or remove any official traffic-control device or any sign or signal, or any inscription, shield or insignia thereon, or any other part thereof.

[Ord. G-00-13, passed 12-12-00]

STOPPING, STANDING, OR PARKING

Division 1. Generally

§70.49 STOP REQUIRED WHEN EMERGING FROM ALLEY OR PRIVATE DRIVEWAY

The driver of a vehicle emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk area extending across an alleyway, yielding the right-of-way to any pedestrian, as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on such roadway.

[G-00-13, passed 12-12-00]

§70.50 STOP WHEN TRAFFIC OBSTRUCTED

No driver of a vehicle shall enter an intersection or a marked crosswalk unless and until there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he/she is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

[G-00-13, passed 12-12-00]

§70.51 OBEDIENCE TO SIGNAL INDICATING APPROACH OF RAILROAD TRAIN

(A) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within 50 feet but not less than ten feet from the nearest rail of such railroad, and shall not proceed until he/she can do so safely. The foregoing requirements shall apply when:

(1) A clearly visible electrical or mechanical signal device gives warning of the immediate approach of a railroad train.

(2) A crossing gate is lowered or a human flagman gives or continues to give a signal of the approach or passage of a railroad train.

(3) A railroad train approaching within approximately 1,500 feet of the highway crossing emits a signal audible for such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(B) No person shall drive any vehicle through around or under any crossing gate or barrier at a railroad grade crossing while such gate or barrier is closed or is being opened or closed.

[G-00-13, passed 12-12-00]

§70.52 STANDING OR PARKING CLOSE TO CURB

No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of a lawful traffic movement except where the parking area has been designated as angle parking.

[G-00-13, passed 12-12-00]

§70.53 ANGLE PARKING

No person shall stand or park a vehicle in a roadway parallel to the edge of the curb when the area has been designated as an area for angle parking by the City Engineer and is marked as such with either signs or painted lines and is indicated on a list of angle parking streets maintained in the Office of the City Clerk Treasurer. (See also Chapter 71 Schedule I.)

[G-00-13, passed 12-12-00]

§70.54 PARKING PROHIBITED IN SPECIFIED PLACES

(A) No person shall park a vehicle except when necessary to avoid conflict with other traffic or in compliance with law or the direction of a Police Officer or traffic-control device in any of the following places or manner:

(1) On a sidewalk or where any portion of said vehicle, or any item on, or contained in, or attached to said vehicle, obstructs any portion of a sidewalk.

(2) In front of a public or private driveway.

(3) Within an intersection.

(4) Within 15 feet of a fire hydrant.

(5) On a crosswalk.

(6) Within 20 feet of a crosswalk at an intersection.

(7) Within 30 feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway.

(8) Within 50 feet of the nearest rail or a railroad crossing.

(9) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance of any fire station within 75 feet of such entrance, when properly signposted.

(10) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.

(11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

(12) Upon any bridge or other elevated structure upon a highway or beneath a highway overpass.

(13) At any place where official signs prohibit parking.

(14) Upon any street for any period of time longer than 72 continuous hours, except on Saturdays, Sundays and holidays; provided, that this Section shall not be deemed to apply to utility, signal and street repair vehicles when necessary performance of their primary function requires otherwise.

(15) At any place posted with temporary "No Parking" signs authorized by the Chief of Police.

(16) More than 12 inches from the curb.

(17) With the vehicle facing in the direction opposite the direction of traffic on the side of the street where the vehicle is parked.

(18) In the rear of the North Fire Station; provided, that this section shall not be deemed to prohibit firefighters from parking in such area.

(19) (a) In a front yard, in a side yard on the street side of a corner lot, or in a rear yard that abuts a street.

(b) For the purposes of this sub-section, parking shall not be prohibited in the following areas:

(i) An improved space in the prohibited parking area used as a parking space before this ordinance is adopted, provided that the entrance to the approved area is via a driveway or curb

cut, except where adjacent to a paved street where there is no curb.

(ii) Parking in any portion of the driveway that lawfully may be located in the front yard, rear yard, or side yard, except the portion that is a part of the sidewalk.

(iii) Parking within 10 feet of the edge of the street where no curb is present, within the existing right-of-way, and in an improved area.

(iv) Any improved area designated for parking meeting the requirements of the New Haven Zoning Code.

(v) Where the vehicle is parked for the purpose of unloading, washing, or some other similar purpose. The vehicle, however, must be removed from the front yard, side yard, or rear yard once the task is completed.

[G-00-13, passed 12-12-00; G-02-15, passed 9-10-02; G-03-25, passed 12-23-03]

§70.55 PARKING NOT TO OBSTRUCT TRAFFIC

(A) No person shall park any vehicle upon a street in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway unobstructed for the free movement of vehicular traffic.

(B) No person shall park any vehicle within ten (10) feet of traveled portion of any four (4) lane street.

[G-00-13, passed 12-12-00]

§70.56 PARKING IN ALLEYS

No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for the free movement of vehicular traffic, except while loading or unloading, and no person shall stop, stand or park a vehicle within an alley in such position as to block the driveway entrance to any abutting property.

[G-00-13, passed 12-12-00]

§70.57 PARKING FOR CERTAIN PURPOSES PROHIBITED

No person shall park a vehicle upon any roadway for the principal purpose of:

(A) Displaying such vehicle for sale or for the primary purpose of advertising any product or thing whatsoever.

(B) Greasing or repairing such vehicle, except repairs necessitated by an emergency.

[G-00-13, passed 12-12-00]

Division 2. Restricted or Prohibited on Certain Streets

§70.58 PARKING PROHIBITED AT ALL TIMES ON CERTAIN STREETS

When signs are erected pursuant to this Division giving notice thereof, no person shall park a vehicle at any time upon any of the streets described on the list maintained on file in the Office of the City Clerk Treasurer. (See also Chapter 71 Schedule II.)

[G-00-13, passed 12-12-00]

§70.59 STOPPING, STANDING OR PARKING PROHIBITED DURING CERTAIN HOURS ON CERTAIN STREETS

When signs are erected in each block giving notice of certain hours during which parking is prohibited, no person shall stop, stand or park a vehicle on the street between the hours specified, on any day except Sundays and holidays; a list of the streets containing such prohibitions is to be maintained in the Office of the City Clerk Treasurer. (See also Chapter 71 Schedule III.)

[G-00-13, passed 12-12-00]

§70.60 PARKING TIME LIMITED ON CERTAIN STREETS

Two hour parking. When signs are erected in each block pursuant to this Division giving notice thereof, no person shall park a vehicle for longer than two hours at any time between the hours of 6:00 a.m. and 6:00 p.m. of any day except Sundays and holidays within the district or upon any of the streets described in the lists maintained on file in the Office of the City Clerk Treasurer. (See also Chapter 71 Schedule IV.)

[G-00-13, passed 12-12-00]

§70.61 PARKING SIGNS REQUIRED

Whenever by this Traffic Code or by any other ordinance of this City any parking time limit is imposed or parking is prohibited on designated streets, it shall be the duty of the City Engineer to erect appropriate signs giving notice thereof, and no such regulation shall be effective unless such signs are erected and in place at the time of any alleged offense.

[G-00-13, passed 12-12-00]

§70.62 RESTRICTED, IMPAIRED MOBILITY PARKING

No person shall stop, stand or park a vehicle in a space designated for impaired mobility parking unless the vehicle bears a license plate or decal issued by the State of Indiana or another state containing the international wheelchair symbol or such other symbol as the Commission of the Bureau of Motor Vehicles of the State of Indiana or any other State shall designate to distinguish a vehicle used by or to transport an impaired mobility person. A list of such restricted parking areas is to be maintained on file in the Office of the City Clerk Treasurer. (See also Chapter 71 Schedule V.)

[G-00-13, passed 12-12-00]

ABANDONED VEHICLES

§70.63 GENERAL REGULATIONS

It shall be unlawful for any person to abandon any vehicle on any public or private premises within the City or to leave any vehicle at any place within the City for such time and under such circumstances which would reasonably make such vehicle appear to have been abandoned. No person shall leave any partially dismantled, non-operating, wrecked or junked vehicles on any public or private premises within the City unless it is in a garage or other building. Businesses or persons holding a salvage license from the Indiana Department of Environmental Management are exempt from this ordinance.

[G-00-13, passed 12-12-00; G-12-04, passed 2-28-12]

BUSES, TRUCKS AND OTHER VEHICLES

§70.64 VEHICLES PROHIBITED ON CERTAIN STREETS

(A) Drivers of commercial vehicles of one ton capacity or more are hereby prohibited from operating or driving such vehicles on streets not designated as truck routes except for purposes of pickup and delivery service to places located along nondesignated streets, in which case such driver shall cause such vehicle to enter upon and leave the same at the street intersection nearest to the point where such pickup or delivery is made. The streets or portions of streets which are designated as truck routes are described on the list maintained on file in the Office of the City Clerk-Treasurer. (See also Chapter 72, Section V).

(B) Commercial motor vehicles, recreational vehicles, watercraft or trailers may not be parked in any street or alley within the City of New Haven except during such time as is reasonably necessary to make a bona fide pickup or delivery.

(C) For the purposes of subparagraph (B), above, the following terms shall have the following meaning:

(1) Commercial Motor Vehicle. A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(a) has a gross combination weight rating of at least 26,000 pounds, including the weight of any towed unit;

(b) has a gross vehicle weight rating of at least 26,000 pounds;

(c) is designed to transport at least sixteen (16) passengers, including the driver; or

(d) is:

(i) of any size;

(ii) used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act; and,

(iii) required to be placarded under the Hazardous Materials Regulations (49CFR Part 172, Subpart F).

(2) Recreational Vehicle. A device designed for travel, recreational camping, or vacation purposes which either has its own motor power or is mounted on or drawn by

another vehicle, including but not limited to travel trailers, camping trailers, truck campers, and motor homes.

(3) Watercraft. Any instrumentality or device in or by means of which a person may be transported upon the public water of Indiana. The term includes a motorboat, sailboat, rowboat, skiff, dinghy, or canoe:

(a) of any length or size; and

(b) whether or not used to carry passengers for hire.

(4) Trailer. A vehicle designed for transporting cargo or one or more watercraft and which is designed to be towed.

[G-00-13, passed 12-12-00]

CORNER VISIBILITY

§70.65 CORNER VISIBILITY

No fence, wall, hedge or other planting or other obstruction to vision, extending in excess of three feet above or hanging lower than eight feet above the established street centerline grade shall be erected, planted or maintained in the City limits. If any owner shall fail to remove any such obstructions within 15 days after notice, the City Traffic Engineer may cause them to be removed at the expense of the owner. The Police Department, Street Department, Park Department and Building Department will cooperate with the Traffic Engineer in the enforcement of this provision.

[G-00-13, passed 12-12-00]

SNOW AND/OR EMERGENCIES AND TRAFFIC CONTROL

§70.66 TRAVEL ADVISORIES

(A) Definitions. For the purposes of this subchapter, the following words shall have the indicated meanings:

(1) Emergency. "Emergency" means an event or condition that could not be reasonably foreseen and that threatens the health, welfare, property, or safety of one or more persons and requires immediate action.

(2) Authorized Emergency Vehicle. "Authorized Emergency Vehicle" means the following:

(a) Fire Department vehicles and vehicles operated by members of a fire department while responding to or preventing an emergency.

(b) Police Department vehicles operated by members of a police department while responding to or preventing an emergency.

(c) Emergency Medical Service vehicles and vehicles operated by members of an emergency medical service responding to or preventing an emergency.

(d) Vehicles owned or operated by the United States of America, State of Indiana, Allen County, or City of New Haven while used for official business related to an emergency or condition caused thereby.

(e) Other vehicles such as public utility vehicles, fuel service vehicles, or the like, as shall have provided prior notice to the Chief of Police while used for official business related to an emergency or a condition caused thereby. Such use shall be subject to any restrictions or conditions related to an emergency as may be imposed by the Chief of Police.

(B) An emergency shall commence by executive order, determination and proclamation by the Mayor of the City, before, during or after a situation which, in his/her sound judgment and discretion, warrants the determination of such an emergency for the public safety of the City.

(C) The Mayor of the City may designate a travel advisory as part of an emergency declaration as authorized by Ind. Code § 10-14-3, *et seq*. A travel advisory shall be designated as one (1) of the following levels:

(1) Advisory. The lowest travel advisory level. Routine travel or activities may be restricted in areas because of a hazardous situation. Individuals should use caution or avoid these areas.

(2) Watch. Conditions are threatening to the safety of the public. Only essential travel is recommended (i.e. to and from work, emergency situations, etc.). Businesses, schools, government agencies and other organizations should implement emergency action plans.

(3) Warning. The highest travel advisory level. Extremely hazardous travel conditions. Travel is restricted to Authorized Emergency Vehicles only. City government offices are closed and all scheduled City Meetings are canceled. Individuals should refrain from all travel, comply with necessary emergency measures, cooperate with public officials and disaster services forces in executing emergency operations plans, and obey and comply with the lawful directions of properly identified officers.

(D) An emergency shall continue in effect until the Mayor of the City determinates that the emergency no longer exists and accordingly terminates such emergency.

(E) The Mayor of the City may issue a travel "Advisory" or "Watch" without an emergency declaration. A travel "Warning" may be issued only after an emergency declaration is declared pursuant to this subchapter.

[G-00-13, passed 12-12-00; G-11-08, passed 12-27-11]

§70.67 PROHIBITIONS ON THE TRAVEL, PARKING AND STANDING OF VEHICLES ON EMERGENCY ROUTES

(A) It shall be unlawful for the owner, driver or operator of any vehicle to park or stop the same or to permit the same to be parked or to stand at any time during the period of any travel "Advisory," "Watch" or "Warning" on any of the routes or streets listed on the list maintained in the Office of the City Clerk Treasurer. (see also Chapter 71, Schedule VI). Any police officer, upon discovering any such vehicle so parked or stopped in violation of this subchapter, may remove such vehicle or cause the same to be removed.

(B) It shall be unlawful for a motor vehicle operater to travel on a City street during a travel "Warning" for a non-emergency purpose or during a travel "Watch" unless authorized.

[G-00-13, passed 12-12-00; G-11-08, passed 12-27-11]

§70.68 ENFORCEMENT OF RESTRICTIONS AND FINES

(A) Any motor vehicle operator traveling on a City street during a travel "Warning" for a non-emergency purpose or during a travel "Watch" unless authorized may be fined not more than One Thousand Five Hundred Dollars ($1,500.00) per violation.

(B) Owners or operators of vehicles that block, obstruct, delay or otherwise interfere with emergency services personnel or road crews during any travel "Advisory," "Watch" or "Warning" may be fined not more than One Thousand Five Hundred ($1,500.00) per violation.

(C) Vehicles that impede emergency services personnel or road crews during any travel "Advisory," "Watch" or "Warning" will be subject to removal.

[G-00-13, passed 12-12-00; G-11-08, passed 12-27-11]

SCHOOL CROSSING GUARDS

§70.69 ADULT SCHOOL CROSSING GUARDS, OBEDIENCE

The operator of a motor vehicle shall obey the Stop sign and signal of any adult school crossing guard when on duty, and bring his/her vehicle to a stop not less than 12 feet from said adult crossing guard in order to allow pedestrians to cross the street in a safe manner.

[G-00-13, passed 12-12-00]

SAFETY BELTS

§70.70 SAFETY BELT USE REQUIRED

(A) Each front seat occupant of a passenger motor vehicle that is equipped with a safety belt meeting the standards stated in the Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208) shall have a safety belt properly fastened about the occupant's body at all times when the vehicle is in forward motion.

(B) This Section shall not apply to any person described by Indiana Code Section 9-19-10-1.

[G-00-13, passed 12-12-00]

BLOCKING OF GRADE CROSSINGS

§70.80 BLOCKING OF GRADE CROSSINGS PROHIBITED

It shall be unlawful for a railroad corporation to permit any train, railroad car, or engine to obstruct public travel at a railroad-highway grade crossing for a period in excess of ten (10) minutes, except where such train, railroad car or engine cannot be moved by reasons of circumstances over which the railroad corporation has no control.

[Ord. G-00-13, passed 12-12-00]

§70.81 SUCCESSIVE TRAINS MAY NOT OBSTRUCT VEHICULAR TRAFFIC

It shall be unlawful for a railroad corporation to permit successive train movements to obstruct vehicular traffic at a railroad-highway grade crossing until all vehicular traffic previously delayed by such train movements has been cleared or a period of five (5) minutes has elapsed between train movements.

[Ord. G-00-13, passed 12-12-00]

§70.82 PENALTY

A railroad corporation which violates this Traffic Code shall be punished by a fine of at least one hundred dollars ($100), but not more than five hundred dollars ($500), for each violation.

[Ord. G-00-13, passed 12-12-00]

CHAPTER 71: PARKING SCHEDULES

Schedule

I. Designated Angle Parking Zones

II. Designated No Parking Zones

III. Designated Areas Where No Parking Allowed During Certain Hours

IV. Designated Two Hour Parking Zones

V. Restricted, Impaired Mobility Parking Areas

VI. Designated Snow Emergency Routes

VII. State and Federal Highways

SCHEDULE I. DESIGNATED ANGLE PARKING ZONES

There are currently no angle parking zones designated within the City.

[G-00-13, passed 12-12-00]

SCHEDULE II. DESIGNATED NO PARKING ZONES

No parking is permitted in the following areas:

Adams Center Road, both sides
Berwick Lane, north side, from the east curb line of Heine Court to a point located 80' east of the centerline of the intersection of Berwick Lane and Heine Court.
Berwick Lane, north side, from the west curb line of Heine Court to a point located 75' west from the centerline of the intersection of Berwick Lane and Heine Court
Broadway, west side, from 568' north of the north R/W line of the Norfolk Southern to 838' north of the north R/W line of the Norfolk Southern
Brookwood Drive, both sides, between State Hwy. 930 and Courtney Drive
Center Street, both sides, from Oak Street to High Street
College Street, east side, between Lincoln Hwy. and Elm Street
College Street, west side, from State Hwy. 930 to Lincoln Hwy.
Courtney Drive, both sides between Brookwood and Melbourne
Courtney Drive, south side, from Campton Drive to east terminus
Doyle Road, both sides, from the centerline of Highway U.S. 30 at Doyle Road south to a point located at the centerline of the intersection of Moeller Road and Doyle Road (both points being the current City Limits)
Eben Street, west side, from Rose Avenue to the southern terminus of Eben Street at the north right-of-way line of the Norfolk Southern Railway
Edwards Street, east side
Estella Avenue, both sides
Garden Street, both sides, from Lincoln Hwy. to Park Avenue
Garden Street, west side, from Park Boulevard to Elm Street
Green Road, both sides, from State Hwy. 930 to Seiler Road
Green Street, both sides, State Hwy. 930 to Rose Avenue
Hartzell Street, north side, from Broadway to Green Street
Henry Street, both sides, north of Rose Avenue
Henry Street, east side, from Middle Street to Railroad Street
Henry Street, east side, from Summit Street to Main Street
Henry Street, west side, from the northern right-of-way line of the Norfolk Southern Railroad to Summit Street and from Main Street to Rose Avenue
Homestead Drive, east side, from Park Avenue to State Hwy. 930
Homestead Drive, west side, between Lincoln Hwy. and Park Avenue
Isabelle Drive, both sides
Keller Drive, east side, from Lincoln Hwy. to State Hwy. 930
Kirkmore Drive, north side
Koehlinger Drive, west side
Landin Road, both sides
Lincoln Hwy., both sides, from junction with State Hwy. 930 east to City Limits
Main Street, south side, from the west curb of Henry Street to a point 157' west thereof

Maumee Road, north side, from Meyer Road to Estella Avenue
McConnell Drive, both sides
Melbourne Drive, west side
Middle Street, both sides, between Broadway and Ann Street
Minnich Road, both sides
Mourey Street, east side, from Center Street to State Hwy. 930
Mourey Street, west side, from Park Avenue to State Hwy. 930
Morris Street, south side
Nelson Road, both sides
North Rufus Street, east side, from the north curb line of Rose Avenue to the intersection of Paul Stemmler Parkway
New Haven Avenue, both sides, between State Hwy. 930 and Meyer Road
Oak Street, east side, from Lincoln Hwy. to State Hwy. 930
Park Boulevard, both sides, between Williams Street and Edwards Street
Park Boulevard, north side, east of Green Street
Pinestone Drive, west side, from Seiler Road to Dension Lane
Powers Street, both sides
Prospect Avenue, north side, 100' east of the east curb of Edwards Street
Prospect Avenue, north side, 107' west from the west curb of Williams Street
Railroad Street, north side, between Eben Street and Ann Street
Rose Avenue, both sides
Rufus Street, east side, from Bell Avenue to Powers Street
Rufus Street, east side, from the north curb line of Road Avenue to a point 370 feet north
Rufus Street, east side, from Seward Street to Rose Avenue
Rufus Street, west side, for 110' north of the north curb of Rose Avenue
Scarborough Drive, west side between Moeller and Stockbridgeway
Scott Street, east side, between Powers Street and Rose Avenue
Scott Street, east side, between Bell Avenue and Powers Street
Seward Street, north side, between Rufus Street and Ann Street
Seward Street, south side, between Rufus Street and Scott Street
Sherbrook Drive, west side
South Street, north side
Summit Street, both sides, from Ann Street to east terminus of Summit Street
Summit Street, south side, between Broadway and Ann Street
Sturm Street, west side, from Lincoln Hwy. to State Hwy. 930
Union Street, both sides, east of Green Street
Williams Street, both sides
Woodmere Drive, east side

[Ord. G-00-13, passed 12-12-00; Res. R-09-01, adopted 5-5-09; Res. R-10-01, adopted 5-3-10; R-11-01, adopted 8-12-11; Res. R-12-01, adopted 4-3-12]

SCHEDULE III. DESIGNATED AREAS WHERE NO PARKING ALLOWED DURING CERTAIN HOURS

Parking is prohibited in the following areas at the following times:

Ann Street, west side, for 75 feet north of Main Street between the hours of 9:00 a.m. to 4:00 p.m. weekdays

Edwards Street, west side, from Park Avenue to Prospect Street between the hours of 7:00 a.m. to 4:00 p.m.

Homestead Drive, west side, between Park Avenue and State Hwy. 930 between the hours of 7:00 a.m. to 4:00 p.m. schooldays

Seward Street, south side, between Rufus Street and Ann Street between the hours of 7:00 a.m. to 4:00 p.m. schooldays

[G-00-13, passed 12-12-00]

SCHEDULE IV. DESIGNATED TWO HOUR PARKING ZONES

Parking is limited to two hours on the following:

Ann Street, west side, 92' north of the centerline of Main Street
Broadway, east side, 119' north of the north curb of Park Avenue
Broadway, east side, 116' south of the south R/W line of the Norfolk Southern
Broadway, east side, 43' north of the north R/W line of the Norfolk Southern
Broadway, east side, 114' north of the north R/W line of the Norfolk Southern to 219' north of the north R/W line
Broadway, east side, 290' north of the north R/W line of the Norfolk Southern to 376' north of the north R/W line
Broadway, east side, 504' north of the north R/W line of the Norfolk Southern to 569' north of the north R/W line
Broadway, east side, 656' north of the north R/W line of the Norfolk Southern to 782' north of the north R/W line
Broadway, west side, 192' north of the north curb of Park Avenue
Broadway, west side, 113' south of the south R/W line of the Norfolk Southern
Broadway, west side, 66' north of the north R/W line of the Norfolk Southern
Broadway, west side, 116' north of the north R/W line of the Norfolk Southern to 156' north of the north R/W line
Broadway, west side, 306' north of the north R/W line of the Norfolk Southern to 371' north of the north R/W line
Broadway, west side, 495' north of the north R/W line of the Norfolk Southern to 568' north of the north R/W line
Main Street, both sides, from Ann Street to 100' west of Broadway
Summit Street, north side, from Broadway to Ann Street

[G-00-13, passed 12-12-00]

SCHEDULE V. RESTRICTED, IMPAIRED MOBILITY PARKING AREAS

The following places are hereby designated as restricted, impaired mobility parking areas:

Ann Street, west side, from 92' north of the centerline of Main Street to 112' north of the centerline of Main Street

Main Street, north side, from 90' east of the centerline of Ann Street to 110' east of the centerline of Ann Street

Prospect Avenue, north side, from 107' west of the west curb of Williams Street to 189' west of the west curb of Williams Street

Broadway, east side, from 156' north of the centerline of Park Avenue to 177 feet north of the centerline of Park Avenue

[G-00-13, passed 12-12-00; Res. R-02-02, passed 12-3-02]

SCHEDULE VI. DESIGNATED SNOW AND/OR ICE EMERGENCY ROUTES

It shall be unlawful for the owner, driver, or operator of any vehicle to park or stop the same or to permit the same to be parked or to stand at any time during the period of any Snow and/or Ice Emergency on any of the routes or streets listed as follows:

Adams Center Road from State Hwy. 930 to Seiler Road
Berwick Lane from Green Road east to Minnich Road
Broadway from Park Avenue to Powers Street
Canal Street from Eben Street east to City Maintenance Building
Courtney Drive from Brookwood Drive to Melbourne Drive
Eben Street from Powers Street south to Summit Street
Hartzell Road from Rose Avenue to Moeller Road
Keller Drive from State Hwy. 930 to Lincoln Highway
Main Street from Eben Street to Hartzell Road
Melbourne Drive from Courtney Drive to Woodmere Drive
Moeller Road from Minnich Road to Meyer Road
Park Avenue from Mourey Street east to Green Road
Scarborough Drive from Moeller Road to Stockbridge Way
Shordon Road
Sugarhill Run from Northcove Drive to Seiler Road
Sunnymede Drive from New Haven Avenue to Sunwood Drive
Tanglewood Drive from Summit Street north to Rose Avenue
Werling Road from State Hwy. 930 to Moeller Road
West Street from Rose Avenue south to Main Street
Woodmere Drive from Melbourne Drive to Moeller Road

[G-00-13, passed 12-12-00]

SCHEDULE VII. STATE AND FEDERAL HIGHWAYS

The laws of the State regulating or prohibiting parking on public streets shall apply to all streets or highways within the City, unless specifically modified by City Ordinance or Board of Public Works and Safety Resolution.

[G-00-13, passed 12-12-00]

CHAPTER 72: TRAFFIC SCHEDULES

Schedule

I. Designated Streets Where Speed Limits Other Than State Speed Limits Apply

II. Designated One-Way Streets and Alleys

III. Designated Stop Intersections

IIIA. Designated All Stop Intersections

IV. Designated Yield Intersections

V. Designated Truck Routes

VI. Designated Hazardous Materials Route

SCHEDULE I. DESIGNATED STREETS WHERE SPEED LIMITS OTHER THAN STATE SPEED LIMITS APPLY

The speed limits shall be as follows upon the following streets:

20 M.P.H. SPEED LIMIT

The speed limit is 20 m.p.h. on:

Bell Avenue
Kirkland Drive
Oakton Lane
Rufus Street, North
Tanglewood Drive
Tweedwood Drive
Tyland Boulevard, West
Tyland Boulevard, South
Greenmoor Drive
Norland Lane
Paul Stemmler Drive
Straford Road
Trailwood Lane
Twillo Run
Tyland Boulevard, North
Tylar Parkway

25 M.P.H. SPEED LIMIT

The speed limit is 25 m.p.h. on:

Abbey Court
Adams Street
Ann Street
Archstone Chase
Arrow Pass
Asbury Drive
Ayr Drive
Barbers Point
Bay Point Cove
Bedford Drive
Berwick Lane
Blaising
Bonham Lane
Boulder Cove
Boulder Ridge Trail
Brandford Drive
Brantley Court
Bridgewood Court
Brookmont Drive
Camden Lane
Aberdeen Lane
Amberly Drive
Aragon Mills Drive
Argyll Court
Asbury Court
Ashford Boulevard
Bade Street
Bartel Court
Baywood Drive
Bensman Avenue
Birchpark Drive
Blue Slate Run
Bookcliff Cove
Boulder Ridge Drive
Braeburn Drive
Brant Point
Brantley Drive
Brookdale Drive
Brookwood Drive
Camdenwood Drive

Cameron Lane
Canal Street
Carmondy Crossing
Castlerock Drive
Center Street
Centerstone Parkway
Chapin Lane
Chesnee Lane
Claystone Cove
College Street
Cottonwood Drive
Court Street
Crossland Lane
Darby Lane
Dellwood Drive
Deveron Court
Douglas Lane
Duncastle Cove
Dunnagans Way
Eben Street
Edisto Drive
Edwardsburg Place
Elkwood Court
Erwin Lane
Fenwick Drive
Forestdale Drive
Ganton Court
Glencoe Drive
Golden Oak Drive
Greenmoor Drive
Greenstone Drive
Haney Court
Heine Court
Herrin Drive
Highland Terrace Drive
Homestead Drive
Idlewood Drive
Iroquois Trace
Jonathan Place
Keelboat Cove
Kirkmore Drive
Koehlinger Drive
Landin Meadows Drive
Landin Parke Drive
Linden Road
Campton Drive
Canal Ridge Drive
Casey Bluff Run
Cedar Valley Drive
Centerbrook Drive
Chamberlin Court
Cherokee Run
Chippewa Gap
Cobblestone Cove
Cornerstone Cove
Country Knoll
Courtney Drive
Crystal Cove Court
Darwood Grove
Denison Lane
Deveron Drive
Duart Court
Dundee Drive
Dunnmore Drive
Edge Rose Drive
Edwards Street
Elk Grove
Elm Street
Falcon Way
Fieldstone Chase
Fox Home Drive
Garden Street
Glenrock Drive
Greenmeadow Drive
Greenridge Way
Greystone Cove
Heatherwood Lane
Henry Street
High Street
Hollendale Drive
Houston Drive
Iron Rock Chase
Isabelle Drive
Juniper Ridge Cove
Killmallie Lane
Knox Lane
Lake Shore Court
Landin Meadows Run
Landin Pointe Boulevard
Lockport Way

Lopshire Drive
MacGregor Drive
Maplebluff Court
McConnel Drive
Melbourne Court
Middle Street
Montclair Drive
Mourey Street
Navajo Crossing
New Lake Trail
North Park Drive
Oak Street
Orkney Lane
Park Boulevard
Pawnee Way
Pinelock Court
Pinestone Drive
Presidential Drive
Prospect Avenue
Richfield Drive
Rolling Meadows Lane
Rufus Street
Sandstone Court
Sara Drive
Schnelker Court
Scott Street
Seward Street
Shawnee Drive
Sherbrook Drive
Short Street
Silver Rock Chase
Slate Run
South Country Knoll
South Walnut Ridge
State Street
Sturm Avenue
Sugarhill Court
Sun Stone Run
Sunpointe Cove
Sunriver Lane
Sussex Drive
Tartan Court
Thyme Court
Towpath Court
Union Street

Lost Lock Way
MacPherson Drive
Matthew Spring Run
Medford Drive
Melbourne Drive
Middleboro Place
Morris Street
Nautical Way
Newgate Court
North Country Knoll
Northcove Drive
Olivene Cove
Park Avenue
Pawnee Court
Pebble Way
Pinepark Pass
Placid Park Drive
Professional Park Drive
Railroad Street
Ridgeview Avenue
Royalton Drive
Ruthton Drive
Sara Circle
Scarborough Drive
Scots Lane
Sea View Court
Shannon Drive
Sherbrook Court
Shoreline Boulevard
Silver Birch Cove
Sioux Point
South Street
South Park Drive
Springbrook Drive
Stockbridge Way
Sturm Street
Sugarhill Run
Sunnymede Drive
Sunriver Court
Sunwood Drive
Sweetwater Court
Tartan Lane
Timber Creek Parkway
Trailwood Lane
Valley Creek Drive

Valley Creek Run
Walnut Ridge Drive
Wealthwood Drive
Westport Cove
Williams Street
Wilson Drive
Winding Shores Drive
Woodfield Run
Woodmere Drive
Wyntree Cove
Vista Park
Waterside Court
West Circle Drive
Whitepine Drive (Ashford)
Willow Bay Drive
Windbur Place
Wintergreen Way
Woodruff Court
Woodridge Drive
Zelt Cove

Broadway from the intersection of Park Avenue to Powers Street
Green Street from the intersection of State Hwy. 930 to the intersection of Powers Street
Hartzell Street from the intersection of Broadway to the intersection of Green Street
Keller Drive from the intersection of State Hwy. 930 to the intersection of Lincoln Hwy.
Main Street from the intersection of State Street to the intersection of Eben Street
Maumee Road between Estella Avenue and State Hwy. 930
Rose Avenue from the intersection of Landin Road to the intersection of Green Street
Seneca Street from the intersection of State Hwy. 930 to the intersection of Lincoln Hwy.
Summit Street from the intersection of Broadway to the intersection of Linden Road
West Street from the intersection of Rose Avenue to the intersection of Main Street
West Street north of Lincoln Hwy. to terminus

30 M.P.H. SPEED LIMIT

The speed limit is 30 m.p.h. on:

Bremer Road
Estella Avenue
Sheridan Road
Trafalgar Street
Derek Drive
Quemetco Court
Todd Drive
Wayne Haven Street

Green Road from the intersection of State Hwy. 930 to the intersection of Moeller Road
Hartzell Road from Lincoln Hwy. to Rose Avenue
Hartzell Road from a point 320 feet north of Old Orchard Trail to the intersection of Lincoln Hwy.
Main Street from the intersection of State Street to the intersection of Hartzell Road
Rose Avenue from the intersection of Landin Road to the intersection of Hartzell Road

35 M.P.H. SPEED LIMIT

The speed limit is 35 m.p.h. on:

Doyle Road from centerline of Highway U.S. 30 at Doyle Road, south to a point located at the North right-of-way of Moeller Road (both points being the current City Limits)
Green from Moeller Road to south City Limits
Landin Road from Powers Street to the Norfolk Southern railroad tracks
Landin Road from Powers Street to 500 feet north of the centerline of North River Road
Lincoln Hwy. from the junction of Lincoln Hwy. and State Hwy. 930, east to a point 450 feet east of the centerline of Minnich Road
Minnich Road from the intersection of Lincoln Hwy. to the intersection of Seiler Road
Nelson Road
Powers Street from Green Street to Broadway
Rose Ave. from Green Street to Linden Road
Summit Street from the east boundary line of Tanglewood Addition to terminus
Werling Road

40 M.P.H. SPEED LIMIT

The speed limit is 40 m.p.h. on:

Adams Center Road
Hartzell Road from a point 320 feet north of Old Orchard Trail to Moeller Road
Maumee Road from the intersection of Estella Avenue to the intersection of Meyer Road
Meyer Road
Moeller Road from Green Road to the west City Limits being located 200 feet west of Cedar Valley Drive
Moeller Road from Meyer Road to 2,640' east of Adams Center Road
New Haven Avenue
North River Road from Landin Road to 1,232' west of intersection of Landin Road
North River Road from 1,420 feet east of the centerline of Landin Road to 3,195 feet east of the centerline of Landin Road
Parent Road from Long Road to Landin Road
Seiler Road from 549' east of intersection of Sugarhill Run to 154' west of intersection of Shoreline Boulevard
Seiler Road from Minnich Road to 1,313' west of intersection of Minnich Road
Shordon Road from Long Road to Landin Road
State Hwy. 930 from Oak Street to Koehlinger Drive

45 M.P.H. SPEED LIMIT

The speed limit is 45 M.P.H. on the following portions of streets:

Landin Road from the Norfolk and Southern Railroad Tracks to Maysville Road
Landin Road from 500 feet north of the centerline of North River Road to Maysville Road

State Hwy. 930 from Koehlinger Drive to a point located 1,320 feet east of the intersection of Minnich Road and State Hwy. 930
State Hwy. 930 from the intersection of Oak Street to the intersection of Meyer Road
Dawkins Road from a point 450' east of the centerline of Minnich Road, east to the New Haven City limits
Maplecrest Road from SR 930 north to the City Limits

55 M.P.H. SPEED LIMIT

The speed limit is 55 m.p.h. on the following portions of street:

U.S. Hwy. 30 from a point located 1,320 feet east of the intersection of Minnich Road and U.S. Hwy. 30 to the intersection of U.S. Hwy. 30 and Doyle Road (eastern City Limits)

70 M.P.H. SPEED LIMIT

I-469 from the intersection of U.S. Hwy. 30 and I-469 north to the intersection of I-469 and the City Limits.

[Ord. G-00-13, passed 12-12-00; Res. R-02-02, passed 12-03-02; Supplemented by Board of Works Res. R-05-02, passed 7-05-05; Res. R-09-01, Adopted 5-5-09; Res. R-01-1, Adopted 8-20-01; R-12-02, Adopted 4-3-12; R-12-03, Adopted 11-20-12]

SCHEDULE II. DESIGNATED ONE-WAY STREETS AND ALLEYS

The following streets or portions of streets and alleys shall be for one-way traffic only in the direction indicated:

Summit Street between Broadway and Ann Street shall travel only in an easterly direction

Scarborough Drive between Moeller and Sweetwater Court shall travel only in a northerly direction on the east side of the median and travel only in a southerly direction on the west side of the median

Tanglewood Drive between North Tyland Boulevard and Rose Ave. shall travel only in a northerly direction on the east side of the median and travel only in a southerly direction on the west side of the median.

[Ord. G-00-13, passed 12-12-00]

SCHEDULE III. DESIGNATED STOP INTERSECTIONS

The following intersections are designated as stop intersections:

Stop Streets	Through Streets
Aberdeen Lane	Green Road
Adams Street	Summit Street
Amberly Drive	Rolling Meadows Lane
Ann Street	Powers Street
Ann Street	Bell Avenue
Ann Street	Main Street
Ann Street	Summit Street
Aragon Mills Drive	Landin Road
Aragon Mills Drive	Chesnee Lane
Archstone Cove	Centerstone Parkway
Argyll Court	Berwick
Ashford Boulevard	Moeller Road
Bade Street	Rose Avenue
Barbers Point	Seiler Road
Bartel Court	Castlerock Drive
Baypoint Cove	Westport Drive
Bell Avenue	Broadway
Bell Avenue	Green Street
Bensman Avenue	Summit Street
Berwick Lane	Green Road
Berwick Lane	Minnich Road
Blue Slate Cove	Erwin Lane
Boulder Ridge Drive	Boulder Ridge Trail
Boulder Ridge Trail	Linden Road
Brant Point	Ashford Boulevard
Brantley Drive	Landin Meadows Run
Bremer Road	New Haven Ave.
Broadway	Park Avenue
Brookdale Drive	Brookwood Drive
Brueggemann Drive	Moeller Drive
Camden Lane	Castlerock Drive
Camden Lane	Duncastle Cove
Camdenwood Drive	Pinelock Court
Cameron Lane	Minnich Road
Canal Street	Green Street
Canal Ridge Drive	Summit Street
Carmondy Crossing	Fenwick Drive
Carmondy Crossing	Pinestone Drive

Casey Bluff Run	Brantley Drive
Casey Bluff Run (eastbound)	Landon Meadows Run
Casey Bluff Run (westbound)	Landon Meadows Run
Casey Place	Brantley Drive
Castlerock Drive	Edisto Drive
Castlerock Drive	Seiler Road
Cedarvalley Drive	Moeller Road
Chamberlain Court	Brookdale Drive
Chapin Lane	Camden Lane
Chippewas Gap	Werling Road
Claystone Cove	Graystone Cove
Cobblestone Cove	Slate Run
College Street	State Hwy. 930
College Street	Lincoln Hwy.
Cornerstone Cove	Crossland Lane
Court Street	Rose Avenue
Courtney	Brookwood Drive
Crossland Lane	Centerstone Parkway (Cul-De-Sac)
Crossland Lane	Centerstone Parkway
Darwood Grove	Wealthwood Drive
Dellwood Drive	New Haven Avenue
Denison Way	Pinestone Drive
Deveron Drive	Green Road
Duncastle Cove	Dunnmore Drive
Dundee Drive	Berwick
Dunnagans Way	Chesnee Lane
Eben Street	Rose Avenue
Eben Street	Summit Street
Eben Street	Powers Street
Edgerose Drive	Hollendale Drive
Edisto Drive	Chapin Lane
Edwardsburg Place	Rolling Meadows Lane
Elm Street	Mourey Street
Elm Street	Green Street
Estella Avenue	State Hwy. 930
Estella Avenue	Nelson Road
Fenwick Drive	Pinestone Drive
Fieldstone Chase	Sun Stone Run
Fieldstone Chase	Greystone Cove
Foxhome Drive	Long Road
Ganton Court	Camden Lane
Garden Street	Lincoln Hwy.
Golden Oak Drive	Timber Creek Parkway
Greenmoor Drive	Green Road
Greenmoor Drive	Centerstone Parkway

Greenridge Way	Carmondy Crossing
Greenstone Drive	Minnich Road
Hartzell Road	Rose Avenue
Hartzell Road	Norfolk Southern R.R. North Crossing
Hartzell Street	Green Street
Hartzell Street	Broadway
Havenway Drive	Werling Road
Heatherwood Lane	Hartzell Road
Heine Court	Berwick
Henry Street	Rose Avenue
Henry Street	Powers Street
Henry Street	Summit Street
Herrin Drive	Bonham Lane
High Street	Main Street
High Street	Lincoln Hwy.
Highland Terrace Drive	State Hwy. 930
Hollendale Drive	Parent Road
Homestead Drive	Lincoln Hwy.
Homestead Drive	State Hwy. 930
Homestead Drive	Park Avenue
Houston Drive	Brookwood Drive
Houston Drive	Courtney Drive
Iron Rock Chase	Crossland Lane
Isabelle Drive	Minnich Road
Jonathan Place	Rolling Meadows Lane
Juniper Ridge Cove	Timber Creek Parkway
Keller Drive	State Hwy. 930
Keller Drive	Lincoln Hwy.
Killmallie Lane	Green Road
Kirklynn Drive	Moeller Road
Kirkmore Drive	Melbourne Drive
Kirkmore Drive	Woodmere Drive
Koehlinger Drive	State Hwy. 930
Lake Shore Court	Ashford Boulevard
Lan Dera Drive	Brookwood Drive
Landin Meadows Drive	Parent Road
Landin Meadows Run	Matthew Springs Run
Landin Meadows Run	Parent Road
Landin Meadows Run Dr.	Maysville Road
Landin Parke Drive	Landin Road
Landin Pointe Boulevard	Landin Road
Lawn Avenue	Green Road
Linden Road	Rose Avenue
Lockport Way	Linden Road
Main Street Extended	Main Street

Main Street	Hartzell Road
Main Street	Norfolk Southern Railway Crossing
Maple Bluff Court	Hollendale Drive
Matthew Spring Run	Landin Meadows Run
Maumee Road	State Hwy. 930
Maumee Road (South)	Estella Avenue
McConnell Drive	Lincoln Hwy.
McPherson Drive	Berwick
Medford Drive	New Haven Avenue
Meyer Road	Oxford Street
Middle Street	Green Street
Middle Street	Broadway
Middleboro Place	Rolling Meadows Lane
Minnich Road	Lincoln Highway
Minnich Road	State Hwy. 930
Montclair Drive	Melbourne Drive
Mourey Street	Lincoln Hwy.
Mourey Street	Main Street
Nelson Road	Hartzell Road
Nelson Road	Estella Avenue
New Haven Avenue	Dellwood Drive
New Haven Avenue	Sunnymede Drive
New Lake Trail	Seiler Road
Norland Lane	Moeller Road
North Country Knoll	Green Road
North River Road	Landin Road
North Tyland Boulevard	Tanglewood Drive
Oak Street	Lincoln Hwy.
Oak Street	State Hwy. 930
Oakton Lane	Moeller Road
Olivene Cove	Slate Run
Orchard Avenue	Green Road
Parent Road	Landin Road
Parent Road	Long Road
Park Avenue	Mourey Street
Park Avenue	Green Street
Park Boulevard	Green Road
Paul Stemmler Parkway	North Rufus Street
Pebble Way	Fieldstone Chase
Pinestone Drive	Falcon Way
Pinestone Drive	Seiler Road
Placid Park Drive	Landin Road
Powers Street	Green Street
Powers Street	Broadway
Professional Park Drive	Werling Road

Prospect Avenue	Homestead Drive
Richfield Drive	Minnich Road
Ridgeview Avenue	Dellwood Drive
Rolling Meadow Lane	Shordon Road
Rose Avenue	Green Street
Rufus Street	Rose Avenue
Rufus Street	Powers Street
Rufus Street	Seward Street
Ruthton Drive	Rolling Meadows Lane
Ruthton Drive	Hollendale Drive
Sandstone Court	Hollendale Drive
Scarborough Drive	Moeller Road
Scots Lane	Berwick
Scott Street	Rose Avenue
Scott Street	Powers Street
Seaview Court	Shoreline Drive
Seiler Road	Adams Center Road
Seiler Road	Minnich Road
Seneca Street	Lincoln Hwy.
Seneca Street	State Hwy. 930
Seward Street	Rufus Street
Seward Street	Henry Street
Sherbrook Drive	Melbourne Drive
Sherbrook Drive	Moeller Road
Sheridan Road	New Haven Avenue
Shordon Road	Landin Road
Shordon Road	Long Road
Shoreline Blvd.	Ashford Blvd/Nautical Way
Shoreline Blvd.	Seiler Road
Short Street	Lincoln Hwy.
Silver Birch Cove (North)	Timber Creek Parkway
Silver Birch Cove (South)	Timber Creek Parkway
Slate Run	Minnich Road
Slate Run	Pebble Way
South Country Knoll	Green Road
State Street	Main Street
State Street	Lincoln Hwy.
Straford Road	Werling Road
Sturm Street	Rose Avenue
Sturm Avenue	Lincoln Hwy.
Sturm Avenue	State Hwy. 930
Sugarhill Run	Seiler Road
Summit Street	Green Street
Sunnymede Drive	New Haven Avenue
Sunpointe Cove	Landin Parke Drive
Sunriver Lane	Landin Pointe Boulevard

Sunriver Lane	Sunriver Court
Sunwood Drive	Medford Drive
Sussex Drive	Houston Drive
Tanglewood Drive	Summit Street
Tanglewood Drive	Rose Ave.
Tartan Lane	Berwick
Thyme Court	Moeller Road
Timber Creek Parkway	Seiler Road
Todd Drive	Meyer Road
Twillo Run	Summit Street
Union Street	Green Street
Union Street	Broadway
Valley Creek Drive	Werling Road
Walnut Ridge Drive	Hartzell Road
Wayne Haven Street	State Hwy. 930
Wealthwood Drive	Long Road
Werling Road	Moeller Road
West Circle Drive	Brookdale Drive
West Circle Drive	Brookwood Drive
West Street	Rose Avenue
West Street	Lincoln Hwy.
West Street	Norfolk Southern Railway Crossing
Westport Drive	Nautical Way
Whitepine Drive (northbound)	Moeller Road
Whitepine Drive	Westport Drive
Willow Bay Drive	Green Road
Wilson Drive	Adams Center Road
Windbur Place	Rolling Meadows Lane
Woodfield Run	Seiler Road
Woodmere Drive	Moeller Road
Woodridge Drive	Werling Road
Zelt Cove	Denison Way

[Ord. G-00-13, passed 12-12-00; Res. R-02-02, passed 12-03-02; Supplemented by Board of Works Res. R-05-02, passed 7-05-05; Res. R-12-03, adopted 11-20-12; Res. R-13-04, passed 10-15-13]

SCHEDULE IIIA. DESIGNATED ALL STOP INTERSECTIONS

The following are designated as all stop intersections:

Green Street and Rose Avenue
Green Road and Moeller Road
Landin Road and Maysville Road

(Ord. G-00-13, passed 12-12-00)

SCHEDULE IV. DESIGNATED YIELD INTERSECTIONS

The following intersection are designated as yield intersections.

Yield	Through Streets
Abbey Court	Ayr Drive
Aberdeen Lane	Highland Terrace Dr.
Adams Street	Middle Street
Adams Street	Union Street
Ann Street	Middle Street
Argyll Court	Cameron Lane
Arrow Pass	Shawnee Trail
Asbury Court	Asbury Drive
Asbury Drive	Kirkmore Drive
Asbury Drive	Woodmere Drive
Ayr Drive	East MacGregor Drive
Bay Point Cove	Westport Drive
Baywood Drive	Woodmere Drive
Baywood Drive	Sherbrook Drive
Bedford Drive	Woodmere Drive
Bedford Drive	Woodridge Drive
Birchpark Drive	Woodridge Drive
Braeburn Drive	Asbury Drive
Braeburn Drive	Kirkmore Drive
Brandford Court	Courtney Drive
Brant Point	Ashford Blvd.
Brookmont Drive	Campton Drive
Canal Street	Eben Street
Center Street	State Street
Center Street	High Street
Cherokee Run	Pawnee Way
Cherokee Run	Arrow Pass
Chippewa Gap	Cherokee Run
Claystone Cove	Greystone Cove
College Street	Park Avenue
Darby Lane	Richfield Drive
Derek Drive	Wayne Haven Street
Deveron Court	Deveron Drive
Douglas Lane	Heine Court
Douglas Lane	Argyll Court
Duart Court	Ayr Drive
Dundee Drive	Scots Lane
Dundee Drive	Killmallie Lane
Dundee Drive	Deveron Drive

East MacGregor Drive	Orkney Lane
Eben Street	Seward Street
Eben Street	Bell Avenue
Edwards Street	Park Avenue
Elk Grove Court	Valley Creek Run
Elm Street	Garden Street
Elm Street	College Street
Elm Street	South State Street
Forestdale Drive	Whitepine Drive
Garden Street	Park Avenue
Glencoe Drive	Scots Lane
Greenmeadow Drive	Birchpark Drive
Greenmeadow Drive	Whitepine Drive
Greenmeadow Drive	Cedar Valley Drive
Greenmoor Drive	Scarborough Drive
Greenridge Way	Caramondy Crossing
Greenstone Drive	Ayr Drive
Henry Street	Seward Street
Henry Street	Bell Avenue
Henry Street	Main Street
Henry Street	Middle Street
Henry Street	Railroad Street
Highland Terrace Drive	Glencoe Drive
Kirkland Drive	Glenmoor Drive
Knox Lane	East MacGregor Drive
Lake Shore Court	Ashford Blvd.
Lost Lock Way	Canal Ridge Drive
Maple Bluff	Wealthwood Drive
Melbourne Court	Melbourne Drive
Melbourne Drive	Sara Drive
Middle Street	Eben Street
Mourey Street	Center Street
Morris Street	Oak Street
Navajo Crossing	Iroquois Trace
Navajo Crossing	Arrow Pass
New Lake Trail	Winding Shores Drive
Newgate Court	Sugarhill Run
Norland Lane	Greenmoor Drive
Northcove Drive	Sugarhill Court/Run
Northcove Drive	Waterside Court
Oak Street	South Street
Orkney Lane	Killmallie Lane
Pawnee Court	Pawnee Way
Presidential Drive	Sara Drive
Presidential Drive	Bedford Drive
Quemetco Court	Wayne Haven Street

Railroad Street	Eben Street
Richfield Drive	Knox Lane
Ridgeview Avenue	Sunnymede Drive
Rufus Street	Bell Avenue
Sara Circle	Melbourne Drive
Sara Drive	Sherbrook Drive
Schnelker Court	Elm Street
Scots Lane	Aberdeen Lane
Scott Street	Bell Avenue
Seaview Court	Shoreline Drive
Seward Street	Scott Street
Shannon Drive	Bedford Drive
Shannon Drive	Sara Drive
Sherbrook Court	Sherbrook Drive
Sherbrook Drive	Baywood Drive
Short Street	Hartzell Street
Sioux Point	Arrow Pass
South MacGregor Drive	Deveron Drive
South Street	State Street
South Park Drive	Koehlinger Drive
South Street	West Street
South Tyland Boulevard	Tanglewood Drive
Springbrook Drive	Bedford Drive
Springbrook Drive	Sara Drive
Stockbridge Way	Northcove Drive
Stockbridge Way	Scarborough Drive
Summit Street	Linden Road
Sunwood Drive	Dellwood Drive
Sunwood Drive	Sunnymede Drive
Sweetwater Court	Scarborough Drive
Tartan Court	Tartan Lane
Tartan Lane	Killmallie Lane
Towpath Court	Canal Ridge Drive
Trafalgar Street	Wayne Haven Street
Trailwood Lane	Tweedwood Drive
Trailwood Lane	Lost Lock Way
Tweedwood Drive	Tanglewood Drive
Twillo Run	South Tyland Blvd.
Twillo Run	North Tyland Blvd.
Tylar Parkway	South Tyland Blvd.
Tylar Parkway	Twillo Run
Vista Park Drive	Valley Creek Run

West Street	Main Street
Williams Street	Park Avenue

Willow Bay Drive
Winding Shores Drive
Woodruff Court
Winding Shores Drive
Bridgewood Court
Sugarhill Run

[Ord. G-00-13, passed 12-12-00; Res. R-02-02, passed 12-03-02; Supplemented by Board of Works Res. R-05-02, passed 7-05-05]

SCHEDULE V. DESIGNATED TRUCK ROUTES

The following streets are hereby designated as truck route streets:

(1) Adams Center Road

(2) Broadway from Landin Road to Lincoln Highway

(3) Estella Avenue between Old Maumee Road and Nelson Road

(4) Hartzell Road

(5) Landin Road

(6) Lincoln Highway

(7) Linden Road

(8) Main Street between Hartzell Road and the Norfolk Southern Railroad Crossing

(9) Maumee Road from Meyer Road to Estella Avenue

(10) Meyer Road

(11) Minnich Road

(12) Moeller Road from Adams Center Road west to the corporate limits

(13) Nelson Road

(14) New Haven Avenue

(15) Rose Avenue from Linden Road to the East City Limits

(16) Summit Street from Linden Road, East to terminus

(17) All United States highways, Interstate highways and State roads within the City Limits of New Haven

[Ord. G-00-13, passed 12-12-00; Supplemented by Board of Works Res. R-05-02, passed 7-05-05; Res. R-13-03; adopted 3-19-13]

SCHEDULE VI. DESIGNATED HAZARDOUS MATERIALS ROUTES

The following State and Federal highways are hereby designated as hazardous materials routes:

(A) Interstate 469

(B) Indiana Highway 930.

[Ord. G-00-13, passed 12-12-00]

CHAPTER 73: SNOWMOBILES AND OFF-ROAD VEHICLES

Section

General Provisions

73.01 State Law
73.02 Definitions

Administration and Enforcement of Chapter

Division l. Generally

73.03 Prohibited Operation
73.04 Permitted Operation
73.05 Emergency Operation

Division 2. Penalties and Procedure

73.06 Penalty

GENERAL PROVISIONS

§73.0l STATE LAW

This Ordinance is enacted pursuant to IC 14-16-1-22 and is supplemental to and shall be construed in conjunction with IC 14-16-1-22 as from time to time hereafter amended.

[Ord. G-00-13, passed 12-12-00]

§73.02 DEFINITIONS

As used in this Chapter the term:

(A) Operator. Means any person who operates or is in actual physical control of a snow-mobile or an off-road vehicle.

(B) Owner. Means any person, other than a lienholder, having the property in or title to a snowmobile or an off-road vehicle entitled to the use or possession thereof.

(C) Operate. Means to ride in or on and to be in actual physical control of the operation of a snowmobile or an off-road vehicle.

(D) Person. Means an individual, partnership, corporation, the State and any of its agencies, or subdivisions, and any body or persons whether incorporated or not.

(E) Snowmobile. Means any motor driven vehicle designed for travel primarily on snow or ice or a type which utilizes sled type runners or skis, or an endless belt tread or any combination of these or other similar means of contact with the surface upon which it is operated.

(F) Off-Road Vehicle. Means a motor driven vehicle capable of cross country travel, without benefit of a road or trail, on or immediately over land, water, snow, ice, marsh, swampland or other natural terrain. It includes, but is not limited to, a multi-wheel drive or low pressure tire vehicle, amphibious machine, ground effect air cushion vehicle or other means of transportation deriving motive power from a source other than muscle or wind. It does not include a lawn mower while being used for mowing, a farm vehicle being used for farming, a vehicle used for military or law enforcement purposes, construction, mining, or other industrial related vehicles used in performance of its common function or a registered aircraft.

(G) Highway, Street or Right-of-Way. Means the entire width between the boundary lines of every right-of-way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

[Ord. G-00-13, passed 12-12-00]

ADMINISTRATION AND ENFORCEMENT OF CHAPTER

Division 1. Generally

§73.03 PROHIBITED OPERATION

An "Off Road Vehicle" may not be operated:

(A) On the public right-of-way adjacent to the traveled portion of the public highway, except as provided herein;

(B) On the private property of another without the express permission to do so by the owner or lawful occupant of said property;

(C) On public school grounds, park property, playgrounds, recreation areas and/or golf courses, without the express permission to do so by the proper public or other authority;

(D) In any manner so as to create a loud, unnecessary, or unusual noise, so as to disturb or interfere with the peace and quiet of other persons;

(E) In a careless, reckless, or negligent manner so as to endanger the safety of any person or the property of any other person.

[Ord. G-00-13, passed 12-12-00]

§73.04 PERMITTED OPERATION

Between the hours of 7:00 a.m. and 11:00 p.m., an Off Road Vehicle may be operated along the edge of streets, highways or alleys within the City Limits of the City of New Haven at a speed not in excess of the maximum speed at which licensed motor vehicles may be operated at such place for the sole and only purpose of transporting said Off Road Vehicle from the place of residence of the person operating said Off Road Vehicle or the place of storage of said vehicle to the nearest point where said Off Road Vehicle may be lawfully operated outside the City Limits of the City of New Haven or at such place within the City Limits of New Haven as provided herein.

[Ord. G-00-13, passed 12-12-00]

§73.05 EMERGENCY OPERATION

The Police Chief of the City of New Haven may authorize use of an Off Road Vehicle on the public highways, streets, and the right-of-way within the City of New Haven during emergencies pursuant to IC 14-16-2-21(4).

[Ord. G-00-13, passed 12-12-00]

Division 2. Penalties and Procedure

§73.06 PENALTY

Any person found to be in violation of this Ordinance may be fined not more than One Thousand Five Hundred Dollars ($1,500.00) per violation.

[Ord. G-00-13, passed 12-12-00]

CHAPTER 74: SEVERABILITY

Section

74.01 Severability

§74.01 SEVERABILITY

If any provision of this Code is found by a Court of competent jurisdiction to be invalid or unconstitutional, or if the application of this Code to any person or circumstances is found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Code which can be given effect without the invalid or unconstitutional provision.

[Ord. G-00-13, passed 12-12-00]

CHAPTER 73: SNOWMOBILES AND OFF-ROAD VEHICLES

Section

General Provisions

73.01 State Law
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73.05 Emergency Operation

Division 2. Penalties and Procedure

73.06 Penalty

GENERAL PROVISIONS

§73.0l STATE LAW

This Ordinance is enacted pursuant to IC 14-16-1-22 and is supplemental to and shall be construed in conjunction with IC 14-16-1-22 as from time to time hereafter amended.

[Ord. G-00-13, passed 12-12-00]

§73.02 DEFINITIONS

As used in this Chapter the term:

(A) Operator. Means any person who operates or is in actual physical control of a snow-mobile or an off-road vehicle.

(B) Owner. Means any person, other than a lienholder, having the property in or title to a snowmobile or an off-road vehicle entitled to the use or possession thereof.

(C) Operate. Means to ride in or on and to be in actual physical control of the operation of a snowmobile or an off-road vehicle.

(D) Person. Means an individual, partnership, corporation, the State and any of its agencies, or subdivisions, and any body or persons whether incorporated or not.

(E) Snowmobile. Means any motor driven vehicle designed for travel primarily on snow or ice or a type which utilizes sled type runners or skis, or an endless belt tread or any combination of these or other similar means of contact with the surface upon which it is operated.

(F) Off-Road Vehicle. Means a motor driven vehicle capable of cross country travel, without benefit of a road or trail, on or immediately over land, water, snow, ice, marsh, swampland or other natural terrain. It includes, but is not limited to, a multi-wheel drive or low pressure tire vehicle, amphibious machine, ground effect air cushion vehicle or other means of transportation deriving motive power from a source other than muscle or wind. It does not include a lawn mower while being used for mowing, a farm vehicle being used for farming, a vehicle used for military or law enforcement purposes, construction, mining, or other industrial related vehicles used in performance of its common function or a registered aircraft.

(G) Highway, Street or Right-of-Way. Means the entire width between the boundary lines of every right-of-way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

[Ord. G-00-13, passed 12-12-00]

ADMINISTRATION AND ENFORCEMENT OF CHAPTER

Division 1. Generally

§73.03 PROHIBITED OPERATION

An "Off Road Vehicle" may not be operated:

(A) On the public right-of-way adjacent to the traveled portion of the public highway, except as provided herein;

(B) On the private property of another without the express permission to do so by the owner or lawful occupant of said property;

(C) On public school grounds, park property, playgrounds, recreation areas and/or golf courses, without the express permission to do so by the proper public or other authority;

(D) In any manner so as to create a loud, unnecessary, or unusual noise, so as to disturb or interfere with the peace and quiet of other persons;

(E) In a careless, reckless, or negligent manner so as to endanger the safety of any person or the property of any other person.

[Ord. G-00-13, passed 12-12-00]

§73.04 PERMITTED OPERATION

Between the hours of 7:00 a.m. and 11:00 p.m., an Off Road Vehicle may be operated along the edge of streets, highways or alleys within the City Limits of the City of New Haven at a speed not in excess of the maximum speed at which licensed motor vehicles may be operated at such place for the sole and only purpose of transporting said Off Road Vehicle from the place of residence of the person operating said Off Road Vehicle or the place of storage of said vehicle to the nearest point where said Off Road Vehicle may be lawfully operated outside the City Limits of the City of New Haven or at such place within the City Limits of New Haven as provided herein.

[Ord. G-00-13, passed 12-12-00]

§73.05 EMERGENCY OPERATION

The Police Chief of the City of New Haven may authorize use of an Off Road Vehicle on the public highways, streets, and the right-of-way within the City of New Haven during emergencies pursuant to IC 14-16-2-21(4).

[Ord. G-00-13, passed 12-12-00]

Division 2. Penalties and Procedure

§73.06 PENALTY

Any person found to be in violation of this Ordinance may be fined not more than One Thousand Five Hundred Dollars ($1,500.00) per violation.

[Ord. G-00-13, passed 12-12-00]

CHAPTER 74: SEVERABILITY

Section

74.01 Severability

§74.01 SEVERABILITY

If any provision of this Code is found by a Court of competent jurisdiction to be invalid or unconstitutional, or if the application of this Code to any person or circumstances is found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Code which can be given effect without the invalid or unconstitutional provision.

[Ord. G-00-13, passed 12-12-00]

CHAPTER 75: HAZARDOUS MATERIALS TRANSPORTATION

Section

75.01 Purpose

75.02 Definitions

75.03 Restriction of Transportation of Hazardous Materials

75.04 Operation of Motor Vehicles Transporting Hazardous Materials

75.05 Exceptions Granted by Board of Public Works and Safety

75.06 State and Federal Laws

75.07 Penalty

§75.01 PURPOSE

The purpose of this Chapter is to protect the public health, safety and welfare from the potential hazard of fire, explosion or exposure to toxic substances that accompanies hazardous materials by regulating the transportation of hazardous materials in and through the City of New Haven, Indiana.

[G-00-13, passed 12-12-00]

§75.02 DEFINITIONS

Hazardous Materials. Materials required to be placarded by 49 CFR, Part 172, Subpart F--Placarding.

[G-00-13, passed 12-12-00]

§75.03 RESTRICTION OF TRANSPORTATION OF HAZARDOUS MATERIALS

(A) Where there is neither a point of origin nor destination within the City of New Haven, transportation of hazardous materials shall be restricted to the following State and Federal highways:

(1) Interstate 469

(2) Indiana Highway 930

(B) Transportation of hazardous materials on New Haven streets, other than those listed in paragraph (A), is prohibited unless such cargo has a point of origin or destination within the City of New Haven.

(C) Exceptions to the above restrictions will be made only upon application to the Board of Public Works and Safety in accordance with Section 75.05.

[G-00-13, passed 12-12-00]

§75.04 OPERATION OF MOTOR VEHICLES TRANSPORTING HAZARDOUS MATERIALS

The following operating requirements shall apply to motor vehicle transportation within the City of New Haven:

(A) Vehicles transporting hazardous materials shall obey all State and local traffic and parking regulations;

(B) Vehicles transporting hazardous materials shall operate at all times with their headlights illuminated;

(C) Transporters of hazardous materials shall not permit the discharge of hazardous materials into or upon any street, highway, sanitary sewer, drainage canal or ditch or flood control channel, or upon the ground, including private property, except when such discharge is expressly permitted by the property owner and is otherwise legal;

(D) Transporters of hazardous materials shall not create a hazard to the public by the location or condition of their vehicles which contain hazardous materials.

[G-00-13, passed 12-12-00]

§75.05 EXCEPTIONS GRANTED BY BOARD OF PUBLIC WORKS AND SAFETY

(A) Transporters, shippers, and receivers of hazardous materials may apply to the Board of Public Works and Safety for an exception to the requirements of Section 75.03. An exception will be granted only where the following criteria are met:

(1) Compelling need is shown--The applicant must show that transportation of the hazardous materials cannot be made by using the designated highway or alternative routes outside the City of New Haven; and

(2) Transportation of the hazardous materials off of the designated route is in the public interest.

(B) A request for an exception under this Section shall be filed with the Board of Public Works and Safety at the New Haven City Hall.

(C) The Board of Public Works and Safety shall grant or deny requests for exception based on the criteria designated in paragraph (A).

[G-00-13, passed 12-12-00]

§75.06 STATE AND FEDERAL LAWS

This Chapter is in addition to any other existing Federal or State laws regulating the transport of hazardous materials.

[G-00-13, passed 12-12-00]

§75.07 PENALTY

Any person, carrier or vehicle who violates the terms of this Chapter shall be issued a citation to appear in a court of competent jurisdiction in this county, and may be fined in an amount not to exceed two thousand five hundred dollars ($2,500.00).

[G-00-13, passed 12-12-00]

CHAPTER 76: MOPEDS AND POCKET BIKES

Section

76.01	Definitions
76.02	Effect of Chapter
76.03	Application of State Traffic Laws and Obedience to Traffic Devices
76.04	Alteration Restrictions
76.05	Operation, Passengers, Safety, and Parking
76.06	Equipment and Proper Identification
76.07	Rental Agencies
76.08	Pocket Bikes
76.30	Unconstitutionality Clause
76.99	Penalty

§76.01 DEFINITIONS

(A) MOPED: A moped shall mean any two (2) or three (3) wheeled vehicle that is propelled by an internal combustion engine or a battery powered motor, or by both, and, if powered by an internal combustion engine, has the following:

1. An engine rating of not more than two (2) horsepower and a cylinder capacity not exceeding forty-nine cubic centimeters (49cc);
2. An automatic transmission; and
3. A maximum design speed of no more than twenty-five (25) miles per hour on a flat surface.

The term "scooter" shall be interchangeable with the term "moped". Specifically excluded from the definition of MOPED are the following:

1. Any two (2) or three (3) wheeled vehicle exceeding the above specifications and deemed to be a motorcycle required to be registered with and by the state bureau of motor vehicles.
2. An electric personal assistive mobility device, presently defined in Indiana Code 9-13-2-49.3.
3. An off-road vehicle, otherwise known as all-terrain vehicle (ATV), presently defined in Indiana Code 14-8-2-185, and required to be registered by the Department of Natural Resources under Indiana Code 14-16-1 or any other applicable state law.
4. A motorized vehicle manufactured as a child’s toy and that has a top speed of no more than 5 miles per hour.

(B) POCKET BIKE: A pocket bike, also referred to a pocket rocket, shall mean any wheeled device ridden by a person or used as transportation, powered or assisted by anyone board power source other than the rider's own physical efforts that has a handlebar height of 30 inches or less, measured from the highest point of the handlebar, or a seat height of 24 inches or less, as measured from the highest point of the horizontal seat surface actually designed to bear the weight of the rider.

Specifically excluded from the definition of POCKET BIKE are the following:

1. Any two (2) or three (3) wheeled vehicle deemed to be a motorcycle to be registered with and by a state bureau of motor vehicles.
2. An electric personal assistive mobility device presently defined in Indiana Code 9-13-2-49.3.
3. An off-road vehicle, otherwise known as all-terrain vehicle (ATV), presently defined in Indiana Code 14-8-2-185, and required by the Department of Natural Resources under Indiana Code 14-16-1.
4. A motorized vehicle manufactured as a child’s toy and that has a top speed of no more than 5 miles per hour.

(C) ROADWAY: A roadway shall mean any highway, road, public way, street, or alley and shall include any street designated as a parkway, boulevard, place, avenue, or other similar designation, all of which are within the City of New Haven corporate limits.

(D) Terms used in this Chapter not specifically defined shall have the meanings as set forth in the Uniform Act regulating traffic on highways, Indiana Code, § 9-13. et seq.

[Ord. G-12-08, passed 3-27-12]

§76.02 EFFECT OF CHAPTER

(A) It is a violation for any person to do any act forbidden or fail to perform any act required in this Chapter. This Chapter shall apply to any person who operate mopeds or pocket bikes within the City of New Haven corporate limits.

(B) The parent or guardian of any child under the age of 18 shall not authorize or knowingly permit any child or ward to violate any of the provisions of this Chapter.

(C) This Chapter is applicable to mopeds and pocket bikes and shall apply whenever a moped or pocket bike is operated on any and all roadways, streets, alleys, sidewalks, and public ways within the City of New Haven or on any path set aside for the exclusive use of mopeds within the City of New Haven, subject to those exceptions or prohibitions stated herein.

[Ord. G-12-08, passed 3-27-12]

§76.03 APPLICATION OF STATE TRAFFIC LAWS AND OBEDIENCE TO TRAFFIC DEVICES

(A) Every person riding a moped on a roadway in the City of New Haven shall be subject to all of the duties applicable to the operator of a vehicle by the laws of this state declaring sections of the road applicable to vehicles or by the traffic ordinances of this city applicable to the driver of a vehicle, in addition to special regulations in this Chapter and except as to those provisions of laws and ordinances, which by their nature can have no application. Any person disobeying the traffic control devices or signs, or violating Indiana Code while operating a moped shall receive a citation for an infraction.

(B) A moped may not be operated:

1. By a person less than fifteen (15) years of age;
2. By a person who has not obtained a state-issued identification card, learner's permit, operator's license, chauffeur's license or a public passenger chauffer's license;
3. On an interstate highway or a sidewalk; or
4. At a speed greater than twenty-five (25) miles per hour.

(C) A police officer having probable cause to believe a person has violated subsection (B)(l) or subsection (B)(2) above may immediately impound the moped as evidence. If no action has been filed in court to enforce the violation of this Section, or if there is proof that the fine has been paid, or unless proof is provided that no violation has occurred, the Police Department shall allow the owner to retrieve the moped bicycle within 45 days of its seizure. The Police Department shall also allow the owner to retrieve the moped bicycle if accompanied by the legal guardian in the case of an underage operator.

State Law Reference: I.C. § 9-21-11-12

[Ord. G-12-08, passed 3-27-12]

§76.04 ALTERATION RESTRICTIONS

(A) The owner, if 18 years or older, or the parent or guardian of a minor, who is the owner of a moped shall not alter or allow the alteration of the OEM exhaust system, which permits loud exhaust.

(B) An owner, if 18 years or older, or the parent or guardian of a minor, who owns a moped with an engine that has been manufactured, converted, modified, or altered to the degree that the moped qualifies as a motorcycle under Indiana Code (where the engine rating exceeds more than two (2) horsepower, the cylinder capacity exceeds more than forty-nine cubic centimeters (49cc), or the maximum design speed exceeds twenty-five (25) miles per hour on a flat surface) shall be required to:

1. properly register, license, and insure said vehicle as a motorcycle pursuant to state law (presently Indiana Code 9-29-5) or shall be required to properly register, license, and insure said vehicle as a privately assembled vehicle pursuant to state law (presently Indiana Code 9-17-4); and
2. hold a state-issued motorcycle operator's license, learner's permit, or endorsement pursuant to state law (presently Indiana Code 9-24-8).

[Ord. G-12-08, passed 3-27-12]

§76.05 OPERATION, PASSENGERS, SAFETY, AND PARKING

(A) Every person operating a moped on a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(B) Persons operating mopeds on a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of mopeds.

(C) No moped shall be operated on a sidewalk, railroad right-of-way or park trail or sidewalk.

(D) No moped shall be operated on another's private property, unless the expressed written consent has been obtained from the owner of the real estate or unless written notice has been posted on the private real estate.

(E) No person shall operate a moped in a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.

(F) A person operating a moped shall not ride other than astride a permanent and regular seat attached thereto. A passenger on a moped shall not ride other than astride a permanent and regular seat attached thereto. All persons operating or riding as a passenger must be able to keep his or her feet firmly on the foot boards or foot pegs while sitting comfortably on the seat or saddle.

(G) No moped shall be used to carry more persons at one time than the number for which it is designed and equipped, as designed with an additional set of foot boards or foot pegs.

(H) No moped shall be used to carry a child under the age of fifteen (15) years unless the operator is the legal guardian or has written permission of the legal guardian. No passenger shall be permitted to ride in front of the operator. A police officer having probable cause to believe a person has violated this sub-section may immediately impound the moped as evidence. If no action has been filed in court to enforce the violation of this Section, or if there is proof that the fine has been paid, or unless proof is provided that no violation has occurred, the Police Department shall allow the owner to retrieve the moped within 45 days of its seizure. The Police Department shall also allow the owner to retrieve the moped bicycle if accompanied by the legal guardian in the case of an underage operator.

(I) No person shall operate a moped at a speed that is greater than reasonable and prudent under the conditions then existing. In no case shall a person operate a moped at a speed greater than 25 mph. In the event the speed of a moped shall cause excess traffic of two (2) or more vehicles to be backed up behind the moped, the moped operator shall pull over and allow the traffic to pass.

(J) The operator of a moped emerging from an alley, driveway, or building shall, on approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area, and on entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.

(K) No person shall propel or operate a moped in any unsafe manner, including, but not limited to weaving or swerving over the road, cutting through traffic, changing lanes excessively, following other vehicles too closely, accelerating excessively or dangerously, or jumping curbs or speed-bumps.

(L) All wheels of all mopeds must be on the surface being ridden upon at all times such moped is in operation.

(M) No person operating a moped shall carry any package, bundle, or article which prevents the rider from keeping all hands on the handlebars.

(N) No person shall park a moped on a street other than on the roadway against the curb or against a building or at the curb, in such manner as to afford the least obstruction to pedestrian traffic.

[Ord. G-12-08, passed 3-27-12]

§76.06 EQUIPMENT AND PROPER IDENTIFICATION

(A) Every moped, when in use after dusk, shall be equipped with a front lamp which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type which shall be visible from all distances from 500 feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear shall be used in addition to the red reflector.

(B) Every moped shall be equipped with working turn signals, muffler, brakes, and brake lights.

(C) It shall be the duty of the owner of the moped to keep it in good working condition.

(D) A person less than eighteen (18) years of age who operates a moped or rides a moped as a passenger, on a street or highway shall wear protective headgear that meets federal motor vehicle safety standard 218 (49CFR, Section 571.218, motorcycle helmets), and must also wear protective glasses, goggles, or a transparent face shield, as set forth in Indiana Code 9-21-11-13.

(E) An adult operating a moped shall carry the identification required pursuant to the above Section 76.03 and Indiana Code 9-21-11-12 when operating the moped, and shall, when detained by a police officer, produce said identification to the police officer.

(F) A person operating a moped that has not yet been registered pursuant to Section 76.04 above shall carry either the moped registration paperwork or the dated sales receipt during the initial 30 days of ownership, and shall, when detained by a police officer, produce said paperwork and/or sales receipt to the police officer.

[Ord. G-12-08, passed 3-27-12]

§76.07 RENTAL AGENCIES

(A) A rental agency shall not rent or offer any moped for rent unless the moped is equipped with the lamps and other equipment required in this Chapter.

(B) A rental agency shall not rent or offer any moped for rent to anyone under the age of fifteen (15) years of age.

(C) A rental agency shall not rent or offer any moped for rent to any minor between the ages of fifteen (15) and eighteen (18) years of age unless:

1. the minor has identification required pursuant to the above Section 76.03(B) and Indiana Code 9-21-11-12; and
2. the minor's parent or guardian signs the rental agreement.

[Ord. G-12-08, passed 3-27-12]

§76.08 POCKET BIKES

(A) The use of pocket bikes is prohibited on any and all roadways, streets, alleys, sidewalks, right of ways, in city parks or city owned trails, and public ways within the City of New Haven.

(B) In addition to the above prohibition on the use of pocket bikes as set forth is subsection 76.08(A) above, any person who owns or operates a pocket bike shall also be required to comply with the entirety of this Chapter as it applies to mopeds. In the event any person commits a violation of the provisions of this Chapter while operating a pocket bike, that person shall be fined under the Penalty Section 76.99(D) for the specific violation, or shall be fined for the Indiana state violation, in addition to the penalty for operation of the prohibited pocket bike.

(C) A police officer having probable cause to believe a person has violated this Section may immediately impound the pocket bike as evidence. If no action has been filed in court to enforce the violation of subsection (a) above, or if there is proof that the fine has been paid, or unless proof is provided that no violation has occurred, the Police Department shall allow the owner to retrieve the pocket bike within 45 days of its seizure. The Police Department shall also allow the owner to retrieve the moped bicycle if accompanied by the legal guardian in the case of an underage operator.

[Ord. G-12-08, passed 3-27-12]

§76.30 UNCONSTITUTIONALITY CLAUSE

Should any Section, paragraph, sentence, clause or phrase of this Chapter be declared unconstitutional or invalid for any reason, the remainder of said Chapter shall not be affected thereby.

[Ord. G-12-08, passed 3-27-12]

§76.99 PENALTY

(A) Any violation of state law shall result in the issuance of a state citation.

(B) The parent or guardian of any person violating the underage operation provision under Section 76.03(B) shall be fined $30.00 plus court costs and the moped shall be impounded in accordance with Section 76.08(C).

(C) Any person violating the pocket bike prohibition of Section 76.08(A) shall be fined $100.00 plus court costs.

(D) Any person using a moped and found to be in violation of transporting or carrying a child below the age of 15 years, in violation of Section 76.05(G), shall be fined $100.00 plus court costs and the moped shall be impounded in accordance with Section 76.08(C). Any person's second, and each subsequent, violation of Section 76.05(G) shall result in a fine of $125.00 plus court costs and the moped shall be impounded in accordance with Section 76.08(C). The parent or guardian of a minor passenger below the age of 15 years discovered to be in violation of Section 76.05(G) shall be fined $100.00 plus court costs. The parent or guardian of a minor passenger below the age of 15 years discovered to have violated Section 76.05(G) shall be fined $125.00 plus court costs for the minor passenger's second and each subsequent offense.

(E) It shall be the duty of the police officer of the City of New Haven to issue tickets for violations of this Chapter. The tickets shall include the name of the owner or operator if 18 years or older, or the parent or guardian of a minor who is the owner, operator, or passenger of a moped, his or her address, the Section number of this Chapter which was violated or the violation number shown on the reverse side of the ticket, and the date, time, and place of the violation.

(F) All fines imposed by this Chapter shall be paid to the Ordinance Violation Clerk.

(G) Any fine not paid within 30 days of the date shown on the ticket shall be doubled.

(H) Failure to pay a fine within 45 days of the date shown on the ticket shall result in an enforcement action being filed in court.

[Ord. G-12-08, passed 3-27-12]

TITLE IX: GENERAL REGULATIONS

CHAPTER 90. **ANIMALS**

CHAPTER 91. **FIRE PREVENTION**

CHAPTER 92. **GARBAGE, RUBBISH, ASHES, AND FILTH**

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CHAPTER 98. **PUBLIC GATHERINGS, SHOWS, FAIRS, SPORTING EVENTS, AND THE LIKE**

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CHAPTER 90: ANIMALS

Section

Animals Generally

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90.02 Authority to Contract with Fort Wayne Animal Control Commission
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ANIMALS GENERALLY

§90.01 DEFINITIONS

(A) Animal Control Shelter. The municipal facility established for the purpose of animal control care and disposition, as set forth in this Chapter, operated by and under the direct supervision of the Fort Wayne Animal Control Commission and the Executive Director of the Shelter.

(B) Person. A person, for purposes of this Chapter, shall be defined as an individual, firm, corporation or commercial establishment.

(C) Public Nuisance. Any animal which:

(1) Interferes with passersby or passing vehicles;

(2) Attacks other animals or persons;

(3) Strays upon school grounds;

(4) Is repeatedly at large or unrestrained;

(5) Damages private or public property; or

(6) Barks, whines, or howls or makes other sounds common to its species in excess.

[Ord. G-84-27, passed 12-11-84]

§90.02 AUTHORITY TO CONTRACT WITH FORT WAYNE ANIMAL CONTROL COMMISSION

The Board of Public Works and Safety is authorized to enter into contracts with the Fort Wayne Animal Control Commission for the collection, transportation, sheltering and disposal by the Fort Wayne Animal Control Shelter of sick, deceased, injured, illegally at large, lost, strayed or abandoned animals.

[Ord. G-84-27, passed 12-11-84]

§90.03 ANIMAL CONTROL REGULATIONS

(A) Appropriate shelter. No person shall confine or allow his or her animal to remain outside without access to appropriate shelter from the elements.

(B) Hitching or tying. No animal shall be hitched, tied, or fastened by any rope, chain or cord that is directly attached to the animal's neck or choke collar. Animals that must be tied, hitched or fastened to restrain them must wear a properly fitted collar or harness. The tying device shall be attached to the animal's collar or harness.

(C) Food and water. All animals shall have fresh, potable drinking water and be provided with food that is nutritional for that species.

(D) Vaccination; tags. Cats and dogs over the age of six months must be vaccinated by a licensed veterinarian against rabies, and must wear a tag at all times attached to a properly fitted collar or harness.

(E) Medical care, generally. All animals shall be provided with necessary medical care in addition to the required rabies vaccination.

(F) Removal of excrement. Persons responsible for an animal shall immediately remove the animal's excrement from public lands or from the property of another, except a blind person working with a guide dog.

(G) Sanitation. All animals, where kept inside or in a pen, tied, fastened, hitched, leashed, or enclosed in a fence shall be kept in a sanitary manner. The person responsible for the animal(s) shall regularly, and as often as necessary to prevent odor or health and sanitation problems, maintain all animal areas or areas of animal contact.

(H) Wild or exotic animals. No wild or exotic animal shall be kept within the City except as set forth in §§90.15 through 90.18 of this Chapter.

(I) Restraint. All animals shall be properly restrained as required by this Chapter.

(J) Cruelty. No person owning, harboring or responsible for an animal shall beat, cruelly treat, neglect, torment, overload, overwork, or otherwise abuse any animal.

(K) Fighting. No person shall permit or conduct any dog fight, cockfight, or other combat between animals or between animals and humans.

(L) Poisonous bait. No person shall set any type of poisonous substance or bait within the City limits except as set forth in §90.18.

(M) Motor vehicle-caused injuries. Any person operating a motor vehicle who causes injury or death to an animal shall stop at once, assess the extent of injury, and immediately notify the owner or Animal Control Shelter of the location of the animal.

(N) Animals in vehicles. No animal shall be left unattended in a vehicle when the conditions in that vehicle would constitute a health hazard to the animal.

(O) Training methods. No animal may be inducted or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner which will cause or is likely to cause physical injury or suffering.

(P) Animals in heat. Every female dog or cat in heat shall be confined in a secure building or enclosure so as to prevent conception except during instances of planned breeding.

(Q) Abandonment. No person shall abandon or cause to be abandoned any animal anywhere within the City limits in any public or private place, way or building.

(R) Public nuisance animals. No person shall own or harbor a public nuisance as defined in this Chapter.

(S) Vicious animals. No person shall own or harbor a vicious animal except as set forth in §§90.15 through 90.18 of this Chapter.

(T) Animals as prizes or inducements**.** No person shall sell, offer for sale, trade, barter, or give away any live animal, fish, bird, or reptile, other than goldfish, as a prize for, or as an inducement to enter a place of amusement; or offer such vertebrate as an incentive to enter any business establishment or enter into any business agreement whereby the offer was made for the purpose of attracting trade, for business other than establishments selling animals as their primary business.

(U) Puppies and kittens for sale or the like. No puppy or kitten which is under the age of eight weeks may be offered for sale, trade or for other compensation or for a free giveaway (except a puppy or kitten or litter or litters may be taken to the Animal Control Shelter).

(V) Dyed animals. No person shall sell, offer for sale, trade, or barter any animal whose appearance has been chemically altered by dyes or staining.

(W) Animals as novelties. No person shall sell, offer for sale, barter, or give away baby rabbits, chicks, goslings, ducklings, or other fowl as pets or novelties. This Section shall not be construed to prohibit the sale or display of baby rabbits, chicks, goslings, ducklings or other fowl in proper brooder facilities by hatcheries or stores engaged in the business of selling them to be raised for commercial purposes.

(X) Distance of fowl coops from dwellings. No person shall keep or maintain any coop in which chickens, ducks, turkeys or other domestic fowl and poultry are kept within a distance of less than 50 feet from any dwelling.

(Y) Destruction of animals. No person other than a duly authorized agent of the Animal Control Shelter may destroy any domestic animal within the City limits; provided, however, this provision shall not apply to the following:

(1) A licensed veterinarian,

(2) Those persons acting in immediate self-protection,

(3) City Police Officers or firefighters acting to prevent undue suffering.

(4) A person while engaged in farming.

(Z) Noisy dogs. No person shall allow noisy dogs or cats, as more specifically set forth in §§90.30 through 90.35.

(AA) Interfering with enforcement. No person shall interfere with an Animal Control Officer in the pursuit of his/her duties as an officer.

(BB) Impoundment. Violations of the provisions of this Section may result in impoundment of the animal(s) in accordance with this Chapter.

[Ord. G-84-27, passed 12-11-84; Ord. G-94-8, passed 10-24-94; Ord. G-24-07, passed 3-26-13]

§90.04 LOST OR STRAY ANIMALS

Persons finding a stray animal are to notify the Animal Control Shelter within 48 hours. At the discretion of the Shelter, the animal may be kept by the finder and a found report left with the Shelter, to enable the finder an opportunity to return the animal to its rightful owner. Upon demand by the Animal Control Shelter, any found animal will be surrendered to the Shelter and held for three working days, before a disposition is made. Persons finding an animal are obligated to comply with all rules and regulation of this Chapter pertaining to humane care and treatment of animals, while said animal is in their custody awaiting return to its actual owner.

[Ord. G-84-27, passed 12-11-84]

§90.05 BITING ANIMALS

(A) The person responsible for any animal which has bitten a person or another animal must report the incident to the Animal Control Shelter. Upon receiving the report of a bite, the Shelter will quarantine the animal for ten days with the place of confinement to be at the discretion of the Animal Control Shelter. During the quarantine period, the animal is to be securely confined and kept from contact with any other animal or person.

(B) No person other than an Animal Control Officer or veterinarian shall kill or cause to be killed any animal suspected of being rabid except in cases of immediate self-protection. If that occurs, the person will retain the body and immediately notify the Animal Control Shelter.

[Ord. G-84-27, passed 12-11-84]

§90.06 IMPOUNDMENT; REDEMPTION

(A) Grounds for and conditions of impoundment.

(1) Animals found in cruel, abusive or neglectful situations as defined in this Chapter may be promptly impounded if no immediate contact with a responsible person can be made; provided, however, that the Animal Control Officer shall leave written notice stating the location of the animal and the reason for impoundment.

(2) Animals so removed will be impounded and held at the Animal Control Shelter or designated facility until such time violator is in compliance with this Chapter; provided, however, that in no event shall this period exceed ten days, at which time the animal shall become the property of the Animal Control Shelter, or for the Animal Control Officer to have ample time to prepare a court case if prosecution is warranted.

(3) Animals waiting disposition by the courts shall remain in the custody of the Animal Control Shelter until such disposition is made or shall be placed in a foster home until legal arrangements have been completed.

(4) Animals so removed may be transported to a licensed veterinarian for examination and/or treatment. If, in the opinion of said veterinarian, the animal must be destroyed, euthanasia will be performed immediately. Costs of treatment, euthanasia, and/or care shall be the responsibility of the owner/agent.

(B) Redemption.

(1) A person may reclaim an animal in the custody of the Animal Control Shelter upon providing the following, as approved by the Animal Control Commission:

(a) Proof of ownership; and

(b) Payment of redemption fee and any other service/medical fees.

(2) Stray or at-large animals will be held three working days at the Animal Control Shelter.

(3) Unclaimed animals become the property of the Animal Control Shelter and may be placed for adoption or humanely euthanized.

[Ord. G-84-27, passed 12-11-84]

§90.07 INSPECTIONS

(A) Whenever it is necessary to make an inspection to enforce any of the provisions of or perform any duty imposed by this Chapter or when there is reasonable cause to believe that there exists in any building or upon any premises any violation of the provisions of this Chapter or State law, the Animal Control Officer, Health Officer or Police Officer is authorized at all reasonable times to inspect the same for compliance with the provisions of this Chapter or any State law; provided that:

(1) If the property is occupied, the Officer shall first present proper credentials to the occupant and request entry explaining the reasons therefor; and

(2) If the property is unoccupied, the Officer shall make a reasonable effort to locate the owner or other persons having control of the property and request entry explaining the reasons therefor.

(B) In the event the Animal Control Officer, Health Officer, or Police Officer has reasonable cause to believe that the keeping or maintaining of an animal is so hazardous, unsafe or dangerous as to require immediate inspection to safeguard the animal or the public health or safety, the Officer shall first present proper credentials and request entry explaining the reasons therefor. If entry is refused or cannot be obtained because the owner or other person having charge or control of the property cannot be found after reasonable search, the Officer shall have recourse to secure lawful entry and inspection of the property.

[Ord. G-84-27, passed 12-11-84]

WILD ANIMALS

§90.15 DEFINITION

Wild Animal. Any animal of a species which usually lives in the wild or usually is not domesticated.

[Ord. G-94-8, passed 10-25-94]

§90.16 ADMINISTRATION AND ENFORCEMENT

(A) The Board of Public Works and Safety shall have full responsibility for the enforcement of this Subchapter and shall have powers not limited to, but including, the following:

(1) Appointment, removal and regulation of a Humane Officer for the City.

(2) Contracting for animal control on any terms as the Board deems proper.

(3) Recommending to the local governing authority rules and regulations concerning the care and control of both animals and facilities covered by this Chapter.

(4) Review of the proposed budget and contracts for all animal control programs.

(5) Upon written complaint, the Board shall conduct a public hearing to determine if an animal shelter or commercial establishment is in violation of this Chapter.

(6) Recommending to the local governing authority necessary changes in the law regarding the control of animals.

(B) The provisions of this Subchapter shall be enforced by the Public Health Officer of the City, upon direction of the Board of Public Works and Safety.

[Ord. G-85-17, passed 8-13-85]

§90.17 KEEPING, HARBORING AND SALE OF CERTAIN ANIMALS

No person shall sell, harbor, keep or permit to be kept on his premises any wild or vicious animal for display or for exhibition purposes, whether gratuitously or for a fee. This Section shall not be construed to apply to veterinary hospitals, commercial animal establishments, performing animal exhibitions or circuses. No person shall keep or permit to be kept any wild animal as a pet. The licensing authority shall have the power to release or order the release of any infant wild animal kept temporarily which is deemed capable of survival.

[Ord. G-85-17, passed 8-13-85]

§90.18 POISONING ANIMALS

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

[Ord. G-85-17, passed 8-13-85]

DOG AND CAT CONTROL

§90.30 DEFINITIONS

The words and phrases used in this Subchapter are herein defined and for the purpose of this Subchapter shall be construed as follows, except when otherwise expressly provided:

(A) Animal Control Shelter. The municipality owned facility established for the purpose of animal control, care and disposition operated by and under the direct supervision of the Fort Wayne Animal Control Commission and the Executive Director of the Shelter.

(B) Owner. The person having the right of property or custody of a dog or cat, or who keeps or harbors a dog or cat, or knowingly permits a dog or cat to remain on or about any premises occupied by that person.

(C) Person. For the purpose of this Subchapter, shall be defined as an individual, firm, corporation or other commercial establishment.

(D) Public Nuisance. A dog or cat which:

(1) Interferes with passersby or passing vehicles;

(2) Attacks other animals or persons;

(3) Is repeatedly at large or unrestrained;

(4) Damages private or public property;

(5) Barks, whines or makes other sounds common to its species in excess.

[Ord. G-86-3, passed 2-11-86]

§90.31 PROHIBITIONS AND REGULATIONS

(A) Stray dog or cat. No person shall allow any dog or cat to stray beyond its premises, unless the dog or cat is under the reasonable control of some person. Animals must bear suitable markings, such as a microship, a collar, or other identification, that clearly and accurately identify the legal name of the animal owner.

(B) Abandoned dog or cat. No person shall abandon or cause to be abandoned a dog or cat anywhere within the City of New Haven, Indiana, in any public or private place, way or building.

(C) Public nuisance. No person shall harbor or own a public nuisance as defined in §90.30.

(D) Violations. Violations of the provisions of this Ordinance may result in the impoundment of the dog(s) or cat(s) in accordance with §90.33.

(E) Penalties. Violations of paragraphs (A) through (C) above shall result in a fine in accordance with §90.99(C).

[Ord. G-86-3, passed 2-11-86; Ord. G-02-1, passed 4-9-02]

§90.32 ENFORCEMENT

(A) Duty to enforce. It shall be the duty of the Officers of the Police Department to enforce the regulations established by this Subchapter.

(B) Procedure. Proceedings to enforce this Subchapter shall be governed by IC 34-4-32 as amended.

[Ord. G-86-3, passed 2-11-86]

§90.33 IMPOUNDMENT AND REDEMPTION

(A) Impoundment. Cats or dogs impounded pursuant to this Subchapter shall be impounded and held at the Animal Control Shelter in accordance with the rules and regulations governing the operation of the Shelter.

(B) Redemption. A person may reclaim a cat or dog in the custody of the Animal Control Shelter upon providing proof of ownership and payment of all redemption fees and any other service/medical fees charged by the Animal Control Shelter in accordance with the rules and regulations of the Animal Control Shelter.

(C) Stray or abandoned dogs or cats. Stray or abandoned dogs or cats will be held at the Animal Control Shelter for the period of time prescribed by the Shelter's rules and regulations.

[Ord. G-86-3, passed 2-11-86]

§90.34 APPLICABILITY OF OTHER LAWS

The provisions of this Subchapter supplement all laws of the State and all Allen County ordinances covering the same subject matter.

[Ord. G-86-3, passed 2-11-86]

§90.35 RABIES EMERGENCIES

(A) In the event the Board of Public Health of the City of New Haven, Allen County, or the State of Indiana, shall declare in writing that an emergency exists by reason of a rabies epidemic among dogs and other domestic animals requiring a quarantine for rabies, it shall be unlawful for the owner of any dog to allow the animal to roam at large on the streets, or places other than his own premises within the City, except as provided in (B) below.

(B) No dog shall be allowed beyond the premises of its owner unless the dog is:

(1) On a leash, controlled by some person physically able to prevent the animal from biting;

(2) Muzzled in such a manner as to make biting impossible; and

(3) Displaying a license tag, along with a tag showing that an anti-rabies vaccine had been administered to that particular animal within the last 12 months.

(C) It shall be the duty of the Humane Officer of the City and his assistants to enforce the provisions of this Section and to impound at the Animal Control Shelter all dogs at-large not conforming to this Section.

[Ord. G-84-27, passed 12-11-84]

PENALTIES

§90.99 PENALTIES

(A) (1) Violators of §§90.01 through 90.35 shall be fined not less than $50 nor more than $1,000.

(2) Each offense shall be considered a separate offense and subject to fine and/or other disposition as herein provided.

(3) In the event that an animal is retained at the Animal Control Shelter because its owner has been in violation of this Chapter, the person redeeming the animal by paying the fine shall also be subject to paying for medical bills incurred for routine shots for said animal.

(4) Violators, upon conviction, may be required to work at the Animal Control Shelter and/or participate in a humane education program if so recommended by the court.

(5) Each 24 hours that a violation occurs will be considered a separate offense and can be cited as such.

(6) Violations of this Chapter may result in immediate impoundment of animals.

(B) Whoever violates any provision of this Chapter, for which no other penalty may be provided, shall be fined not more than $500. A separate offense shall be deemed committed on each day that a violation occurs or continues.

(C) For violation of §90.31(A), (b), or (C), the following fines shall be imposed by a court of competent jurisdiction in accordance with the procedures set forth by the laws of the State of Indiana, including IC 34-28-5 as amended:

(1) First offense: $75.

(2) Second offense within a one-year period: $100.

(3) Third or subsequent offense within a one-year period: The violator must appear in court and shall be fined not less than $100 and not more than $1,000.

[Ord. G-84-27, passed 12-11-84; Ord. G-85-17, passed 8-13-85; Ord. G-86-3, passed 2-11-86; Ord. G-02-1, passed 4-9-02]

CHAPTER 91: FIRE PREVENTION

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GENERAL PROVISIONS

§91.01 SMOKE DETECTORS

(A) Definitions. For purposes of this Chapter, the following definitions shall apply:

(1) Alarm Signal. An audible signal indicating the detection of visible or invisible particles or products of combustion, other than heat.

(2) Authority Having Jurisdiction. The New Haven-Adams Township Fire Department, which has enforcement responsibility for this Section.

(3) Family Living Unit. That structure, area, room, or combination of rooms in which a family or individual lives. This is meant to cover living area only, and not common usage areas in multi-family buildings, such as corridors, lobbies, basements, and the like.

(4) Labeled. Equipment or materials to which has been attached a label, symbol, or other identifying mark of an organization acceptable to the authority having jurisdiction.

(5) Listed. Equipment or materials included in a list published by an organization acceptable to the authority having jurisdiction, and which product meets appropriate standards or has been tested and found suitable for use in a specific manner.

(6) NFPA74. Standard 74 of the National Fire Protection Association, which is located in Batterymarch Park, Quincy, MD 02269.

(7) Rental Agent. Any person, partnership, or corporation who rents, subleases, lets, or otherwise grants for a consideration the right to occupy premises not owned by the occupant. This term shall not be construed to mean a real estate agent who is employed for the sole purpose of selling residential units.

(8) Sleeping Areas. The area or areas of the family living unit in which are contained the bedrooms or sleeping rooms, separated by other use areas, such as kitchens or living rooms (but not bathrooms).

(9) Smoke Detector. A device which detects visible or invisible particles or products of combustion other than heat, as approved by Underwriters Laboratories, Inc. or Factory Mutual. The smoke detector shall be equipped with a test button, and it shall produce an alarm signal upon detection of any visible or invisible particles or products of combustion. It may be either battery-powered with a minimum 9-volt alternating current.

(B) Basic requirements. All family living units within the corporate limits of the City shall be equipped with a minimum of one functional, properly located, labeled, and listed smoke detector, or its equivalent or better, as described in NFPA74.

(C) Installation; location.

(1) A minimum of one smoke detector, or its equivalent or better, as described in NFPA74, shall be installed in each family living unit within the corporate limits of the City.

(2) All smoke detectors must be installed according to the manufacturer's directions and subject to the approval of the authority having jurisdiction.

(3) The smoke detector shall be installed to protect the sleeping areas, and shall be located outside of the bedrooms, but in the immediate vicinity of the sleeping areas, within 15 feet of all rooms used for sleeping areas.

(4) The smoke detector shall be installed on or near the ceiling, not less than 6 inches from any wall, or on a wall, not less than six inches nor more than 12 inches from the ceiling, and its installation shall be subject to approval by the authority having jurisdiction. No detector shall be recessed into the ceiling.

(5) All smoke detectors shall be accessible for servicing and testing.

(6) If a smoke detector is alternating current powered, it must be directly attached to a junction box not controlled by any switch other than the main power supply. The installation of alternating current powered detectors shall conform to all electrical standards adopted by the County Building Department. A smoke detector required under this Section shall be installed according to the directions and specifications of the manufacturer, but if in conflict with any County electrical standard, the County electrical standard shall take precedence.

(D) Maintenance.

(1) General. It shall be unlawful for any person to tamper with or remove any smoke detector, except when it is necessary for maintenance or inspection purposes. Any smoke detector removed for repair or replacement shall be reinstalled or replaced so that it is operable and in place during normal sleeping hours.

(2) Rented residential dwelling units. Each smoke detector may be tested in accordance with manufacturer's recommendations, but shall be tested at six-month intervals in every individual residential dwelling unit, and maintained as necessary, to ensure it is in operable condition before the unit is reoccupied.

(3) Owner-occupied dwelling units. Each smoke detector may be tested in accordance with manufacturer's recommendations, but shall be tested at six-month intervals, and maintained as necessary, to ensure it is in operable condition.

(E) Duty of property owner, manager, or rental agent. Every owner, or the manager or rental agent of the owner, of any residential dwelling unit shall be responsible for the installation of all smoke detectors. It is the responsibility of the tenant to maintain all smoke detectors provided by the owner in good working order until the tenant vacates the premises, unless the smoke detector requires alternating current power supply; then the responsibility for maintaining the smoke detector shall be the responsibility of the owner, manager, or rental agent of the property.

(F) Enforcement of provisions. The New Haven-Adams Township Fire Department shall be charged with the duty of enforcing the terms and conditions of this Section.

[Ord. G-92-22, passed 1-12-93]

§91.03 OPENING OR TAMPERING WITH FIRE HYDRANTS

It is unlawful for any person, firm, or corporation to open, turn on, tamper with, or take water from any fire hydrant of the Water Works Department of the City unless the hydrant is used by a duly established municipal or volunteer fire department or a person, firm or corporation authorized to take water from a fire hydrant by the Superintendent of the Water Works Department.

[Ord. G-92-22, passed 1-12-93]

§91.04 OPEN BURNING.

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

(1) Approved Container. A device specifically designed for use of burning wood or charcoal, including but not limited to portable fireplaces, fire pits, or chimineas. All portable devices must be equipped with a spark arrestor (i.e. screen or chimney). The container must be sufficiently vented to induce adequate primary combustion. Burning in barrels or drums is no longer permitted.

(2) Barbeque Pit or Grill. A stationary or portable device, with either electric, gas, charcoal, or wood used for the preparation of food.

(3) Enforcement Agency. New Haven Police Department, New Haven Adams Township Fire Department, New Haven City Code Enforcement Department, Allen County Health Department, Allen County Sheriff’s Department and Allen County Environmental Management Agency.

(4) Hazardous Condition. A situation where the enforcement agency determines that the fire may be capable of spreading or damaging other property or which is unreasonably offensive to occupants of surrounding property.

(5) Open Burning or Open Fire. Any burning of combustible materials out of doors, excluding burning in a barbeque pit or grill.

(6) Recreational or Camp Fire. A Recreational or Camp Fire shall not exceed a total fuel area of three (3) feet in diameter and may not exceed three (3) feet in height.

(7) Wood Products. Untreated and unpainted lumber or natural wood. Wood products do not include vines, leaves, grass or other plant material.

(8) Permissible Vegetation. Natural vegetation or plant material excluding Wood Products, grass, leaves, poison ivy, poison oak, and poison sumac.

(B) Burning Prohibited. No person, firm, business or other entity shall kindle or maintain any open burning except for burning described in Section (C) below. No burning is permitted in apartment complexes or mobile home parks whatsoever.

(C) Exemptions.

(1) Fires celebrating residential, religious, or public activities which exceed size restrictions of a Residential or Camp Fire may be maintained upon prior approval of the Fire Chief or his designee.

(2) Fires for scouting activities.

(3) Camp fires.

(4) Residential burning in Approved Containers.

(5) Burning expressly permitted by Indiana Statute (I.C. 13-17-9-1)

(6) Residential Barbeque Pits or Grills

(7) Customary burning of logs and other wood products in residential fireplaces and residential auxiliary heating devices

(8) Ceremonial burning of US flags

(9) Burning of non-demolished dwellings by the fire department for the purpose of fire training with approved permits from IDEM

(10) Burning by fire department personnel following a natural disaster, or when there is a health, safety or environmental hazard

(11) Use of an approved Air Curtain Destructor as approved by IDEM.

(D) Restrictions. Otherwise lawful burning is subject to the following restrictions:

(1) Only Wood Products and Permissible Vegetation shall be burned. All other material is unlawful to burn including, but not limited to, leaves, grass, animal or vegetable solids, semi-solid waste resulting from process like processing, preparation, cooking, serving or consumption of food or food products, petroleum products, rubber products, plastic products, liquid waste, garbage or refuse, construction or demolition debris, wire, insulation, and every other material which is not a Wood Product or Permissible Vegetation as defined by this ordinance.

(2) Fires shall be attended at all times until extinguished.

(3) If a fire creates a Hazardous Condition, the fire shall be extinguished.

(4) No burning shall be conducted during unfavorable conditions such as temperature inversions, high winds, air stagnations and dry conditions.

(5) Locations of burning must be at least ten (10) feet from any structure and at least ten feet (10) from adjoining property, sidewalk or public right of way or street.

(E) Penalties.

(1) Any violation of this ordinance is subject to a Fifty Dollar ($50.00) fine per occurrence plus court costs. If a violation is found to be willful or intentional, the fine may be increased to up to Five Hundred Dollars ($500.00) per occurrence.

(2) Each subsequent starting, kindling, causing or allowing of a new fire after notice of violation has been issued shall be considered a separate offense.

(F) Enforcement.

(1) Enforcement of this Ordinance may be carried out by the New Haven Police Department, New Haven Adams Township Fire Department, New Haven City Code Enforcement Department, Allen County Health Department, Allen County Sheriff's Department and Allen County Environmental Management Agency.

[Ord. G-11-02, passed 9-13-11]

§91.05 FIRE LANES AND HYDRANTS

(A) Fire lanes and hydrants.

(1) Accessibility. All retail establishments which a fire department may be called upon to protect, in case of fires, that are not readily accessible from public roads, shall be provided with fire lanes so that all buildings on the premises are accessible to fire and public safety apparatus.

(2) Application. Fire lanes shall be provided for all retail establishments which are set back more than 150 feet from a public road, or exceed 30 feet in height and are set back more than 50 feet from a public road.

(3) Distances. Fire lanes shall be at least 20 feet in width with the road edge closest to the building, and at least ten feet from the building. Any fire lane more than 300 feet long shall be provided with a turn-around at the closest end at least 90 feet in diameter.

(4) Maintaining of fire lanes. It shall be unlawful for any person to park motor vehicles on or otherwise obstruct any fire lane.

(5) Obstruction of fire hydrants. It shall be unlawful for any person to park motor vehicles to obstruct use of any fire hydrant.

(G) Enforcement officials. The enforcement of this Section shall be by the Police Department, the Fire Chief or designated deputy, and the Board of Public Health by the Health Enforcement Officer.

(H) Enforcement of provisions. New Haven-Adams Township Fire Department shall be charged with the duty of enforcing the terms and conditions of this Section.

[Ord. G-11-02, passed 9-13-11]

FIRE PREVENTION CODE

§91.10 ADOPTION

There is hereby adopted by the City of New Haven, Indiana, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as The Uniform Fire Code as from time to time published by the International Conference of Building Officials and the Western Fire Chiefs Association, 5360 South Workman Mill Road, Whitter, California. The version of The Uniform Fire Code adopted by the Indiana Fire Prevention and Building Safety Commission and published in the Indiana Administrative Code is adopted by the City of New Haven save and except such portions as are hereinafter deleted, modified or amended, as fully as if set out at length herein and from the date on which this Section shall take affect the provisions thereof shall be controlling within the limits of the City.

[G-92-22, passed 1-12-93]

§91.11 ENFORCEMENT

(A) The Fire Prevention Code adopted by §91.10 of this Chapter shall be jointly enforced by the New Haven Police Department and the New Haven-Adams Township Fire Department.

(B) The Chief of the Fire Department may detail such members of the Fire Department as inspectors as shall from time to time be necessary. The Chief of the Fire Department shall recommend to the Board of Works the employment of technical inspectors, who, when such authorization is made, shall be selected through an examination to determine their fitness for the position.

[G-92-22, passed 1-12-93]

§91.12 TITLE

This Ordinance and all ordinances supplemental or amendatory hereto, shall be known as the Fire Prevention Code of the City of New Haven, Allen County, Indiana, may be cited as such, and will be referred herein as "this Code".

[G-92-22, passed 1-12-93]

§91.13 PURPOSE

It is the purpose and intent of this Code to prescribe regulations consistent with nationally recognized good practice for the safeguarding to a reasonable degree of life and property from the hazards of fire and explosion arising from storage, handling and use of hazardous substances, materials and devices and from conditions hazardous to life or property in the use or occupancy of buildings or premises.

[G-92-22, passed 1-12-93]

§91.14 SCOPE

(A) The provisions of this Code shall supplement any and all laws relating to fire safety and shall apply to all persons without restriction, unless specifically exempted.

(B) The provisions of this Code shall apply to existing conditions as well as to conditions arising after the adoption of this Code, except that conditions legally in existence at the adoption of this Code and not in strict compliance therewith shall be permitted to continue only if, in the opinion of the Fire Chief, they do not constitute a distinct hazard to life or property.

(C) Where there is conflict between a general requirement and specific requirement for an individual occupancy, the specific requirement shall be applicable.

[G-92-22, passed 1-12-93]

§91.15 ADOPTION OF REGULATIONS BY REFERENCE

Fire safety regulations of the Indiana Fire Prevention and Building Safety Commission as set forth in the following Articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this Ordinance 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:

(A) Indiana Fire Code (675 I.A.C. 22-2-1 and following)

(B) Indiana Building Code (675 I.A.C. 13-2 and following)

(C) Indiana Electrical Code (675 I.A.C. 17-1.1-1 and following)

(D) Indiana Mechanical Code (675 I.A.C. 18-1-1 and following)

[G-92-22, passed 1-12-93]

§91.16 AMENDMENTS

The Uniform Fire Code adopted by the Indiana Fire Prevention and Building Safety Commission and published in the Indiana Administrative Code is hereby supplemented with the following additions:

(A) Unlawful Continuance of Fire Hazard. Any person operating or maintaining any occupancy, premises or vehicle subject to this Code who shall permit any fire hazard to exist on premises under his control or who shall fail to take immediate action to abate a fire hazard when ordered or notified to do so by the Chief or his duly authorized representative shall be guilty of a misdemeanor.

(B) Compliance with Order or Notice. Any order or notice issued or served as provided in this Code shall be complied with by the owner, operator, occupant or other person responsible for the condition or violation to which the order or notice pertains. In cases of extreme danger to persons or property, immediate compliance shall be required. If the building or other premises is owned by one person and occupied by another, under lease or otherwise, and the order or notice requires additions or changes in the building or premises such as would immediately become real estate and be the property of the owner of the building or premises, such order or notice shall be complied with by the owner unless the owner and occupant have otherwise agreed between themselves, in which event the occupant shall comply.

(C) Compliance with Condemnation Tag. A building, premises or thing shall not be used when in violation of this Code.

(D) Removal or Destruction of Signs or Tags. A sign or tag posted or affixed by the Chief or his authorized representative shall not be mutilated, destroyed or removed without authority to do so.

(E) Authority at Fires and Other Emergencies. The Chief or his authorized representatives, as may be in charge at the scene of a fire or other emergency involving the protection of life and/or property or any part thereof, shall have the power and authority to direct such operation as may be necessary to extinguish or control any fire, perform any rescue operation, investigate the existence of suspected or reported fires, gas leak or other hazardous conditions or situations or of taking any other action necessary in the reasonable performance of their duty. In the exercise of such power, the Chief or his authorized representatives may prohibit any person, vehicle, vessel or thing from approaching the scene and may remove or cause to be removed or kept away from the scene any vehicle, vessel or thing which may impede or interfere with the operations of the Fire Department and, in the judgment of the Chief or his authorized representatives, any person not actually and usefully employed in the extinguishing of such fire or in the preservation of property in the vicinity thereof.

(F) Interference with Fire Department. Any person who obstructs the operations of the Fire Department in connection with extinguishing any fire, or other emergency, or disobeys any lawful command of the Chief or Office of the Fire Department who may be in charge at such a scene, or any part thereof, or any Police Officer assisting the Fire Department, shall be guilty of a misdemeanor.

(G) Authority to Barricade. The Chief or other Officer of the Fire Department in charge at the scene of an emergency shall have the authority to place ropes, guards, barricades or other obstructions across any street, alley, place or private property in the vicinity of such operation so as to prevent accident or interference with the lawful efforts of the Fire Department to manage and control the situation and to handle fire apparatus.

(H) Tampering with Fire Equipment. No person shall molest, tamper with, damage or otherwise disturb any apparatus, equipment or appurtenance belonging to or under the supervision and control of the Fire Department without authority from the Chief or his authorized representative to do so.

(I) Tampering with Barricades, etc. No person, except a person authorized by the Chief or a public officer acting within the scope of his public duties, shall remove, unlock, destroy, tamper with, or otherwise molest in any manner any lock, gate, door, barricade, chain, enclosure, sign, tag, or seal which has been lawfully installed by the Fire Department or by its order or under its control.

(J) Obstruction of Fire Protection Equipment.

(1) General. No person shall place or keep any post, fence, vehicle, growth, trash, storage, or other material or thing near any fire hydrant, Fire Department connection, or fire protection system control valve that would prevent such equipment or hydrant from being immediately discernible or in any other manner deter or hinder the Fire Department from gaining immediate access to said equipment or hydrant. A minimum 3-foot clear space shall be maintained around the circumference of the fire hydrants except as otherwise required or approved by the Chief.

(2) Identification of Hydrants or Equipment. All fire protection equipment or hydrants shall be clearly identified in a manner approved by the Chief to prevent parking or other obstruction.

(K) Fire Apparatus Roads.

(1) General. Fire apparatus access roads shall be provided and maintained in accordance with the provisions of this Section.

(2) Where Required. Fire apparatus access road shall be required for every building hereafter constructed when any portion of an exterior wall of the first story is located more than 50 feet from Fire Department vehicle access.

(a) Exceptions:

(i) When buildings are completely protected with an approved automatic fire sprinkler system, the provisions of this Section may be modified.

(ii) When access roadways cannot be installed due to topography, waterways, nonnegotiable grades, or other similar conditions, the Chief may require additional fire protection as specified in Section 10.01(b) of the Uniform Fire Code.

(iii) When there are not more than two Group R, Division 3, or Group M Occupancies, the requirements of this Section may be modified provided, in the opinion of the Chief, fire-fighting or rescue operations would not be impaired.

(b) More than one fire apparatus road may be required when it is determined by the Chief that access by a single road may be impaired by vehicle congestion, conditions of terrain, climatic conditions, or other factors that could limit access.

(3) Width. The unobstructed width of a fire apparatus access road shall be not less than 20 feet.

(4) Vertical Clearance. Fire apparatus access roads shall have an unobstructed vertical clearance of not less than 13 feet 6 inches.

(a) Exceptions. Upon approval, vertical clearance may be reduced, provided such reduction does not impair access by fire apparatus and approved signs are installed and maintained indicating the established vertical clearance.

(5) Permissible Modifications. Vertical clearances or widths required by this Section shall be increased when, in the opinion of the Chief, vertical clearances or widths are not adequate to provide fire apparatus access.

(6) Surface. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with a surface so as to provide all-weather driving capabilities.

(7) Turning Radius. The turning radius of a fire apparatus access road shall be as approved by the Chief.

(8) Turnarounds. All dead-end fire apparatus access roads in excess of 150 feet in length shall be provided with approved provisions for the turning around of fire apparatus.

(9) Bridges. When a bridge is required to be used as access under this Section, it shall be constructed and maintained in accordance with the applicable Sections of the Building Code and shall use designed live loading sufficient to carry the imposed loads of fire apparatus.

(10) Grade. The gradient for a fire apparatus access road shall not exceed the maximum approved by the Chief.

(11) Obstruction. The required width of any fire apparatus access road shall not be obstructed in any manner, including parking of vehicles. Minimum required widths and clearances established under this Section shall be maintained at all times.

(12) Signs. When required, approved signs or other approved notices shall be provided and maintained for fire apparatus access roads to identify such roads and prohibit the obstruction thereof, or both.

(L) Premises Identification. Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall contrast with their background.

(M) Key Box. When access to or within a structure or an area is unduly difficult because of secure openings or where immediate access is necessary for life-saving or fire-fighting purposes, the Chief may require a key box to be installed in an accessible location. The key box shall be a type approved by the Chief and shall contain keys to gain necessary access as required by the Chief.

[G-92-22, passed 1-12-93]

§91.17 APPEALS

Whenever it is claimed that the provisions of this Code do not apply or that the true intent and meaning of this Code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision to the Board of Public Works of the City of New Haven within thirty (30) days from the date of the decision appealed.

[G-92-22, passed 1-12-93]

§91.18 PENALTIES

Any person who shall violate the provisions of this Code or standards hereby adopted or failed to comply therewith, or who shall violate or fail to comply with any order thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder and from which an appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the City of New Haven, within the time fixed herein shall severally for each and every such violation and non-compliance, be liable to a fine of not more than One Thousand Five Hundred Dollars ($1,500.00). The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

[G-92-22, passed 1-12-93]

§91.19 REPEAL OF CONFLICTING ORDINANCES

All former ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance or of this Code or standard hereby adopted are hereby repealed.

[G-92-22, passed 1-12-93]

§91.20 VALIDITY

The City of New Haven hereby declares that should any Section, paragraph, sentence or work of this Ordinance or of the Code or Standards hereby adopted be declared for any reason, to be invalid, it is the intent of the City of New Haven that it would have passed all other portions of this Ordinance independent of the elimination herefrom of any such portion as may be declared invalid.

[G-92-22, passed 1-12-93]

§91.50 PURPOSE

The declared purpose of this Section is to help families, individuals and businesses financially in the event of a medical emergency by minimizing heath care costs for those choosing to participate in the program.

[Ord. G-12-11, passed 8-28-12]

§91.51 DEFINITIONS

(A) The New Haven-Adams Township Fire & EMS shall hereafter be known as "NH-ATEMS."

(B) Emergency Medical Services (EMS): Those services provided by the New Haven-Adams Township Fire & EMS and its designated ambulance provider related to the assessment, treatment and transport of patients during the course of an emergency medical incident.

(C) EMS Subscription Program: A voluntary membership program in which a person pays an annual membership fee so that, in the event of a future medical emergency, the person will not be required to pay the Fire Department EMS Response fee, or any portion hereof, out-of-pocket should the person not have insurance or should his/her insurance not fully cover the fee.

(D) Member: A person who is a resident of the City of New Haven or in an unincorporated part of Adams Township, Allen County, Indiana, or who lives in an area of Jefferson and Milan Township, which is contracted for services with NH-ATEMS who has subscribed to the EMS Subscription Program by paying the voluntary annual fee and completing the appropriate application process.

(E) Ambulance: The designed ground ambulance service that provides transport services for the NH-ATEMS patients.

(F) Resident: Any person whose permanent place of residence is within the City of New Haven boundaries, or in an unincorporated part of Adams Township, Allen County, Indiana.

[Ord. G-12-11, passed 8-28-12]

§91.52 ADMINISTRATION

The NH-ATEMS and the Clerk Treasurer of the City of New Haven shall be jointly responsible for the development, implementation, and administration of the EMS Subscription

Program. The Clerk Treasurer of the City of New Haven shall report as requested to the Common Council on the status of the subscription program, including financial statements setting forth the Program's financial status, as requested.

The NH-ATEMS shall provide the Clerk Treasurer with any technical/medical information needed. The EMS Chief and the Clerk Treasurer shall jointly approve all program marketing and advertising.

[Ord. G-12-11, passed 8-28-12]

§91.53 ELIGIBILITY

To enroll in the EMS Subscription Program, a person must be at least 18 years of age and be a resident of the City of New Haven or in an incorporated portion of Adams Township, in Allen County, Indiana or who lives in an area of Jefferson and Milan Township which is contracted for services with NH-ATEMS.

[Ord. G-12-11, passed 8-28-12]

§91.54 PERSONS COVERED

(A) Residential Membership: All persons who reside in the member's home are covered anywhere within the New Haven city limits

(B) The administrative program approved by the Common Council shall contain policies and procedures necessary to ensure coverage is properly afforded to member residents.

[Ord. G-12-11, passed 8-28-12]

§91.55 MEMBER BENEFITS

Members will be responsible only for an amount actually paid by a member's insurance company, under the following conditions:

(A) If applicable insurance pays a portion of the charges, then the member is not responsible for any balance not paid by the member's insurance. If the member is uninsured or the member's insurance pays nothing toward the fee, or pays and amount equal to, or less than, a member's deductible, the fee would be charged to the member at 70% of the total fee.

[Ord. G-12-11, passed 8-28-12]

§91.56 ENROLLMENT

Each resident and business of the City will have the opportunity to join the EMS program at any time throughout the year. The Clerk Treasurer shall administratively establish an enrollment and billing methodology for subscribers.

[Ord. G-12-11, passed 8-28-12]

§91.57 ENROLLMENT FEES

Enrollment fees shall be Fifty Five and no/100 Dollars ($55.00) and may be adjusted from time to time by ordinance

[Ord. G-12-11, passed 8-28-12]

§91.58 IMPLEMENTATION

Implementation of the EMS Subscription Program shall begin immediately.

[Ord. G-12-11, passed 8-28-12]

§91.59 EQUAL ACCESSIBILITY TO EMS RESPONSE

Under no circumstances will the delivery and application of available emergency medical services and ambulance transportation be delayed or refused based upon whether or not a person is an EMS Subscription Program member or can demonstrate an ability to pay any applicable EMS fee.

[Ord. G-12-11, passed 8-28-12]

§91.60 PROGRAM TERMINATION

If the Common Council chooses to terminate the program prior to any new program year, New Haven-Adams Township Fire & EMS shall refund membership fees back to program members on a prorated basis. The New Haven-Adams Township Fire & EMS shall be obligated to provide thirty (30) days' written notice to program members prior to program termination.

[Ord. G-12-11, passed 8-28-12]

CHAPTER 92: GARBAGE, RUBBISH, ASHES, AND FILTH

Section

Filth on Grounds and Streets

92.01 Cleaning Sidewalks in Front of Buildings
92.02 Depositing Certain Substances on Ground
92.03 Removal of Waste Materials from Houses and Structures of Every Kind
92.04 Failure of Owner to Remove
92.05 Definitions

92.99 Penalty

FILTH ON GROUNDS AND STREETS

§92.01 CLEANING SIDEWALKS IN FRONT OF BUILDINGS

Every occupant, lessee, or owner of any house or other building, person entitled to the possession of any vacant lot, or any person in charge of any church, jail, public hall, or other building in the City, shall at all times keep the sidewalks clear from any dirt or filth to allow citizens to use the sidewalks in an easy and convenient manner.

[Ord. 36, passed 2-2-16]

§92.02 DEPOSITING CERTAIN SUBSTANCES ON GROUND

It is unlawful for any person to throw or deposit, cause to be thrown or deposited, or permit any child, servant, member of the family, or any other person under his control to throw or deposit any manure, rubbish, garbage, refuse, bottles, broken glass, glassware, broken dishes, crockery, bricks, rocks, old building material, grass clippings, dead trees or parts thereof, slops, putrid or unsound animal or vegetable matter, or any filthy, noisome, or unwholesome liquid or slops, or substances that are liable to become unwholesome, in, into, or upon any street, alley, sidewalk, gutter, crossing, lot, cellar, premises, parcel of real estate, or common within the limits of the City.

[Ord. G-19-72, passed 11-14-72; Ord. G-1-74, passed 2-19-74)]

§92.03 REMOVAL OF WASTE MATERIALS FROM HOUSES AND STRUCTURES OF EVERY KIND

It shall be the duty of every owner or occupant of any dwelling house, building, or structure of any kind or description whatsoever and of any lot or parcel of real estate within the limits of the City to remove or cause to be removed from the dwelling house, building, structure, lot, or parcel of real estate all ashes, waste, refuse, unwholesome materials, and impure substances of every kind and description.

[Ord. G-1-74, passed 2-19-74]

§92.04 FAILURE OF OWNER TO REMOVE

(A) Upon the failure of any owner, lessee or occupant to remove waste materials as provided for in §92.03, the City Clerk Treasurer, or his or her designated deputy for that purpose, may demand that the waste materials be removed within ten (10) days. The demand shall be served upon the owner, lessee, or occupant by either of the following methods:

(1) Delivery by registered or certified mail to the owner, lessee or occupant, at the

address last shown on the City records, of a written notice of violation of the City Garbage, Rubbish, Ashes, and Filth Ordinance; or

(2) Posting in a visible place upon the premises a notice of violation of the City Garbage, Rubbish, Ashes, and Filth Ordinance and sending, by first class mail, to the owner, lessee or occupant, at the address last shown on the City records, a written notice of violation of the City Garbage, Rubbish, Ashes, and Filth Ordinance.

The City Clerk Treasurer, or his or her designated deputy for that purpose, may, but shall not be required to, provide such additional notice as he or she may determine appropriate under the circumstances.

(B) If the owner, lessee or occupant of the real estate fails to remove the waste materials within the time demanded, the City may remove the waste materials.

(C) Upon the removal of waste materials by the City, the City Clerk Treasurer shall make a certified statement of the actual cost incurred by the City in such removal, which certified statement shall include administrative expenses. The certified statement shall be delivered to the owner, lessee, or occupant of the real estate by registered mail. If the owner, lessee or occupant fails to pay the amount certified on the statement within ten (10) days after receipt of the statement, a certified copy of the statement shall be filed in the Office of the Auditor of Allen County, and the amount contained thereon shall be added to the tax duplicate of the property affected by the work.

[*Ord. G-12-06, passed 3-13-12]*

§92.05 DEFINITIONS

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

The terms “garbage,” rubbish,” “waste,” and “refuse” shall include scrap copper, brass, iron, steel or other metals, or materials including but not limited to tires, household appliances, furniture, rope, boxes, barrels, rags, batteries, glass, rubber debris, construction debris, plumbing fixtures, and all other articles customarily considered trash or junk and which are not housed in a building.

[Ord. G-12-02, passed 2-14-12; Ord. G-12-06; passed 3-13-12]

§92.99 PENALTY

(A) Any person violating the provisions of §92.01 shall, upon conviction, be fined in any sum not exceeding $50.

(B) Any person violating any provisions of §§92.02 or 92.03 shall, upon conviction, be fined in an amount not less than $100 or more than $500 and each day that a violation of any part of this Ordinance shall exist shall constitute a separate violation.

[Ord. 36, passed 2-2-16; Ord. 625, passed 5-3-54;Ord. G-19-72, passed 11-14-72; Ord. G-1-74, passed 2-19-74]

CHAPTER 93: NUISANCES

Section

Sewage Sludge

93.01 Prohibition of Sewage Sludge
93.02 Exception

Weeds

93.04 Weeds to Be Removed
93.05 Failure of Owner to Remove

93.08 Exemptions

Ashes, Rubbish, and Debris

93.15 Dumping or Depositing of Ashes, Rubbish, or Debris

Junk Cars

93.30 Definitions
93.31 Declared to Be Public Nuisance
93.32 Authority of Police Department to Order Removal
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Noise Control

93.40 Scope
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Fireworks

93.50 Scope
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Games or Sports in Public Streets

93.60 Engaging in Games or Sports in Public Streets

General Minimum Property Standards

93.70 Definitions
93.71 General Requirements
93.72 Extermination
93.73 Failure of Owner to Cure

Penalties

93.99 Penalties

SEWAGE SLUDGE

§93.01 PROHIBITION OF SEWAGE SLUDGE

It shall be unlawful for any person or association of persons to possess or to apply to any property within the City limits of the Civil City of New Haven any sewage sludge or any fertilizer or soil amendment derived from the processing of sewage.

[Ord. G-89-5, passed 3-14-89]

§93.02 EXCEPTION

This prohibition shall not apply to any bagged, dried sludge, if the sludge meets all United States Environmental Protection Agency standards for application to soil for the production of food for human consumption and if compliance with such standards is prominently certified to on the bag.

[Ord. G-89-5, passed 3-14-89]

WEEDS

§93.04 WEEDS TO BE REMOVED

(A) Weeds and other rank vegetation growing upon any real estate in the City are declared a nuisance.

(B) It shall be unlawful for any person to allow or permit any weeds or other rank vegetation to be or remain upon any property owned, leased, occupied by, or under the control of such person located within the City.

(C) Any poison ivy, ragweed, thistle, poison oak, or any growth of grass or weed, excluding agricultural crops or commodities or plants grown for recognized agricultural uses such as erosion or pest control, in excess of nine inches in height shall be considered as weeds or other rank vegetation.

[Ord. G-88-14, passed 9-13-88; Ord. G-94-8, passed 10-25-94]

§93.05 FAILURE OF OWNER TO REMOVE

(A) The City hereby adopts IC 36-7-10-3.

(B) Upon the failure of any owner, lessee, or occupant of real estate to cut or remove the weeds as provided for above, the City Clerk Treasurer, or his or her designated deputy for that purpose, may demand that the weeds or other rank vegetation be cut or removed within five (5) days. The demand shall be served upon the owner, lessee or occupant by either of the following methods:

(1) Delivery by registered or certified mail to the owner, lessee or occupant, at the address last shown on the City records, of a written notice of violation of the City Weed Ordinance; or

(2) Posting in a visible place upon the premises a notice of violation of the City Weed Ordinance and sending, by first class mail, to the owner, lessee or occupant, at the address last shown on the City records, a written notice of violation of the City Weed Ordinance.

The City Clerk Treasurer, or his or her designated deputy for that purpose, may, but shall not be required to, provide such additional notice as he or she may determine appropriate under the circumstances.

(C) If the owner, lessee or occupant of real estate fails to cut or remove the weeds or other rank vegetation within the time demanded, the City may remove the vegetation.

(D) Upon cutting or removal of the weeds or other rank vegetation by the City, the City Clerk Treasurer shall make a certified statement of the actual cost incurred by the City in such removal, which certified statement shall include administrative expenses. The certified statement shall be delivered to the owner, lessee, or occupant of the real estate by registered mail. If the owner, lessee, or occupant fails to pay the amount certified on the statement within ten days after receipt of the statement, a certified copy of the statement shall be filed in the Office of the Auditor of Allen County, and the amount contained thereon shall be added to the tax duplicate of the property affected by the work.

[Ord. G-88-14, passed 9-13-88; Ord. G-97-13, passed 7-8-97]

§93.08 EXEMPTIONS

The Board of Public Works and Safety may authorize an exemption to the provisions of §93.05 upon application of any person, provided that the Board of Public Works and Safety finds that the exemption is sought for cultivated land in commercial, domestic, agricultural or horticultural use or as a natural developed forest and which does not create a health or safety hazard or does not otherwise create a nuisance.

[Ord. G-88-14, passed 9-13-88]

ASHES, RUBBISH, AND DEBRIS

§93.15 DUMPING OR DEPOSITING OF ASHES, RUBBISH, OR DEBRIS

It is a public nuisance and a danger to the users of a City street, alley, or sidewalk to allow the dumping or depositing of ashes, rubbish, or debris on the streets, alleys, and sidewalks unless the same is contained in a can, box, or containers for pick-up purposes and removed within the following 48-hour period of time.

[Ord. G-34-79, passed 11-13-79]

JUNK CARS

§93.30 DEFINITIONS

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

Junk Car. Any motor vehicle which:

(1) Does not bear a currently valid and legal license plate;

(2) Is not in a garage or other building;

(3) Is in a partially dismantled, non-operating, wrecked or junked condition.

(4) Does not have the appearance of or contain all of the parts and accessories of the same make and model automobile when manufactured and assembled by the manufacturer. Any one or all of the above criteria may be used in making a determination that an automobile is a junk car.

(B) A person or business holding a salvage license from the Indiana Department of Environmental Management is exempt from this ordinance.

[Ord. G-13-79, passed 7-10-79; Ord. G-12-03, passed 2-28-12]

§93.31 DECLARED TO BE PUBLIC NUISANCE

Because of the danger to health from vermin, rodents, and insects and to the safety of children attracted by junk cars, junk cars are declared to be nuisances except if located in lawfully operated junk yards, or yards lawfully operated for vehicles awaiting permission for junking from the Bureau of Motor Vehicles.

[Ord. G-13-79, passed 7-10-79]

§93.32 AUTHORITY OF POLICE DEPARTMENT TO ORDER REMOVAL

Any member of the Police Department may order a junk car removed from any premises in the City, within five days after service and posting as provided in §93.33.

[Ord. G-13-79, passed 7-10-79]

§93.33 NOTICE TO OWNER

(A) The order to remove the junk car shall be placed upon the junk car, and copies shall be served upon any adult occupying the real estate on which the junk car is located and upon the owner of the junk car, if known.

(B) If no occupant of the real estate or owner of the junk car can be found, a copy of the order affixed to any building on the real estate shall constitute notice to the owner and occupant of the real estate, and to the owner of the junk car.

(C) If there is no building on the real estate, the order may be affixed elsewhere on the real estate.

[Ord. G-13-79, passed 7-10-79]

§93.34 DISPOSAL OF JUNK CARS

If the junk car is not removed within the time provided in §93.32, the Police Department may cause the motor vehicle to be removed at the expense of the owner of the real estate, the expense to constitute a lien on the real estate; or the Police Department may cause the junk car to be removed and to be disposed of in the same manner as now provided by State law for the removal and disposal of abandoned vehicles.

[Ord. G-13-79, passed 7-10-79]

NOISE CONTROL

§93.40 SCOPE

This Chapter shall apply to the control of all noise within the City limits, as they exist now or may hereafter be established.

[Ord. G-96-11, passed 10-22-96]

§93.41 DEFINITIONS

For the purposes of this Chapter, the following definitions apply unless the context clearly indicates or requires a different meaning:

(A) Motor Vehicle. Any vehicle powered by a mechanical engine, and designed to be driven or used on any public or private property. Such definition shall include, but not be limited to: automobiles, vans, trucks, motorcycles, motor scooters, dune buggies, snowmobiles, all-terrain vehicles, go-carts, minibikes, and trail bikes.

(B) Person. Any individual, association, partnership, or corporation which includes any officer, employee, department, agency, or instrumentality.

[Ord. G-96-11, passed 10-22-96]

§93.43 ENUMERATION OF CERTAIN PROHIBITED ACTS

The following acts, uses or noises, among others, subject to specific exemptions, are declared to be loud, raucous or disturbing noises in violation of this Chapter. Such enumeration shall not be deemed to be exclusive:

(A) Using, operating or permitting to be played, used or operated any machine or device for the producing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person who is in the room, vehicle or property in which such machine or device is operated and who is a voluntary listener.

(B) Using, operating, or permitting the use or operation of any machine, instrument or device capable of producing or reproducing of sound which is cast upon other properties including the public right-of-way for the purposes of commercial advertising or to attract attention to any activity, performance, sale, place or structure.

(C) Using, operating or permitting the use or operation of any machine, instrument or device capable of producing or reproducing any sound on any public transportation vehicle.

(D) Using, operating or permitting to be played, used or operated any machine or device for the producing or reproducing of sound on any public right-of-way adjacent to any school, institution of higher learning, church or court while the same are in use, or adjacent to any hospital which unreasonably interferes with the working of such institution, or which unduly disturbs the patients in the hospital.

[Ord. G-96-11, passed 10-22-96]

§93.44 PROHIBITED NOISE

No person shall play, use, operate or permit to be played, used or operated, any machine or device for the producing or reproducing of sound, if it is located in or on any of the following:

(A) Any public property, including any public right-of-way, highway, building, sidewalk, park or thoroughfare, if the sound generated is audible at a distance of 30 feet from its source;

(B) Any motor vehicle on a public right-of-way, highway, or public space if the sound generated is audible at a distance of 30 feet from the device producing the sound.

[Ord. G-96-11, passed 10-22-96]

§93.45 CERTAIN ACTS CONSTITUTE PUBLIC NUISANCE

The following acts are declared to be a public nuisance, but the enumeration of the particular offenses hereinafter particularly defined shall not be construed as limiting the generality of this Chapter, or limiting the offense hereunder to the particular offense hereinafter enumerated:

(A) The continuous or repeated sounding of any horn or signal device of a motor vehicle when not used as a danger signal. Continuous shall be defined to include unnecessary or unreasonable periods of time.

(B) The use of any motor vehicle with appurtenances attached thereto so as to create loud or unnecessary grating, grinding, rattling or other noise.

(C) The use of any motor vehicle with or without the attachment of various appurtenances thereto so as to create loud or unnecessary grating, grinding, rattling, or other noise or noises. This shall include the use of any vehicle said use of which causes excessive noise as a result of a defective or modified exhaust system, or as a result of unnecessary rapid acceleration, decelerations, revving the engine, or tire squeal.

[Ord. G-96-11, passed 10-22-96]

§93.46 EXEMPTIONS

Exemptions shall not be permitted within any "Quiet Zone" duly established by the City Council or Board of Works when such zone is designed by appropriate signage. The following shall be exempted from the provisions of this Chapter:

(A) Sound emitted from sirens of authorized emergency vehicles.

(B) Farm tractors, garden tractors, and similar home power tools when properly muffled, between the hours of 8:00 a.m. and 8:00 p.m.

(C) Burglar alarms or other warning devices when properly installed on publicly or privately owned property, providing the cause for such alarm warning device sound is investigated and turned off within a reasonable period of time.

(D) Otherwise lawful celebrations on Halloween and legal holidays.

(E) Permitted parades or public festivals, between the hours of 8:00 a.m. and 12:00 midnight, Sunday through Thursday; and between 8:00 a.m. and 1:00 a.m., Friday through Saturday.

(F) Attendant noise connected with the actual performance of athletic or sporting events and practices related to them.

(G) The emission of sound for the purpose of alerting persons to the existence of an emergency, or for the performance of emergency work.

(H) Sounds associated with normal conduction of a legally established non-transient business when such sounds are customary, incidental and within the normal range appropriate for such use.

(I) In the case of motor vehicles, where the noise is the result of a defective or modified exhaust system, if the cause is repaired or otherwise remedied within seven (7) calendar days.

[Ord. G-96-11, passed 10-22-96]

FIREWORKS

§93.50 SCOPE

This chapter shall regulate the use, ignition or discharge of fireworks within the City of New Haven.

§93.51 DEFINITIONS

(A) **CONSUMER FIREWORK.** A small firework that is designated primarily to produce visible or audible effects by combustion, and that is required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR 1507. The term also includes some small devices designated to produce an audible effect, such as whistling devices, ground devices containing fifty (50) milligrams or less of explosive composition, and aerial devices containing one hundred thirty (130) milligrams or less of explosive composition. Propelling and expelling charges consisting of a mixture of charcoal sulfur, and potassium nitrate are not considered to be designed to produce an audible effect. Consumer Fireworks include:

(1) aerial devices, which include, but are not limited to, sky rockets, missile type rockets, helicopter or aerial spinners, roman candles, mines and shells;
(2) ground audible devices, which include, but are not limited to, firecrackers, salutes, and chasers; and,
(3) firework devices containing combinations of the effects described in numbers 1 and 2.
(4) Consumer Fireworks do not include the following fireworks as referenced in Indiana Code §22-11-14-8(a):
    a) Dipped sticks or wire sparklers. However, the total pyrotechnic composition may not exceed One hundred (100) grams per item: and, devices containing chlorate or perchlorate salts may not exceed five (5) grams per item,
    b) Cylindrical fountains,
    c) Cone fountains,
    d) Illuminating torches,
    e) Wheels,
    f) Ground spinners,
    g) Flitter sparklers,
    h) Snakes or glow worms,
    i) Smoke devices,
    j) Trick noisemakers that include party poppers, booby traps, snappers trick matches, cigarette loads and auto burglar alarms.

(B) **FIREWORK.** Any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of both common fireworks and special fireworks, including Consumer Fireworks. The following items are excluded from the definition of fireworks:

(1) Model rockets.
(2) Toy pistol caps.
(3) Emergency signal flares.
(4) Matches.
(5) Fixed ammunition for firearms.
(6) Ammunition components intended for use in firearms, muzzle loading cannon, or small arms.
(7) Shells, cartridges, and primers for use in firearms, muzzle loading cannons, or small arms.
(8) Indoor pyrotechnics special effects material.
(9) M-80s, cherry bombs, silver salutes, and any device banned by the federal government.

§93.52 CONSUMER FIREWORKS

(A) No person within the City of New Haven may use, ignite or discharge or permit to be used, ignited or discharged any type of Consumer Fireworks on any other day or time other than the following:

(1) June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8, July 9, between the hours of 5:00 p.m. to two hours after sunset;
(2) Day before Memorial Day, Memorial Day, July 4, day before Labor Day, and Labor Day between the hours of 10:00 a.m. and 12:00 midnight; and
(3) Between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1.

(B) No person may use, ignite or discharge or permit to be used, ignited or discharged any Consumer Fireworks within the City of New Haven in or on any:

(1) park
(2) playground
(3) school property
(4) Church property; or
(5) parking lot

without the express written consent of the owner.

(C) No person may use, ignite or discharge or permit to be used, ignited or discharged any Consumer Fireworks within the City of New Haven upon any public street, alley or sidewalk, without the prior consent of the New Haven Board of Works.
[*Ord. G-10-03, passed 8-10-10]*

§93.53 FIREWORKS

No person within the City of New Haven may use, ignite or discharge or permit to be used, ignited or discharged, any Fireworks other than Consumer Fireworks except in accordance with Indiana Code §22-11-14-2.

§93.54 POSTING OF SIGN

(A) Any person, firm or organization selling, or in any fashion distributing, Consumer Fireworks within the City of New Haven shall, during all hours of operation, post a conspicuous sign, at least 8-1/2 inches by 11 inches in size, printed in English, with characters of not less than 24 points in size, in substantial conformity with the following:

NOTICE

Municipal Code Sections 93.50 and 93.54 limit the use, ignition or discharge of Consumer Fireworks in the City of New Haven to the following dates and times:

(1) June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8, July 9, between the hours of 5:00 p.m. to two hours after sunset;

(2) Day before Memorial Day, Memorial Day, July 4, day before Labor Day, and Labor Day between the hours of 10:00 a.m. and 12:00 midnight; and

(3) Between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1.

Fireworks may not be used, ignited or discharged upon any public street, alley or sidewalk, without the prior consent of the New Haven Board of Works, and may not be used, ignited or discharged in any park, playground, school property or church property without the express written consent of the owner.

Violation may result in a fine not to exceed $500 for each separate offense.

(B) The Chief of the New Haven-Adams Township Fire Department may designate and distribute the form of sign required by subsection (A), above.

[*Ord. G-07-04, passed 6-26-07]*

GAMES OR SPORTS IN PUBLIC STREETS

§ 93.60 Engaging in Games or Sports in Public Streets

(A) For purposes of this section:

1) "Recreational Equipment" shall mean any portable or non-portable equipment used for sports, exercise, or recreation, including but not limited to the following: basketball hoops, hockey nets, volleyball nets, trampolines, slides, and swings. "Recreational Equipment" shall not mean personal transportation equipment.

2) "Street" shall mean any public street, cul-de-sac, alley or sidewalk, including the entire width of the right-of-way in which they are located.

(B) It shall be unlawful for an owner or person in possession of Recreational Equipment, to allow or suffer the same to be located in a Street within the City of New Haven.

(C) No Recreational Equipment shall be placed in any Street.

(D) Any Recreational Equipment located in a Public Street constitutes a public nuisance. Any law enforcement or code enforcement officer may abate the nuisance caused from the presence of the Recreational Equipment in the Street by causing the same to be impounded by the City, or by a private impound facility under contract with the City.

(E) It shall be unlawful for any person or group of persons to engage in any games, sports or contests in any Street within the City of New Haven.

(F) Any ordinance or provision of any ordinance of the City of New Haven or of the Municipal Code of the City of New Haven in conflict with provisions of this ordinance is hereby repealed; and

(G) The invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

[*Ord. G-09-13, passed 9-22-09]*

GENERAL MINIMUM PROPERTY STANDARDS

§93.70 DEFINITIONS

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

(A) Dwelling Unit. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

(B) Exterior Property. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

(C) Extermination. The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

(D) Infestation. The presence, within or contiguous to, a structure or premises of insects, rates, vermin or other pests.

(E) Garbage, Rubbish, Waste & Refuse. The terms "garbage," rubbish," "waste," and "refuse" shall include scrap copper, brass, iron, steel or other metals, or materials including but not limited to tires, household appliances, furniture, rope, boxes, barrels, rags, batteries, glass, rubber debris, construction debris, plumbing fixtures, and all other articles customarily considered trash or junk and which are not housed in a building.

(F) Graffiti. Pictures or words painted or drawn on an exterior wall or surface of a structure.

(G) Occupancy. The purpose for which a building or portion thereof is utilized or occupied.

(H) Occupant. Any individual living or sleeping in a building, or having possession of a place within a building.

(I) Owner. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

(J) Person. An individual, corporation, partnership or any other group acting as a unit.

(K) Premises. A lot, plot or parcel of land, easement or public way, including any structures thereon.

(L) Structure. That which is built or constructed or a portion thereof.

(M) Tenant. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

(N) Yard. An open space on the same lot with a structure.

[Ord. No. G-13-18, passed 11-26-13]

§93.71 GENERAL REQUIREMENTS

(A) General

(1) Scope

The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

(2) Responsibility

The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy or permit another person to occupy premises which do not comply with the requirements of this code. Occupants of a structure are responsible for compliance with this code for these portions of the premises which they occupy and control.

(B) General Property Conditions

(1) Rodent Harborage

All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.

(2) Removal of Waste Materials from Houses and Structures of Every Kind

It shall be the duty of every owner or occupant of any dwelling house, building, or structure of any kind or description whatsoever and of any lot or parcel of real estate within the limits of the City to remove or cause to be removed from the dwelling house, building, structure, lot, or parcel of real estate all ashes, waste, refuse,

unwholesome materials, and impure substances of every kind and description.

(3) Cleaning Sidewalks in Front of Buildings

Every occupant, lessee, or owner of any house or other building, person entitled to the possession of any vacant lot, or any person in charge of any church, jail, public hall, or other building in the City, shall at all times keep the sidewalks clear from any dirt or filth to allow citizens to use the sidewalks in an easy and convenient manner.

(4) Weeds to be Removed

Weeds and other rank vegetation growing upon any real estate in the City are declared a nuisance.

It shall be unlawful for any person to allow or permit any weeds or other rank vegetation to be or remain upon any property owned, leased, occupied by, or under the control of such person located within the City.

Any poison ivy, ragweed, thistle, poison oak, or any growth of grass or weed, excluding agricultural crops or commodities or plants grown for recognized agricultural uses such as erosion or pest control, in excess of nine inches in height shall be considered as weeds or other rank vegetation.

The Board of Public Works and Safety may authorize an exemption to the provisions of §93.05 upon application of any person, provided that the Board of Public Works and Safety finds that the exemption is sought for cultivated land in commercial, domestic, agricultural or horticultural use or as a natural developed forest and which does not create a health or safety hazard or does not otherwise create a nuisance.

(5) Standing Water

An owner of property shall grade and maintain its property in a manner which does not allow the pooling of standing water for more than 72 consecutive hours in dry weather.

(C) Exterior Structures

(1) Exterior Walls

All exterior walls shall be free from holes, breaks and loose or rotting materials.

(2) Exhaust Vents

Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon

abutting or adjacent public or private property or that of another tenant.

(3) Graffiti

Structures shall be kept free from graffiti.

(4) Roofs and Drainage

The roof and flashing shall be free from defects that admit rain. Roof drains, gutters and downspouts shall be free from vegetation and attached tightly to the structure.

(5) Broken Glass

The structure shall be maintained free from broken glass, including but not limited to glass contained in windows, doors and sky lights.

(6) Structure extensions

All extensions of a structure including, but not limited to, chimneys, porches, canopies and awnings shall be properly anchored to the structure and shall not be permitted to lean from, or hang from, the structure.

(7) Protective treatment.

Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation or non-ferrous materials are exempt from this requirement.

[Ord. No. G-13-18, passed 11-26-13]

§93.72 EXTERMINATION

(A) Infestation

All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent re-infestation.

(B) Owner

The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.

(C) Occupant(s)

The occupant(s) of any structure shall be responsible for the continued rodent and pest-free condition of the structure.

[Ord. No. G-13-18, passed 11-26-13]

§93.73 FAILURE OF OWNER TO CURE

(A) Upon the failure of any owner, lessee or occupant to cure a violation as provided for in §§93.71 through 93.72, the City Clerk Treasurer, or his or her designated deputy for that purpose, may demand that the violation be cured within ten (10) days. The demand shall be served upon the owner, lessee, or occupant by either of the following methods:

(1) Delivery by registered or certified mail to the owner, lessee or occupant, at the address last shown on the City records, of a written notice of violation of the City Housing Standards Ordinance; or

(2) Posting in a visible place upon the premises a notice of violation of the City Housing Standards and sending, by first class mail, to the owner, lessee or occupant, at the address last shown on the City records, a written notice of violation of the City Housing Standards Ordinance.

The City Clerk Treasurer, or his or her designated deputy for that purpose, may, but shall not be required to, provide such additional notice as he or she may determine appropriate under the circumstances.

(B) If the owner, lessee or occupant of the real estate fails to cure the violation within the time demanded, the City may cure the violation.

(C) Upon the cure of the violation by the City, the City Clerk Treasurer shall make a certified statement of the actual cost incurred by the City in such action, which certified statement shall include administrative expenses. The certified statement shall be delivered to the owner, lessee, or occupant of the real estate by registered mail. If the owner, lessee or occupant fails to pay the amount certified on the statement within ten (10) days after receipt of the statement, a certified copy of the statement shall be filed in the Office of the Auditor of Allen County, and the amount contained thereon shall be added to the tax duplicate of the property affected by the work.

[Ord. No. G-13-18, passed 11-26-13; Ord. No. G-14-01, passed 2-11-14]

PENALTIES

§93.99 PENALTIES

(A) Violation of §93.01 shall result in a fine not to exceed $1,500 per day. Each day on which sewage sludge is possessed within the City limits shall constitute a separate violation.

(B) In addition to any other penalty provided for, any person who violated §93.05 shall be fined not more than $100 for each violation. Each day during which the weeds or other rank vegetation are permitted to grown upon a separate platted City lot, or upon a single piece of contiguous real estate if not platted, shall constitute a separate offense.

(C) Any person, firm, or corporation violating §93.15, §93.60, or §§ 93.70 through 93.73 shall, upon conviction or judgment, be subject to a fine of not less than $50 and no more than $500 for each violation, which fine shall be owing in addition to such reasonable removal, storage and disposal charges as may be incurred by the City, or its contractor, in abating the nuisance.

(D) Any person convicted of violating §§93.20 through 93.23 shall be fined in any sum not exceeding $300. Each and every day these sections are violated constitutes a separate offense.

(E) If any order to remove a junk car as provided in §93.20 through 93.34 has been served and is not obeyed within the time stated, the owner of the junk car and the occupant and owner of the real estate upon which it is located shall each be guilty of a violation and upon conviction shall be subject to a fine in a sum not exceeding $75. Each day the junk car is permitted to remain on the real estate after the time fixed in the order to remove the car, shall constitute a separate offense and shall be punishable by an additional fine of $5 for each day.

(F) Whoever violates any provisions of §93.40 through 93.54, upon conviction thereof, shall be fined not less than $150 nor more than $500 for each offense. Each day any violation shall continue shall constitute a separate offense.

(G) The penalties provided in this Section shall be owing to the City of New Haven in addition to any damages, costs or attorney fees which may be found owing to the City of New Haven or any other person in any civil litigation related to any nuisance described in this Chapter.

[Ord. G-85-11, passed 5-14-85; Ord. G-88-14, passed 9-13-88; Ord. G-89-5, passed 3-14-89; Ord. G-96-11, passed 10-22-96, Ord. G-07-04, passed 6-26-07; Ord. G-09-13, passed 9-22-09; Ord. No. G-13-20-13, passed 11-26-13]

CHAPTER 94: STREETS, SIDEWALKS, AND ALLEYS

Section

Laying, Relaying, or Repair of Sidewalks

94.01	Work Permit
94.02	Cash Deposit Required; Liability Bond; Property Owners Desiring to Do Own Work
94.03	Removal of Work Debris; Suitable Barricades to Be Erected
94.04	City Authority Over Sidewalks; Sidewalk Dimensions
94.05	Permanent Surfacing of Sidewalks
94.06	Grading of Sidewalks
94.07	Coincidence with Curb Line
94.08	Required Installation of Public Sidewalks Within City Limits

Excavation of Public Surfaces

94.20	Permit Required
94.21	Permit Application
94.22	Record of All Permits Issued

Duties of Property Owners or Occupants

94.30	Removal of Snow from Sidewalks

Penalties

94.99	Penalties

LAYING, RELAYING, OR REPAIR OF SIDEWALKS

§94.01 WORK PERMIT

A sidewalk permit must be secured from the City before commencing work for each job done. The correct location, amount of work material to be used, and the party doing the work must be furnished before a permit can be issued.

[Ord. 507, passed 6-3-25]

§94.02 CASH DEPOSIT REQUIRED; LIABILITY BOND; PROPERTY OWNERS DESIRING TO DO OWN WORK.

(A) Each person, firm, or corporation regularly engaged in the laying, relaying, and repairing of sidewalks shall be required to deposit $10 in cash, and shall give a liability bond in the sum of $500. The liability bond shall save the City harmless from any loss or expenditure in any manner arising from the conduct of any person, firm, or corporation in laying, relaying, or repairing sidewalks; from any loss or damage which may arise by reason of any obstruction, excavation, barrier guards, or other objects or materials placed or deposited in the streets during the progress of the work; or the expense of removing the same and cleaning streets or sidewalks; and any loss or damage arising from acts of negligence or default of the person, firm, or corporation.

(B) The contractor shall be required to furnish a maintenance bond in an amount equal to 50% of the contract price. The maintenance bond shall insure that:

(1) Sidewalks layed, relayed or repaired will remain in good condition to the satisfaction of the Common Council or the City Engineer for a full period of three years from the laying, relaying, or repairing; and

(2) Upon appearance of any defects, disintegration, or default in the sidewalk due to any acts, omission, or default of the one laying it, the sidewalk shall be immediately repaired and restored to a good and proper condition to the satisfaction of the Common Council or the City Engineer, as to such defects as may appear at any time within the period of three years of the year of laying, relaying, or repair of said sidewalks.

(C) The liability bond and the cash deposit, less any expense which may have been charged against them by the City, shall be returned whenever the person, firm, or corporation entitled to lay, relay, or repair sidewalks shall have completed the work to the satisfaction of the Common Council or the City Engineer.

(D) Property owners desiring to do their own work must comply with §§94.01 and 94.02 except that the maintenance bond will not be required.

[Ord. 507, passed 6-3-25; Am. Ord. to Ord. 507, passed 7-10-25]

§94.03 REMOVAL OF WORK DEBRIS; SUITABLE BARRICADES TO BE ERECTED

All debris and rubbish must be removed within 48 hours after the completion of the work. During the process of construction, all excavations, embankments, and all materials on the ground shall be guarded by suitable barricades and at night by red lights so as to protect the public from accident. All cement walks shall have the top surface roughened, unless a majority of the property owners so affected petition otherwise. The gutters of any street contiguous to the work must be kept clear at all times.

[Ord. 507, passed 6-3-25]

§94.04 CITY AUTHORITY OVER SIDEWALKS; SIDEWALK DIMENSIONS

(A) All sidewalks shall at all times be under the direction of the Common Council or the City Engineer.

(B) The space between the curb and the property line on each side of the paved street on curbed streets shall constitute the sidewalk; upon unpaved streets, the sidewalk shall be the portion adjoining the property line on each side, and shall have a width equal to one-fifth the distance between property lines, but in no case shall the sidewalks be less than four feet in width except in alleys of 16 feet or less in width, where the sidewalks shall be two and one-half feet in width.

[Ord. 507, passed 6-3-25]

§94.05 PERMANENT SURFACING OF SIDEWALKS

All sidewalks hereafter improved by placing walks with a permanent surfacing on any public highway or street within the City shall be improved by constructing the walks with stone flagging or concrete, and in accordance with the specifications prescribed by the Common Council.

[Ord. 507, passed 6-3-25]

§94.06 GRADING OF SIDEWALKS

Any grading necessary between the walks as laid and the curb line, or between the sidewalks and the edge of the sidewalk space as established in §94.04, shall be done at the time of laying the walks so as to leave the sidewalk space at the grade described in §94.07.

[Ord. 507, passed 6-3-25]

§94.07 COINCIDENCE WITH CURB LINE

Any sidewalk so improved shall coincide with the line described as follows:

(A) Beginning at the curb line with the established curb-grade as determined by the City Engineer; then extending to the street line at right angles to the curb line, with a rise of 3/8-inch to the foot.

(B) However, at street intersections where the grade of the intersecting street prevents compliance with the above provisions, the walk shall be laid under the direction and to the acceptance of the Common Council or the City Engineer.

[Ord. 507, passed 6-3-25]

§94.08 REQUIRED INSTALLATION OF PUBLIC SIDEWALKS WITHIN CITY LIMITS

Public sidewalks, of not less than four feet in width and complying with the City Engineer specification, shall be installed, in the future, in all areas, zones, or districts within the corporate limits of the City of New Haven whenever a new structure, off-street parking lot, or improvement is erected, installed or placed or occupancy and use is made thereof, hereafter.

[Ord. G-2-65, passed 3-9-65]

EXCAVATION OF PUBLIC SURFACES

§94.20 PERMIT REQUIRED

It shall be unlawful for any person, firm, or corporation to cut into, make any opening in the surface of, or tunnel under, any street, sidewalk, or public place in the City for any purpose whatsoever without having secured the proper permit provided for in §94.21.

[Ord. G-15-66, passed 11-7-66]

§94.21 PERMIT APPLICATION

(A) Any person, firm, or corporation desiring to cut into, to make any opening in the surface of, or to tunnel under any pavement or sidewalk in any street or public place in the City shall make application to the Board of Public Works and Safety of the City in writing for a permit to do the work.

(B) The application shall contract to replace, pay for the replacement of, or properly repair any street, sidewalk, or pavement to be cut, in accordance with any conditions and specifications imposed by the Board.

(C) The Board of Public Works and Safety shall consider the application and grant it on such terms as the Board may seem best or refuse it at its discretion.

[Ord. G-15-66, passed 11-7-66]

§94.22 RECORD OF ALL PERMITS ISSUED

The Board of Public Works and Safety shall keep in its office a record of all permits issued.

[Ord. G-15-66, passed 11-7-66]

DUTIES OF PROPERTY OWNERS OR OCCUPANTS

§94.30 REMOVAL OF SNOW FROM SIDEWALKS

Every occupant or owner of a house or any other buildings, the owner, proprietor lessee, persons entitled to the possession of any vacant lot, or any person in charge of any church, jail, public hall or other building in the city shall, during the winter season and during the time when show shall continue on the ground, by 10:00 each and every morning clean the sidewalks in front of the house or other buildings and in front of lots, and shall keep them free from ice and snow during the day.

[Ord. 36, passed 2-2-16]

PENALTIES

§94.99 PENALTIES

(A) Any person, firm, or corporation violating §§94.01 through 94.07 shall be fined in a sum not exceeding $100 for each offense or violation, and a further sum of $50 for each day the violation is continued may be imposed in the court's discretion.

(B) Any person, firm, or corporation violating §94.13 shall, upon conviction, be fined not less than $10 nor more than $100.

(C) Any person, firm, or corporation failing to comply with, or violating any of the provisions of §§94.20 through 94.22 shall, upon conviction, be fined in any sum not exceeding $300.

(D) Any person violating any provisions of §94.30 shall, upon conviction, be fined not less than $1 nor more than $25.

[Ord. 36, passed 2-2-16; Ord. 507, passed 6-3-25; Ord. G-15-66, passed 11-7-66]

CHAPTER 95: TREES

Section

95.01	Authority
95.02	This section intentionally left open
95.03	Application
95.04	Definitions
95.05	Creation of City Tree Commission
95.06	Term of Office
95.07	Compensation of Commission
95.08	Duties and Responsibilities
95.09	Operation
95.10	Review of Board of Public Works or Park Board
95.11	Tree Species
95.12	Spacing
95.13	Distances from Curbs and Sidewalks
95.14	Tree Topping
95.15	Attaching Objects to Trees
95.16	Distances from Street Corners and Fire Hydrants
95.17	Pruning
95.99	Penalty

§95.01 AUTHORITY

The Board of Public Works and Safety shall have the power to adopt and enforce regulations for the trimming, removal, planting, and protection of all trees, shrubs, vines, flowers, hedges, and plants within the right-of-way of any street or alley or within any park, or 14 feet from the street right-of-way line on any property in the City.

[Ord. G-31-80, passed 10-14-80]

§95.02 This Section intentionally left open

Compiler's Note

§95.03 APPLICATION

This subchapter applies to all trees located on real property owned by the city or a department of the city.

[Ord. G-11-01, passed 5-10-11]

§95.04 DEFINITIONS

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

(A) Street Trees: Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the city.

(B) Park Trees: Trees, shrubs, bushes and all other woody vegetation in public parks and all areas owned by the city, or to which the public has free access to as a park.

[Ord. G-11-01, passed 5-10-11]

§95.05 CREATION OF CITY TREE COMMISSION

There is hereby created and established a City Tree Commission for the city, which shall consist of five members, three shall be appointed by the Mayor with the approval of the Common Council, one to be appointed by the Park and Recreation Board and one to be appointed by the Superintendent of the City Utilities Department.

[Ord. G-11-01, passed 5-10-11]

§95.06 TERM OF OFFICE

The term of the three persons to be appointed by the Mayor shall be three years except that the term of one of the members appointed to the first Commission shall be for only one year and the term of one member of the first Commission shall be for two years. The term of the member appointed by the Park and Recreation Board and by the City Utilities Department shall be for three years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

[Ord. G-11-01, passed 5-10-11]

§95.07 COMPENSATION OF COMMISSION

Members of the Commission shall serve without compensation.

[Ord. G-11-01, passed 5-10-11]

§95.08 DUTIES AND RESPONSIBILITIES

It shall be the responsibility of the Commission to study, investigate, counsel and develop and update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal and disposition of trees and shrubs in parks, along streets and in other public areas within the City of New Haven. This plan will be presented annually to the Board of Public Works and the City of New Haven Department of Parks and Recreation Board and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the city. The Commission, when requested by the Board of Public Works or the Park Board, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.

[Ord. G-11-01, passed 5-10-11]

§95.09 OPERATION

The Commission shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

[Ord. G-11-01, passed 5-10-11]

§95.10 REVIEW BY BOARD OF PUBLIC WORKS OR PARK BOARD

The Board of Public Works and Park Board shall each have the right to review the conduct, acts and decisions of the City Tree Commission as the same may relate to property within the separate jurisdiction of each board. Any person may appeal any ruling or

recommendation of the City Tree Commission to the Board of Public Works or the Park Board who may hear the matter and make the final decision.

[Ord. G-11-01, passed 5-10-11]

§95.11 TREE SPECIES

The Commission shall develop a list of recommended trees which shall constitute the official tree species for the City. No species, other than those included in this list, may be planted as street trees without the written permission of the Commission.

[Ord. G-11-01, passed 5-10-11]

§95.12 SPACING

Spacing of trees shall be made with consideration given to current ANSI standards for tree care, transplanting and pruning as well as community preferences, as may be determined by the Commission. Spacing for different areas of the City may vary.

[Ord. G-11-01, passed 5-10-11]

§95.13 DISTANCES FROM CURBS AND SIDEWALKS

For aesthetic purposes, trees planted after enactment of this Ordinance may not be planted closer to any curb or sidewalk than the following:

a. Small trees (25’ or shorter at full maturity) two feet from a curb or sidewalk.
b. Medium trees (25’ to 40’ at full maturity) three feet from a curb or sidewalk.
c. Large trees (40’ or taller at full maturity) four feet from a curb or sidewalk.

[Ord. G-11-01, passed 5-10-11]

§95.14 TREE TOPPING

It shall be unlawful as a normal practice for any person, firm or city department to top any city tree. “Topping” is defined as the cutting back of the leading shoots of major limbs which form a natural canopy of the tree so as to disfigure the tree’s crown. The City Departments shall follow ANSI standard and pruning guidelines when removing tree limbs from utilities areas, such as utility lines. Trees damaged by storms or other causes are exempted from this Ordinance.

[Ord. G-11-01, passed 5-10-11]

§95.15 ATTACHING OBJECTS TO TREES

It shall be unlawful to attach any guy wire, cable, or any other item to any tree or to use the same in connection with any banner, sign, or similar item for any purpose whatsoever. It shall be unlawful to cut or trim any trees for the purpose of erecting any telephone, telegraph, or power poles and wires without first obtaining the written approval of the Board of Public Works and Safety and receiving a written permit therefor.

[Ord. G-11-01, passed 5-10-11]

§95.16 DISTANCES FROM STREET CORNERS AND FIRE HYDRANTS

For aesthetic purposes, no street trees planted after enactment of this Ordinance shall be planted closer than thirty-five (35) feet of any street corner measured from the point of the nearest intersection, curbs or curb lines or within ten (10) feet of any fire hydrant.

[Ord. G-11-01, passed 5-10-11]

§95.17 PRUNING

The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within its property and the right-of-way lines of all streets, alleys, avenues and lanes as may be necessary to preserve or enhance the symmetry and beauty of such grounds.

[Ord. G-11-01, passed 5-10-11]

§95.99 PENALTY

Any person, firm, or corporation violating any of the provisions of this Chapter shall be fined in an amount not to exceed $500.

[Ord. G-31-80, passed 10-14-80]

CHAPTER 96: PARKS AND PLAYGROUNDS

Section

96.01	State and City Laws to Be in Effect
96.02	Interference with Recreational Purposes Prohibited
96.03	Usage of Intoxicants or Drugs
96.04	Damage to Park Property
96.05	Littering
96.06	Pre-School Children
96.07	Open Fires Prohibited; Exception
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96.15	Authority of Superintendent of the Board of Parks and Recreation
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§96.01 STATE AND CITY LAWS TO BE IN EFFECT

No person while on park grounds or engaged in a park sponsored function shall engage in conduct which is prohibited by State law or by City Ordinance.

[Ord. G-8-74, passed 6-12-74]

§96.02 INTERFERENCE WITH RECREATIONAL PURPOSES PROHIBITED

(A) The use of violence, force, noise, coercion, threat, intimidation, fear, passive resistance, or other comparable conduct constituting an interference with recreation purposes, or urging other persons to engage in such conduct, while on park grounds, is prohibited.

(B) Intentionally causing or attempting to cause physical injury, or intentionally behaving in a way that could reasonably cause physical injury to any other person while on park grounds, or off park grounds at a sponsored recreational function, is prohibited. Self-defense, or reasonable action undertaken on the reasonable belief that it was necessary to protect some other person, shall not, however, constitute a violation of this Section.

[Ord. G-8-74, passed 6-12-74]

§96.03 USAGE OF INTOXICANTS OR DRUGS

(A) Possessing, using, transmitting, or being under the influence of any illegal drug, alcoholic beverage, or intoxicant of any kind while on park grounds, or off park grounds at a sponsored recreational function, is prohibited.

(B) Use of a drug authorized by a medical prescription from a registered physician shall not be a violation of this Section.

(C) Any person found in violation of this Section shall be fined the sum of $25 for the first offense hereof. A sum not to exceed $100 shall be imposed for each additional offense hereof. The enforcement of this Section shall be by the City Police Department, and City Board of Public Health by its Enforcement Officer.

[Ord. G-8-74, passed 6-12-74; Ord. G-86-7, passed 5-13-86]

§96.04 DAMAGE TO PARK PROPERTY

Causing or attempting to cause damage to park property, or stealing or attempting to steal park property, is prohibited. All plants, flowers, shrubs, trees, buildings, structures, and statuary are protected as park property.

[Ord. G-8-74, passed 6-12-74]

§96.05 LITTERING

(A) Littering on park grounds is prohibited.

(B) Trash and rubbish shall be deposited only in trash containers. Grounds must be cleaned and left in good condition after each use.

[Ord. G-8-74, passed 6-12-74]

§96.06 PRE-SCHOOL CHILDREN

Pre-school children must be accompanied at all times by an adult or by an older, responsible child.

[Ord. G-8-74, passed 6-12-74]

§96.07 OPEN FIRES PROHIBITED; EXCEPTION

Open fires are prohibited except in fireplaces or in charcoal grills and ovens. Grills and ovens shall not be used inside pavilions or buildings, or under roofs.

[Ord. G-8-74, passed 6-12-74]

§96.08 POSSESSING, HANDLING, OR TRANSMITTING WEAPONS

Knowingly possessing, handling, or transmitting any object that can reasonably be considered a weapon on park grounds, or off park grounds, at a sponsored function, is prohibited. Included in the definition of a weapon is any kind of air gun, B.B. gun or pellet gun.

[Ord. G-8-74, passed 6-12-74]

§96.09 CERTAIN ACTIVITIES PROHIBITED

Hunting, shooting, trapping, swimming, boating, or fishing is prohibited on park grounds, except in those areas which may be designated by the Board of Parks and Recreation and which are specifically posted for such use.

[Ord. G-8-74, passed 6-12-74]

§96.10 MOTOR VEHICLES

(A) The speed limit for motor vehicles is 15 miles per hour.

(B) Vehicles may be driven only on established roadways.

(C) Parking is permitted on road berms and parking lots, not on grass.

(D) All traffic signs and restricted zones shall be observed.

(E) The use of snowmobiles or non-licensed motor vehicles is prohibited, except in those areas which may be designated by the Board of Parks and Recreation and which are specifically posted for such use.

[Ord. G-8-74, passed 6-12-74]

§96.11 SALE OF FOOD OR MERCHANDISE

The sale of food or merchandise is prohibited, unless the vendor secures the permission of the Parks and Recreation Board.

[Ord. G-8-74, passed 6-12-74]

§96.12 PARK HOURS

(A) Parks are open to the public from 5:00 a.m. until 10:00 p.m.

(B) Use of park facilities is prohibited between the hours of 10:00 p.m. until 5:00 a.m., except for supervised activities which have been approved by the Park Superintendent.

[Ord. G-8-74, passed 6-12-74]

§96.13 PAVILION PERMITS

(A) The temporary exclusive use of a pavilion for recreational purposes may be granted to any person or organization upon a first-come, first-serve basis.

(B) The Park Superintendent shall grant the permit in writing on reasonable conditions to insure the careful use of the premises.

[Ord. G-8-74, passed 6-12-74]

§96.14 AUTHORITY OF PARK EMPLOYEES

(A) Any park employee who is designated as being in charge of a park facility or function, shall have the right to take any action or give any order which is reasonably necessary to carry out, or to prevent an interference with, recreational pursuits of which he is then in charge.

(B) The park employee who is designated as being in charge of a park facility or function shall have the authority to order any person to remove himself from park grounds for a period not to exceed 48 hours for the violation of any of the rules of this Chapter, any posted written regulation of the Superintendent, or any reasonable order of a park employee.

[Ord. G-8-74, passed 6-12-74]

§96.15 AUTHORITY OF SUPERINTENDENT OF THE BOARD OF PARKS AND RECREATION

(A) The Superintendent may, from time to time, make reasonable written regulations providing for the orderly use of park facilities and for the safety of the public. These regulations shall be effective upon being publicly posted, so long as they are not in conflict with regulations adopted by the Board of Parks and Recreation.

(B) The Superintendent, after giving notice, and upon substantial cause, shall have authority to exclude any person from park grounds for a period not to exceed two months.

[Ord. G-8-74, passed 6-12-74]

§96.16 PARKS UNDER PROTECTION OF CITY POLICE

(A) Any Police Officer of the City Police Department or of the Allen County Police Department is authorized to enforce the law and to provide police protection, including the making of arrests, on park grounds.

(B) The Park Superintendent or any park employee in charge of a park facility or function is authorized to request assistance from State, City, or County Police Officers for the providing of police protection for park property and activities.

(C) Any Police Officer having jurisdiction shall be authorized to enforce the order of any park employee pursuant to §96.14, upon request of the park employee.

[Ord. G-8-74, passed 6-12-74; Ord. G-86-7, passed 5-13-86]

CHAPTER 97: BEVERAGES

Section

97.01 Sale of Alcoholic Beverages
97.02 Consumption of Alcoholic Beverages

97.99 Penalty

§97.01 SALE OF ALCOHOLIC BEVERAGES

It shall be unlawful for any person, firm, or corporation to offer for sale intoxicating liquors and/or beer on their premises or in their establishments within the corporate limits of the City, between the hours of 1:00 a.m. and 7:00 a.m.

[Ord. 544, passed 3-19-34]

§97.02 CONSUMPTION OF ALCOHOLIC BEVERAGES

It shall be unlawful for any person, firm, or corporation doing business within the corporate limits of the City to permit the use of, or consumption of intoxicating liquors or beer within their establishments between the hours of 1:00 a.m. and 7:00 a.m.

[Ord. 544, passed 3-13-34]

§97.99 PENALTY

Any person, firm, or corporation violating any of the provisions of §§97.01 or 97.02 shall be deemed guilty of a misdemeanor and fined not less than $10 nor more than $300.

[Ord. 577 A, passed 8-5-46]

CHAPTER 98: PUBLIC GATHERINGS, SHOWS, FAIRS, SPORTING EVENTS, AND THE LIKE

Section

98.01 Designation of "City Festival Period"
98.02 Authority to Grant Permits and Licenses
98.03 Fees for Permits and Licenses

98.10 Alcohol Free Zone Established
98.11 Effective Period
98.12 Lawful Establishments Not Affected
98.13 Alcohol Free Zone Defined
98.14 Procedure Upon Citation for Violation
98.15 Penalty

98.20 Non “City Festival Period” Fees
98.21 Exemptions
98.22 Contract Security Not Prohibited

§98.01 DESIGNATION OF "CITY FESTIVAL PERIOD"

The Board of Public Works and Safety is authorized in its sole discretion to designate any time period as "City Festival Period," and is empowered to take any and all action and to adopt any and all rules and regulations deemed necessary to control and coordinate all activities during a "City Festival Period."

[Ord. G-83-27, passed 10-11-83; Ord. G-85-18, passed 8-13-85]

§98.02 AUTHORITY TO GRANT PERMITS AND LICENSES

The Board of Public Works and Safety shall have full power and authority to approve and authorize the granting of all permits and licenses to any person, firm, or corporation that may wish to sponsor a public gathering, conduct a show, demonstration, fair, carnival, street fair, sporting event, exhibition, or exhibit, conduct amusement facilities, sell food or merchandise, or any other matter connected with a "City Festival Period."

[Ord. G-83-27, passed 10-11-83; Ord. G-85-18, passed 8-13-85]

§98.03 FEES FOR PERMITS AND LICENSES

The Board of Public Works and Safety shall have full power and authority to determine the fee for any license or permit to be charged to any person, firm, or corporation that may file a written request to sponsor a public gathering, conduct a show, demonstration, fair, carnival, street fair, sporting event, exhibition, exhibit, conduct amusement facilities, sell food or merchandise, or any other matter connected with activities to be conducted during a "City Festival Period." However, all fees for licenses and permits must be uniform and reasonable for similar and like activities, and are to include a sufficient amount to reimburse the City for any additional costs and expenses it may incur by reason of the furnishing of fire protection, police protection, traffic control, crowd control, utility services, and coordinating the same. All licenses and permits shall be issued by the Board of Public Works and Safety, and any fees collected therefor shall be paid to the City.

[Ord. G-83-27, passed 10-11-83; Ord. G-85-18, passed 8-13-85]

§98.10 ALCOHOL FREE ZONE ESTABLISHED

It shall be unlawful for any person to possess any open container of alcohol beverage, to include beer, wine, and liquor within the confines of the designated area referred to as an "Alcohol Free Zone" during the event commonly referred to as "New Haven City Festival Period."

[Ord. G-92-3, passed 5-13-92]

§98.11 EFFECTIVE PERIOD

The dates of the event referred to as "New Haven City Festival Period" are established and approved by the Board of Public Works and Safety of the City of New Haven, Indiana, pursuant to §98.01. The provisions of this Ordinance shall be in full force and effect only during those dates designated on a yearly basis.

[Ord. G-92-3, passed 5-13-92]

§98.12 LAWFUL ESTABLISHMENTS NOT AFFECTED

It is not the intent of this Ordinance to restrict in any fashion the operation of a legally permitted establishment, within the legal confines of said establishment.

[Ord. G-92-3, passed 5-13-92]

§98.13 ALCOHOL FREE ZONE DEFINED

(A) Broadway: To include vehicular right-of-way and sidewalks from the south right-of-way of Bell Avenue south, to the south right-of-way at Park Avenue.

(B) Main Street: To include vehicular right-of-way and sidewalks from the west right-of-way at Ann Street, west to the west property line of the Municipal Parking Lot to the west of and in the rear of the 400 block of Broadway.

(C) Summit Street: To include vehicular right-of-way and sidewalks from the east right-of-way of the alley immediately to the east of the 500 block Broadway, west to the west right-of-way at Broadway.

(D) Middle Street: To include vehicular right-of-way and sidewalks from the east right-of-way of the alley immediately east of the 500 block of Broadway, west, to the west right-of-way at Broadway.

(E) Park Avenue: To include vehicular right-of-way and sidewalks from the east right-of-way of the intersection at Williams Street west, to the west right-of-way at the intersection with Edwards Street.

(F) Williams Street: To include vehicular right-of-way and sidewalks, encompassing the entire length of the street.

(G) Edwards Street: To include vehicular right-of-way and sidewalks, encompassing the entire length of the street.

(H) Prospect Avenue: To include vehicular right-of-way and sidewalks, encompassing the entire length of the street.

(I) Municipal Parking Lot: Also included shall be the Municipal Parking Lot to the west of and in the rear of the 400 block of Broadway, immediately north of the 800 block of Main Street.

[Ord. G-92-3, passed 5-13-92]

§98.14 PROCEDURE UPON CITATION FOR VIOLATION

Any Police Officer, upon observing a violation of this Section, shall record the name, address, and full identification of the alleged violator, and shall issue to him in writing, on the form designated by the City Clerk Treasurer, a notice to answer to the charge against him at a place and at a time at least five (5) days thereafter, to be specified in the notice.

[Ord. G-92-3, passed 5-13-92]

§98.15 PENALTY

Any person violating any provisions of this Ordinance shall be fined a sum not exceeding Fifty Dollars ($50.00).

[Ord. G-92-3, passed 5-13-92]

§98.20 NON "CITY FESTIVAL PERIOD" FEES

Any person or organization sponsoring a special event other than a "City Festival Period" as described in §98.01, above, shall be required to reimburse the City for public safety related personnel expenses according to the following schedule:

(A) $37.50 per police offer for each hour or fraction thereof.

(B) $35.93 per civilian employee for each hour or fraction thereof.

The level of staffing provided by the City shall be within the sole discretion of the Police Department as it determines appropriate to reasonably meet anticipated public safety or traffic control needs of the special event and of the City generally.

[Ord. G-12-07, passed 3-27-12]

§98.21 EXEMPTIONS

The provisions of §98.20 shall not apply to special events which are sponsored by or are held for the benefit of:

(A) The City of New Haven or a department thereof, or

(B) A public or private school located within the City.

[Ord. G-12-07, passed 3-27-12]

§98.22 CONTRACT SECURITY NOT PROHIBITED

Nothing in §98.20 shall be construed to prohibit any person or organization from separately contracting for special event security. In such case, the charges described in §98.20 shall be imposed only to the extent that such contracted security is not adequate to meet public safety or traffic control needs.

[Ord. G-12-07, passed 3-27-12]

CHAPTER 99: SMOKING IN PUBLIC PLACES

Section

99.01	Definitions
99.02	Purpose and Objective
99.03	Posting of Signs
99.04	Penalties

§99.01 DEFINITIONS

(A) Public Building. As used in this Chapter, "Public Building" means:

An enclosed structure or the part of any enclosed structure, regardless of ownership that is one (1) of the following:

(i) Occupied by an agency of state or local government.

(ii) Used as a classroom building or a dining area at a state educational institution (as defined in IC 20-12-0.5-1).

(iii) Used as a public school (as defined in IC 20-10.1-1-2).

(iv) Licensed as a health facility under IC 16-21 or IC 16-28.

(v) Used as a station for firefighters.

(vi) Used as a station for police officers.

(vii) Licensed as a child care center or child care home or registered as a child care ministry under IC 12-17.2.

(viii) Licensed as a hospital under IC 16-21 or a county hospital subject to IC 16-22.

(ix) The sales area of any drug, grocery or convenience store.

(x) The food storage or preparation area of any establishment where food is prepared for consumption by the public, regardless of whether such consumption is on or off the premises.

(xi) The public area of any establishment where food and beverages are sold for consumption on the premises or where services or merchandise are offered for sale to the public, unless such establishment has posted signs permitting smoking in compliance with Section 99.03.

(B) Smoking. As used in this Chapter, "smoking" means the carrying or holding of a lighted cigarette, cigar, pipe, or any other lighted smoking equipment, or the inhalation or exhalation of smoke from any lighted smoking equipment.

[Ord. G-84-12, passed 8-14-84; Ord. G-07-03, passed 5-9-07]

§99.02 PURPOSE AND OBJECTIVE

Smoking in a Public Building in the City of New Haven is prohibited; provided however, that the official in charge of a Public Building may designate a smoking area in the building.

[Ord. G-84-12, passed 8-14-84; Ord. G-07-03, passed 5-9-07]

§99.03 POSTING OF SIGNS

(A) The agency in charge of each Public Place defined in Section 99.01(A)(i)-(viii) and the operator of each Public Place defined in Section 99.01(A)(ix)-(x) shall post a conspicuous sign at the outside of each entrance stating: "Smoking is prohibited in this building" or words to the same effect.

(B)(1) The operator of each Public Place defined by Section 99.01(A)(xi) shall post a conspicuous sign at the outside of each entrance stating in unambiguous terms whether smoking is prohibited or permitted.

(2) The operator may post signs at such other locations as may be conspicuous to patrons limiting smoking to specified times and/or areas.

[Ord. G-07-03, passed 5-9-07]

§99.04 PENALTIES

(A) Each person, agency or operator violating any provision of this chapter shall be subject to a fine not to exceed Five Hundred and no/100 Dollars ($500.00) per violation.

(B) Each day on which a sign is not posted at an entrance in compliance with Section 99.03(A) or (B) shall constitute a separate offense.

[Ord. G-07-03, passed 5-9-07]

TITLE XI: BUSINESS REGULATIONS

CHAPTER 110: ADVERTISING AND HANDBILLS

CHAPTER 111: AMUSEMENTS AND AMUSEMENT DEVICES

CHAPTER 112: COMMERCIAL ENTERPRISES AND JUNKYARDS

CHAPTER 113: PEDDLERS, SOLICITORS, AND ITINERANT MERCHANTS

CHAPTER 114: TAXICABS

CHAPTER 115: TOXIC OR HAZARDOUS SUBSTANCES

CHAPTER 116: INSPECTION FEES

CHAPTER 117: MASSAGE THERAPIST ESTABLISHMENTS

CHAPTER 118: SEXUALLY ORIENTED BUSINESSES

CHAPTER 119: OUTDOOR DINING AREA

CHAPTER 110: ADVERTISING AND HANDBILLS

Section

110.01 Attaching to Trees or Structures in Streets
110.02 Advertisements Prohibited in Certain Places
110.03 Hanging Street Banners or Flags

110.99 Penalty

§110.01 ATTACHING TO TREES OR STRUCTURES IN STREETS

It shall be unlawful to paint, nail, fasten, or locate any sign, display, or notice of any kind whatsoever, or cause the same to be done on any curbstone, flagstone, any portion or part of any sidewalk or street, any tree, lamppost, telephone or telegraph pole, hydrant, bridge, or any other structure or place within the limits of the public ways or grounds within the City limits, except road, street, or other governmental signs or legal notices.

[Ord. G-28-67, passed 12-26-67]

§110.02 ADVERTISEMENTS PROHIBITED IN CERTAIN PLACES

It shall be unlawful to erect, post, or display any advertising matter upon any building, structure, fence, or other property within the City limits without the written consent of the owner, lessee, or agent thereof.

[Ord. G-28-67, passed 12-26-67]

§110.03 HANGING STREET BANNERS OR FLAGS

(A) A "Street Banner" is a sign made of any flexible material that is suspended, hung, or attached over or across any public walk, street, or place. Street banners may be permitted in places and for periods of time authorized by the Board of Public Works and Safety, but only after written request for permission to display the street banner has been presented to the Board. In no case shall a street banner be hung over telephone or telegraph wires or high-tension wires.

(B) United States flags and banners up to 12 square feet may be displayed from staffs, walks, or buildings on holidays or days of public celebration without permit.

[Ord. G-28-67, passed 12-26-67]

§110.99 PENALTY

Any person violating any provisions of this Chapter shall, upon conviction, be fined in any sum not exceeding $100.

[Ord. G-28-67, passed 12-26-67]

CHAPTER 111: AMUSEMENTS AND AMUSEMENT DEVICES

Section

111.01 License Required
111.02 Mechanical Amusement Devices
111.03 Application for Annual License
111.04 License Fees
111.05 Issuance and Term of License
111.06 License to Be Displayed in Open View

111.99 Penalty

§111.01 LICENSE REQUIRED

(A) No person shall keep within the City any public room, place, or establishment commonly known as a penny arcade, pool room, billiard room, pool hall, game room, shooting gallery, or similar place of entertainment unless an actual license has been obtained for each place.

(B) This section does not apply to any establishment selling alcoholic beverages and duly licensed by the Indiana Alcoholic Beverage Commission.

[Ord. G-9-76, passed 5-11-76]

§111.02 MECHANICAL AMUSEMENT DEVICES

(A) It shall be unlawful for any person to have, own, possess, or operate for public use for gain within the City of New Haven any pool table, bagatelle table, billiard table, bumper pool table, pinball machine, or any other similar device or machine operated by deposit of a coin or substitute therefor or otherwise directly or indirectly by the payment of any consideration by which balls, discs, or other similar items are propelled upon a table, unless an annual license has been obtained for each device or machine.

(B) It shall be unlawful for any person to have, own, possess, or operate for public use for gain within the City of New Haven any machine or device which is operated for entertainment or amusement by deposit of a coin or substitute therefor but not including juke boxes or other machines which produce only music unless an annual license hereinafter provided has been obtained for each such device or machine.

[Ord. G-9-76, passed 5-11-76]

§111.03 APPLICATION FOR ANNUAL LICENSE

Any person desiring any of the licenses required by §§111.01 and 111.02 shall make written application therefor to the Clerk Treasurer of the City; the application shall contain the name of the applicant, location of the proposed machine, device, room, place, or establishment and the nature of the business proposed to be conducted.

[Ord. G-9-76, passed 5-11-76]

§111.04 LICENSE FEES

Upon application for a license, the Clerk Treasurer shall require payment of a license fee in the following amounts:

(A) For each machine or device referred to in §111.02, $50.

(B) For each room, hall, gallery, or place of business referred to in §111.01, $1,000.

[Ord. G-9-76, passed 5-11-76]

§111.05 ISSUANCE AND TERM OF LICENSE

Upon application and payment as provided in §§111.03 and 111.04, the Clerk Treasurer shall issue a license to the applicant. The license shall expire one year after its issuance.

[Ord. G-9-76, passed 5-11-76]

§111.06 LICENSE TO BE DISPLAYED IN OPEN VIEW

Each license issued shall be displayed in open view on the machine or device or in the room, hall, or place of business. Upon relocation of any machine, device, room, hall or place of business from the location stated on the application, the license shall automatically expire.

[Ord. G-9-76, passed 5-11-76]

§111.99 PENALTY

Any person, firm, or corporation violating any terms or conditions of this Chapter shall be fined in an amount not to exceed $500 for each offense.

[Ord. G-9-76, passed 5-11-76]

CHAPTER 112: COMMERCIAL ENTERPRISES AND JUNKYARDS

Section

Commercial Enterprises

112.01 Establishment Within Residential District

112.05 Franchise Fee

Junkyards

112.10 Establishment Within Residential District
112.11 License Required
112.12 Record of Business to Be Kept
112.13 Daily Report
112.14 Book Open to Inspection
112.15 Purchase from Intoxicated Person Prohibited
112.16 Goods to Be Kept for Certain Time Period
112.17 Fence Required
112.18 Burning of Trash, Wood, or Coal
112.19 Melting of Metals

112.99 Penalty

COMMERCIAL ENTERPRISES

§112.01 ESTABLISHMENT WITHIN RESIDENTIAL DISTRICT

Any person, firm, or corporation who shall establish or attempt to establish any filling station, grocery store, restaurant, trailer camp, or any other commercial enterprise, shall file with the Clerk Treasurer a writing bearing the signatures of at least 60% of the owners of real estate within a radius of 500 feet of the site of the proposed establishment. The signatures shall indicate consent of the residents to the commercial enterprise.

Compiler's Note: This Ordinance has been superseded by the adoption of Chapter 151: Zoning Code.

[Ord. 559, passed 11-25-40; Am. Ord. to Ord. 559, passed]

§112.05 FRANCHISE FEE

(A) Pursuant to Indiana Code 8-1-34-24, the City of New Haven reaffirms a fee of 5% of the gross revenue of each video service franchise holder or other provider providing video service within the City of New Haven.

(B) Terms used in this Section shall have the same meaning as in Indiana Code Title 8-1-34.

[Ord. G-12-15, passed 1-8-13]

JUNKYARDS

§112.10 ESTABLISHMENT WITHIN RESIDENTIAL DISTRICT

Any person, firm, or corporation who shall establish or attempt to establish any junkyard or place for the purchase, sale, collection, exchange, retention, or disposition of cast-off iron or other metals, discarded clothing, rags, paper, and other used articles which may have been discarded within the corporate limits of the City, shall before establishing or attempting to establish the junkyard or place, file with the Clerk Treasurer a writing bearing the signatures of at least 60% of the owners of real estate within a radius of 500 feet of the site of the proposed establishment; this writing shall indicate consent of the residents to the junkyard.

Compiler's Note: This Ordinance has been superseded by the adoption of Chapter 151: Zoning Code.
[Ord. 558, passed 3-11-40]

§112.11 LICENSE REQUIRED

(A) Junk Dealer. Any person who engages in the business of buying waste, used, old, or second-hand iron, brass, copper, tin, zinc, or any other metal, or rags, rubber, bottles, paper or any other like material or by-product of any person, or junk of any kind whatsoever from any other junk dealer or peddler, or from any person.

(B) Any person desiring to conduct a junkyard or engage in the business of junk dealer must be properly licensed, as set out by the State statutes.

[Ord. 560, passed 8-5-40]

§112.12 RECORD OF BUSINESS TO BE KEPT

Every person licensed to conduct, maintain, or engage in the business of a junk dealer shall keep a book in which shall be legibly written in ink at the time of the purchase, taking, or receiving of any goods, articles, or things, an accurate account and description in the English language, of the goods, articles, or things purchased, taken, or received; the amount of money paid therefor; the time of purchasing, taking, or receiving the goods; and the name, residence, age, color, height, weight, complexion, style of beard, style of dress and number of the licensed badge, if any, of the person or persons selling or delivering the goods, articles, or things.

[Ord. 560, passed 8-5-40]

§112.13 DAILY REPORT

(A) Every person licensed under §112.11 shall make out and deliver to the Chief of Police every day before the hour of 12:00 noon, a legible and correct copy from the book required in §112.12, giving an accurate account and description of the following:

(1) The goods, articles, or things taken or received during the preceding day;

(2) The price paid for the goods;

(3) The precise time of purchasing, taking, or receiving the goods; and

(4) The name, residence, age, color, height, weight, complexion, style of beard, style of dress and number of the licensed badge, if any, of person or persons from whom the goods, articles, or things were purchased, taken, or received.

(B) The copy is to be made on blank white paper, 10 by 20 inches in size, on one side only, in the following form:

OFFICE OF

_____

No. _____ Street
New Haven, Indiana

Report of all property received by me as a junk dealer, my agents, servants, and employees, since the making of my last report, as required by the laws of the City regulating the duties of junk dealers.

Signature _____

[Ord. 560, passed 8-5-40]

§112.14 BOOK OPEN TO INSPECTION

The book provided for in §112.12 shall at all reasonable times be open to the inspection of the Chief of Police, or any member of the police force authorized by the Chief of Police to examine it.

[Ord. 560, passed 8-5-40]

§112.15 PURCHASE FROM INTOXICATED PERSON PROHIBITED

It is unlawful for any person, firm, or corporation licensed under §112.11 to purchase, take, or receive any goods, articles, or things from any person when that person is in an intoxicated condition.

[Ord. 560, passed 8-5-40]

§112.16 GOODS TO BE KEPT FOR CERTAIN TIME PERIOD

All goods or articles purchased or received by any proprietor, manager, or employee of a licensed junkyard or store, shall be retained at the licensed junkyard by the proprietor, manager, or employee for a period of not less than 48 hours before disposing of them.

[Ord. 560, passed 8-5-40]

§112.17 FENCE REQUIRED

Every person licensed under §112.11, who shall operate and maintain a junkyard within the corporate limits of this City shall completely fence in the enclosure used as a junkyard with boards of pine wood or similar or better quality, all in good condition, to the height of eight feet from the ground, so that the junk piled in the yard shall not be visible at any point from the streets or from the territory surrounding the junkyard. The junk when piled in this fenced enclosure shall not be piled higher than the fence.

[Ord. 560, passed 8-5-40]

§112.18 BURNING OF TRASH, WOOD, OR COAL

(A) It is unlawful for any person operating or maintaining a junkyard to burn wood, coal, trash, or any inflammable substance in the open.

(B) No fires shall be built or allowed to burn except in an incinerator composed of brick or like material cemented together so that no smoke is emitted from the walls of the incinerator. The incinerator is to be fitted with a smoke stack of sufficient height to carry the smoke over the roofs of homes in nearby surrounding territory.

[Ord. 560, passed 8-5-40]

§112.19 MELTING OF METALS

It is unlawful for any person licensed under §112.11 to carry on the business of operating and maintaining a junkyard within the corporate limits of the City, to fuse or melt metal objects, destroying their original identity, on the premises used as a junkyard.

[Ord. 560, passed 8-5-40]

§112.99 PENALTY

(A) Any person, firm, or corporation who shall establish or attempt to establish any filling station, grocery store, restaurant,or any other commercial enterprise without complying with the provisions of §112.01 shall, on conviction, be fined in any sum not exceeding $10 for each offense. Each day the filling station, grocery store, restaurant, or any other commercial enterprise is operated, attempted to be operated, or suffered to be in existence in violation of §112.01, shall constitute a separate offense.

(B) Any person violating any of the provisions of §§112.10 through 112.19 shall, upon conviction, be fined in any sum not exceeding $10. Each day the violation continues shall constitute a separate offense.

[Ord. 558, passed 3-11-40; Ord. 560, passed 8-5-40]

CHAPTER 113: PEDDLERS, SOLICITORS, AND ITINERANT MERCHANTS

Section

113.01 License Required
113.02 Bond Required
113.03 Refund of Bond
113.04 Certain Salespersons Excepted
113.05 Individual Bond and License Required

113.99 Penalty

§113.01 LICENSE REQUIRED

(A) Transient Salesperson. Any person who has not been a resident within the boundaries of the City for 12 consecutive months prior to the time of application for a license.

(B) It is unlawful for any transient salesperson to sell, or take orders for future delivery, at retail or wholesale, any article or item of any kind, tangible or intangible, including entertainment or entertainment facilities in, upon, or along any street in the City, or to go from door to door in the City for such purposes unless the salesperson has made application to and obtained from the Clerk Treasurer of the City a license authorizing such activity, and has paid a fee of $25 for each day the license is to be in effect.

[Ord. G-97-20, passed 10-28-97]

§113.02 BOND REQUIRED

(A) At the time the license is issued, the salesperson shall deliver to the Clerk Treasurer his or her bond in the amount of $500 with acceptable surety thereon, or, in lieu of such surety, cash or a certified check in the amount of $500 made payable to the City.

(B) The bond shall run to the City and its citizens, and shall be conditioned so as to indemnify any citizen of the City for the repayment of any purchase from or payment made by any citizen to the salesperson, for any faulty or defective item or for any sales made to the citizen through misrepresentation or fraud.

[Ord. G-97-20, passed 10-28-97]

§113.03 REFUND OF BOND

The bond posted by each salesperson shall be retained by the Clerk Treasurer and shall be in full force and effect for 90 days after the salesperson has filed with the Clerk Treasurer a verified statement containing a complete list of all persons to whom a sale has been made in the City and the amount of each sale.

[Ord. G-97-20, passed 10-28-97]

§113.04 CERTAIN SALESPERSONS EXCEPTED

The provision of this Chapter shall not apply to salespersons who sell dairy products, farm produce, or vegetables on the streets or from door to door in the City; however, any salesperson intending to sell dairy products, farm produce, or vegetables in the City shall obtain a permit from the Clerk Treasurer by the payment of a fee of $25 for each day sales are to be made by the person or, in lieu thereof, by the payment of a fee in the amount of $60 for a seasonal permit, valid only in the calendar year of issuance.

[Ord. G-97-20, passed 10-28-97]

§113.05 INDIVIDUAL BOND AND LICENSE REQUIRED

A license shall be obtained and a bond posted by each salesperson; it is not intended that one license may be obtained and one bond posted by a person, firm, or corporation for the benefit of that person's, firm's, or corporation's employees, agents, or representatives.

[Ord. G-97-20, passed 10-28-97]

§113.99 PENALTY

Any person violating any provision of this Chapter shall be fined a sum not exceeding $500 and each day of violation shall be considered a separate offense.

[Ord. G-97-20, passed 10-28-97]

CHAPTER 114: TAXICABS

Section

114.01 Definitions
114.02 Compliance Required
114.03 Applications for Permits
114.04 Filing Bond and Information with Application
114.05 Issuance of Permits; Fees
114.06 Duration of Permits
114.07 Renewal Permits and Licenses
114.08 Door Requirements for Vehicles
114.09 Insurance or Guaranty Bond Requirements
114.10 Number Plates
114.11 Permits Not Transferable
114.12 Records to Be Kept by Common Council
114.13 Revocation of Permits
114.14 Vehicles to Be Owned and Operated in Name of Permit Holder
114.15 Identification of Vehicles
114.16 Drivers Employed by Permit Holders
114.17 State Chauffeur's License Required
114.18 Record of Trips
114.19 Adequate Service and Facilities Required
114.20 Appeal from Orders of Common Council

114.99 Penalty

§114.01 DEFINITIONS

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

(A) Permit. A permit for the operation of taxicabs in the City issues upon the approval and by the orders of the Common Council of the City.

(B) Taxicabs. A motor vehicle while being used for the performance of a contract for the transportation of passengers or groups of passengers for hire, to and from points chosen or designated by the passengers or groups of passengers, and running over any available route between these points, but not at the time being operated over or along definite, advertised, announced or substantially fixed terminals, locations, or districts or according to substantially fixed or announced times or intervals of arrival or departure.

[Ord. 659, passed 10-5-59]

§114.02 COMPLIANCE REQUIRED

(A) It shall be unlawful for any person to operate or cause to be operated any taxicab in any public street, court, highway, or public place in the City without meeting the following conditions:

(1) Applying for and obtaining a permit therefor from the Common Council;

(2) Filing with the Clerk Treasurer a bond, undertaking, or contract of liability insurance in some responsible insurance company authorized to do business in the State of Indiana, the form of which insurance contract has been approved by the Insurance Department of Indiana, and containing the approval thereof; and

(3) Paying the fees prescribed and obtaining license plates, all as is hereinafter more specifically provided.

(B) No permit shall be granted except as provided in this Chapter.

[Ord. 659, passed 10-5-59]

§114.03 APPLICATIONS FOR PERMITS

(A) Any person desiring to use, operate or drive any motor vehicle as a taxicab in or upon any public street, highway, or public place within the corporate limits of the City shall file an application for a permit with the Common Council, upon a form which the Common Council shall provide without charge to all applicants.

(B) The application shall contain the name of all applicants, place of business, residence, if in New Haven, the length of time of residence, age, if an individual whether or not previously engaged in the business of transporting passengers for hire, and, if so, the length of previous experience, the number of taxicabs which the applicant desires to use, operate or drive, and any other information the Common Council may require.

[Ord. 659, passed 10-5-59]

§114.04 FILING BOND AND INFORMATION WITH APPLICATION

(A) With the application provided for in §114.03, the applicant shall file in triplicate a list of the motor vehicles intended to be operated as taxicabs, together with the bond, contract of insurance, or guaranty bond hereinafter provided for.

(B) The list shall contain the make, motor number, state license number, and seating capacity of each motor vehicle to be operated by the applicant.

[Ord. 659, passed 10-5-59]

§114.05 ISSUANCE OF PERMITS; FEES

(A) The Common Council shall, after the approval by it of the bond or contract of insurance filed with it by the applicant, issue to the applicant a permit authorizing the applicant to operate taxicabs in the City, and shall file with the Clerk Treasurer a copy of the list of motor vehicles to be operated as taxicabs, together with the permit granted, and the bond or contract of insurance filed at the time of application.

(B) Upon the filing with the Common Council of a copy of the list of motor vehicles, together with permit or bond or contract of insurance, the applicant shall pay to the Clerk Treasurer a fee of $10 for the permit and a license fee of $15 for each motor vehicle listed if payment is made before July 1 of any calendar year, and a license fee of $8 for each motor vehicle if payment is made after July 1 of any year.

[Ord. 659, passed 10-5-59]

§114.06 DURATION OF PERMITS

Every permit issued under the provisions of this Chapter shall expire on December 31 of the year in which it is issued.

[Ord. 659, passed 10-5-59]

§114.07 RENEWAL PERMITS AND LICENSES

Renewal permits shall be applied for and issued in the same manner as original permits; for each renewal permit a fee of $10 shall be charged and paid to the Clerk Treasurer, and for each renewal license a fee of $15 for each motor vehicle listed shall be charged and paid to the Clerk Treasurer.

[Ord. 659, passed 10-5-59]

§114.08 DOOR REQUIREMENTS FOR VEHICLES

All taxicabs for the operation of which a permit shall be granted by this Chapter shall be equipped with two doors on each side.

[Ord. 659, passed 10-5-59]

§114.09 INSURANCE OR GUARANTY BOND REQUIREMENTS

(A) No permit to operate a taxicab in the City shall be issued until after the applicant therefor has filed with the Clerk Treasurer a contract of insurance or guaranty bond.

(B) The contract of insurance or guaranty bond shall be issued by a reliable insurance company admitted to do business in the State of Indiana, with not less than $1,000,000 in assets.

(C) The contract of insurance or guaranty bond shall be not less than $15,000 to $30,000 public liability policy for protection of bodily injury, with additional coverage of $10,000 for property damage. The policies are to be the standard form of nondeductible.

(D) The contract of insurance or guaranty bond shall provide that it will pay for any and all damages imposed by law upon the applicant, or any other person operating any motor vehicle as a taxicab under the permit, or by virtue of the provisions thereof, provided the damages result from bodily injury including death, and damage to property sustained by any person during the period covered by the contract of insurance or guaranty bond, by reason of the ownership, maintenance, operation or use under the permit, or by virtue of the provisions thereof, of any motor vehicle as a taxicab by any person whomsoever regardless of the ownership of the motor vehicle.

(E) The contract of insurance or guaranty bond shall contain the further provision that the obligations and promises contained therein shall not be affected by any act or omission of:

(1) The named insured, its agents, employees, bailees, or licensees;

(2) Any other person operating any motor vehicle as a taxicab under the permit;

(3) By virtue of the provisions thereof on account of a default in the payment of the premium on the contract of insurance or guaranty bond;

(4) The giving of any notice required by the provisions thereof or otherwise; or

(5) By the insolvency of the insured named therein.

(F) It shall further be provided in the contract of insurance or guaranty bond, that no cancellation thereof shall become effective for any reason until five days after the written notice of the cancellation has been filed with the Clerk Treasurer.

(G) The contract of insurance or guaranty bond shall provide that it shall be in full force and effect from and after the issuance of a permit to the applicant, and no permit shall be issued to any applicant therefor, unless the contract of insurance or guaranty bond has been filed with and approved by the Common Council. No contract of insurance or guaranty bond shall contain any provision that liability shall not exist for claims, loss, or damage, arising while the taxicab is being operated from one place to another by any person under the influence of liquor.

[Ord. 659, passed 10-5-59]

§114.10 NUMBER PLATES

(A) After the issuance of a permit, the Clerk Treasurer shall deliver to the applicant a metal number plate for each motor vehicle listed in the schedule filed, on which plate shall be printed or stamped the words "Car No. _____, 19___, New Haven, Indiana", which plate shall, at all times when the motor vehicle is being operated or used upon any public street, highway or other public place in the City as a taxicab, be conspicuously displayed on the rear thereof.

(B) In the event the holder of any permit desires to transfer any plate from the motor vehicle for which it was issued, and use it on another motor vehicle, he shall immediately notify the Clerk Treasurer and furnish him the name of the maker, the serial number, and the seating capacity of the motor vehicle to which the plate is to be transferred.

(C) In the event any person, firm, or corporation applying for a permit, has already been issued and granted a permit by a city of the second class in Allen County, Indiana, then so long as that permit is in force, the applicant:

(1) In applying for a permit from the City of New Haven need not file an original bond, undertaking, or contract of liability insurance, but may file a duplicate copy of the bond, undertaking, or contract of liability insurance heretofore filed and accepted by the city of the second class in Allen County, Indiana.

(2) Shall be exempt from the license fee requirements for each motor vehicle, and from the requirements of a metal number plate for each motor vehicle, provided the vehicle or vehicles are not permanently stationed or operating in the City of New Haven.

(3) Shall file with its application for a permit, a detailed schedule of the proposed rates and charges, which, if approved, shall not be altered unless approval is granted by the Common Council of the City of New Haven.

[Ord. 659, passed 10-5-59; Ord. 710, passed 2-4-63]

§114.11 PERMITS NOT TRANSFERABLE

No permit issued under the provisions of this Chapter shall be transferable. In the event of the death of the holder of any permit, or in case of the dissolution of a corporation, or in the event a receiver or trustee in bankruptcy is appointed for the holder of any permit issued under the provisions of this Chapter, the permit shall be null and void, and shall be immediately surrendered to the Clerk Treasurer.

[Ord. 659, passed 10-5-59]

§114.12 RECORDS TO BE KEPT BY COMMON COUNCIL

The Common Council shall keep on file in its office, open to the inspection of the public, an indexed record of all orders made and entered under and pursuant to the provisions of this Chapter.

[Ord. 659, passed 10-5-59]

§114.13 REVOCATION OF PERMITS

(A) For the violation of any of the provisions of this Chapter, any ordinances of the City regulating the operation and use of taxicabs in the City, any regulation issued by the Common Council pursuant to the authority conferred upon it by virtue of the provisions hereof, or for any other sufficient cause, the Common Council may, upon application filed by any person, or upon the motion of the Common Council or any member thereof, revoke any permit issued under the provisions of this Chapter.

(B) Upon the filing of an application or motion, the Clerk Treasurer shall cause the application to be docketed for hearing before the Common Council, and shall serve a copy of the application or motion on the holder of the permit together with a notice of the date set for hearing, at least five days prior to the date of the hearing.

[Ord. 659, passed 10-5-59]

§114.14 VEHICLES TO BE OWNED AND OPERATED IN NAME OF PERMIT HOLDER

No motor vehicle shall be operated as a taxicab in the City by any person unless the motor vehicle is owned by the holder of the permit under which it is operated. No motor vehicle shall be operated as a taxicab in the City under the name, style, or designation, or from the place of business of any person other than the owner of the motor vehicle.

[Ord. 659, passed 10-5-59]

§114.15 IDENTIFICATION OF VEHICLES

Every taxicab operated in the City shall have the word "Taxi", the name of the holder of the permit under which the taxicab is operated, and the serial body number assigned to it in the list on file in the office of the Clerk Treasurer, painted in letters and numbers at least six inches in height on each side of the taxicab and on the rear thereof, and the letters and numbers shall be painted a different color from the color of the cab.

[Ord. 659, passed 10-5-59]

§114.16 DRIVERS EMPLOYED BY PERMIT HOLDERS

(A) Every holder of a permit to operate taxicabs shall maintain on file in his own offices the names, addresses, and number of the chauffeur's license of each of his drivers, and the name and addresses of the next of kin of each driver who should be notified in case of emergency.

(B) The list of drivers shall be open for inspection to the Police Department of the City at all times and must be kept current.

(C) Every holder of a permit to operate taxicabs is prohibited to employ any person as a driver of taxicabs who has been convicted of a felony.

[Ord. 659, passed 10-5-59]

§114.17 STATE CHAUFFEUR'S LICENSE REQUIRED

No taxicab shall be driven or operated in the City by any person who has not been licensed as a chauffeur by the State of Indiana in the manner provided by law.

[Ord. 659, passed 10-5-59]

§114.18 RECORD OF TRIPS

(A) Every holder of a permit for the operation of taxicabs in the City shall keep an accurate record of all trips made by all of the taxicabs operated under the permit.

(B) The record shall be made by the operator and driver of the taxicab and shall show the points of origin and destination of all trips made, the number of passengers carried, and the time the trip began and was completed.

(C) The records shall be open to inspection by the Police and by the Common Council or any of its duly authorized representatives; however, it shall not be necessary to preserve the record of any trip for more than 60 days after the date the trip was made.

[Ord. 659, passed 10-5-59]

§114.19 ADEQUATE SERVICE AND FACILITIES REQUIRED

(A) Any person authorized to operate taxicabs in the City shall keep the taxicabs clean, properly ventilated and heated, provided with comfortable seats, in good repair, and painted and decorated so as to present an attractive appearance, both on the outside and inside of the taxicab.

(B) Any person authorized to operate taxicabs in the City shall furnish reasonably adequate service and facilities. It shall be unlawful to refuse to respond to calls by patrons, unless the patron is immediately notified that taxicabs are not available to render the service required by the patron.

(C) In the event a call is accepted to serve a patron and it is subsequently determined that taxicabs are not available, the person operating the taxicab shall immediately inform the patron that the service cannot be rendered, in order to permit the patron to make other arrangements for transportation service.

[Ord. 659, passed 10-5-59]

§114.20 APPEAL FROM ORDERS OF COMMON COUNCIL

(A) Any person adversely affected by any order made by the Common Council under the provisions of this Chapter may, within 20 days after the order is entered, commence an action in the Circuit or either of the Superior Courts of Allen County against the Common Council, to vacate or set aside the order on the ground that it is insufficient, unreasonable, unlawful, or procured by fraud or other unlawful methods.

(B) Summons shall issue upon the complaint filed in such an action and be served on the Common Council in the manner now provided by law in civil actions, and the procedure in the trial of the cause shall be the same as in the trial of civil actions.

(C) An appeal from the judgment of the Circuit or either of the Superior Courts in such a cause may be taken to the Supreme or Appellate Court of Indiana in the manner now provided for appeals in civil actions.

[Ord. 659, passed 10-5-59]

§114.99 PENALTY

Any person, firm, or corporation violating any of the provisions of this Chapter shall, upon conviction, be fined in any sum not exceeding $200.

[Ord. 659, passed 10-5-59; Ord. 710, passed 2-4-63]

CHAPTER 115: TOXIC OR HAZARDOUS SUBSTANCES

Section

115.01 Purpose
115.02 Information to Be Provided to City
115.03 Availability of Information to Public
115.04 Confidentiality of Information; Exceptions
115.05 Records of Storage Locations
115.06 Inspections
115.07 Exemptions

115.99 Penalty

§115.01 PURPOSE

It is the express purpose of this Chapter to provide to the emergency services of the City initial information relative to hazardous or toxic materials which may be stored, compounded, or manufactured in the City.

[Ord. G-86-1, passed 5-13-86]

§115.02 INFORMATION TO BE PROVIDED TO CITY

(A) Whenever a local business, industry, or private person or enterprise is required, under existing Federal legislation, to provide to or maintain for the Federal government information relative to the storage, compounding, or manufacture of toxic or hazardous chemicals, the information so provided shall also be forwarded to the City at its administrative offices.

(B) The City Fire Chief shall maintain records of the material so forwarded to the City for a period of 30 years. A copy shall also be kept at the City Police Department, and shall be maintained by Fire Department personnel.

[Ord. G-86-1, passed 5-13-86]

§115.03 AVAILABILITY OF INFORMATION TO PUBLIC

(A) The category and degree of hazard are conveyed through the color and number coding system adopted by the National Fire Protection Association, Inc., as published in the current edition of NFPA 704 entitled "Standard System for the Identification of the Fire Hazards of Materials." A copy of NFPA 704 shall be on file for public inspection in the Fire Chief's office.

(B) This information is also on file in the Police Chief's office and is available to the public at a cost of $3 per copy.

(C) Common chemical name information is available to a physician or other medical personnel.

[Ord. G-86-1, passed 5-13-86]

§115.04 CONFIDENTIALITY OF INFORMATION; EXCEPTIONS

(A) The toxic or hazardous substance is identified by a generic chemical classification that would provide sufficient information upon which a health professional could render

recommendations for adequate safeguards to prevent toxic or hazardous exposure to the substance. All other information on the properties and effects of the substance are made available on its material safety data sheet/right-to-know form.

(B) The withheld confidential information shall be provided on a confidential basis to a treating physician or other health personnel who states in writing that a patient's health problems may be related to exposure to a toxic or hazardous substance. In an emergency situation, the physician's or other health personnel's request may be oral. The confidentiality of the manufacturer and the employer is recognized, and such confidential information will not be made public.

(C) Confidential claims are not allowed concerning:

(1) Toxics that cause cancer or birth defects, or affect reproductive functions; or

(2) Toxics released into the air or water, or scattered or spread across the land.

(D) An employer shall specify which information, if any, contained on the Fire Chief's list is confidential information. The Fire Chief shall adopt necessary and appropriate practices and procedures to protect information identified as confidential from improper use or dissemination beyond the purposes of this Chapter. No officer, employee, agent, or contractor of any City department, board, or commission shall knowingly and intentionally disclose to anyone in any manner, unless authorized by law, confidential information, except as is required to administer or enforce the provisions of this Chapter and perform official duties. Any person who violates this provision may be fined, suspended, or removed from office or employment, in addition to any other applicable proceedings and penalties for violation of confidential protection provided for under existing law.

(E) Notwithstanding any other provision of this Chapter, the Fire Chief or his representative, or the Public Health Officer, is authorized to disclose confidential information as designated by an employer when such action is necessary to properly protect health, safety, or property in an emergency situation.

[Ord. G-86-1, passed 5-13-86]

§115.05 RECORDS OF STORAGE LOCATIONS

Any business, industry, person, private enterprise, or other entity affected by this Chapter shall cooperate with the personnel of the City Fire Department to identify and locate and log areas within the workplace or establishment where hazardous or toxic chemicals or materials are stored. Fire Department personnel shall maintain a sketch or mapping of that area or areas. If a change occurs at that workplace or establishment, it shall be the duty of the business, industry, person, private enterprise, or other entity affected herein to notify the Fire Department of the change.

[Ord. G-86-1, passed 5-13-86]

§115.06 INSPECTIONS

(A) The City Fire Department shall conduct inspections of work places where toxic or hazardous substances are used, compounded, mixed, manufactured, or stored. A maximum of three firefighters will be allowed on the worksite for purposes of inspection at one time. These routine inspections will follow a 24-hour notice given to the employer. The inspections, which are to be performed not less frequently than annually, shall be for the purpose of determining:

(1) That toxic or hazardous substances are properly labeled.

(2) That the location of toxic or hazardous substances is consistent with the information required under §115.04.

(3) That the posting requirements of §115.03(A) are met.

(4) That proper safety, containment, and cleanup equipment is readily available.

(B) The Fire Department shall investigate complaints from citizens or workers that toxic or hazardous substances are not properly labeled.

[Ord. G-86-1, passed 5-13-86]

§115.07 EXEMPTIONS

(A) Companies using toxic or hazardous substances in aggregate quantities less than 50 pounds or ten gallons, drug stores or pharmacies, restaurants, school education laboratories, and grocery stores are exempt from the provisions of this Chapter.

(B) The provisions of this Chapter shall not apply to substances during the first 48 hours after they enter the workplace.

[Ord. G-86-1, passed 5-13-86]

§115.99 PENALTY

The City Fire Chief, his representative, or the Public Health Officer shall have the power to write citations for fines of up to $50 per day per occurrence for noncompliance with this Chapter. The violation and subsequent fine will take effect at the time the citation is written. All fines collected will be receipted to the Clerk Treasurer and placed in a special fund. This fund will be used to implement and carry out the provisions of this Chapter.

[Ord. G-86-1, passed 5-13-86]

CHAPTER 116: INSPECTION FEES

Section

116.01 Inspection Authorized
116.02 Fees
116.03 Vehicle Inspection Fund
116.04 Appropriations from Fund
116.05 Severability Clause

§116.01 INSPECTION AUTHORIZED

Pursuant to IC 9-1-2-1, Police Officers of the City Police Department are hereby authorized to inspect motor vehicles, semi-trailers, or recreational vehicles to verify the facts set forth in applications for Certificates of Title for said vehicles.

[Ord. G-88-9, passed 7-13-88]

§116.02 FEES

(A) The City Police Department is hereby authorized to charge a fee in the sum of $5 for each vehicle inspected. Said fee shall be charged to the owner of such vehicle or vehicles for the inspection verification of the facts set forth in the application for such Certificates of Title for such vehicle or vehicles.

(B) The City Police Officer making the inspection is authorized to collect such fees and shall remit such fees daily to the Chief of Police or his/her duly authorized representative. The Chief of Police or his/her duly authorized representative shall remit such fees at least weekly to the City Clerk Treasurer.

(C) A receipt for the Certificate of Title inspection fee shall be given to the owner paying such fee with a duplicate copy of such form retained by the City Police Department.

[Ord. G-88-9, passed 7-13-88]

§116.03 VEHICLE INSPECTION FUND

The City Police Department Certificate of Title fees shall be deposited by the City Clerk Treasurer in a Special Vehicle Inspection Fund.

[Ord. G-88-9, passed 7-13-88]

§116.04 APPROPRIATIONS FROM FUND

Money in the Special Vehicle Inspection Fund may be appropriated only for law enforcement purposes.

[Ord. G-88-9, passed 7-13-88]

§116.05 SEVERABILITY CLAUSE

Any invalidity of any section, clause, sentence or provision of this Chapter shall not affect the validity of any other part of this Chapter.

[Ord. G-88-9, passed 7-13-88]

CHAPTER 117: MASSAGE AND NUDE MODELING

Section

117.01 Definitions
117.02 Establishment License Required
117.03 Exemptions
117.04 Application for Massage Establishment License
117.05 Issuance of Licenses
117.06 Cause for Denial, Revocation or Suspension of License
117.07 Hearings and Appeals
117.08 License Location
117.09 Transfer of License
117.10 Facilities Necessary
117.11 Operating Requirements
117.12 Persons Under Age Eighteen (18) Prohibited on Premises
117.13 Hours
117.14 Inspection Required
117.15 Unlawful Acts
117.16 Name and Place of Business
117.17 Time Limit for Filing
117.18 Violation and Penalty
117.19 Maintaining Public Nuisance
117.20 Severability
117.21 Current Establishments

§117.01 DEFINITIONS

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section.

(A) Body Work Practitioner. Any person who:

(1) Submits a certificate by a licensed physician, chiropractor, or osteopath who practices in Allen County, Indiana, that the person is competent and efficient as a body work practitioner; or

(2) Who holds a diploma or other certificate of graduation from a recognized school of massage and who is a certified massage therapist under Indiana Code 25-21.8-4; 25-21.8-5; or 25-21.8-6.

(B) Employee. Any person who renders any service or transacts any sales in connection with the operation of a massage establishment and receives compensation from the operator of the business or patrons.

(C) Massage. Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external parts of the human body with the hands or with any portion of the body or with the aid of any mechanical, electrical or other apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment or other such similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or gratuity therefor.

(D) Massage Establishment. Any establishment having a source of income or compensation derived from the practice of massage, as defined in subsection (C), and which has a fixed place of business where any person, firm, association, or corporation engages in or carries on any of the activities as defined in subsection (C). A massage establishment includes any establishment which would come under the above description, whether the establishment is called a studio, massage parlor, health club, book store or by any other name.

(E) Massagist. Any person who, for any consideration whatsoever, engages in the practice of massage, as defined in subsection (C).

(F) Patron. Any person who receives a massage under such circumstances that it is reasonably expected that such person will pay money or give other consideration therefor.

(G) Person. Any individual, partnership, firm, association, joint stock company, cooperation or combination of individuals of whatever form or character.

(H) Recognized School of Massage. Any properly accredited school or institution of learning which has for its purpose the teaching of the theory, ethics, practice, method, profession or work of massage technician and has a program which requires a resident course study of not less than five hundred (500) hours to be given in not less than six (6) calendar months before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning showing the successful completion of said course. Schools offering a correspondence course not requiring actual attendance at class shall not be deemed a recognized school.

[Ord. G-00-15, passed 1-9-01; Ord. G-09-17, passed 12-22-09]

§117.02 ESTABLISHMENT LICENSE REQUIRED

It shall be unlawful for any person to engage in or carry out the business of massage unless that person has a valid establishment license issued by the City or qualifies for an exemption pursuant to Section 117.03 for each and every separate office or place of business conducted by such person. A person who has a communicable or infectious disease shall not work in any establishment licensed under this Chapter.

[Ord. G-95-10, passed 7-25-95; Ord. G-09-17, passed 12-22-09]

§117.03 EXEMPTIONS

This Chapter shall not regulate massages performed at the following establishments:

(A) Hospitals, nursing homes, sanitariums or other health care facilities licensed under the State of Indiana.

(B) Barbershops and beauty parlors, licensed under the laws of the State of Indiana, and/or employing licensed barbers or beauty culturists, provided that such massage as is practiced is limited to the head and scalp of the customer or client.

(C) Accredited schools and colleges and not-for-profit corporations organized for educational, literary, scientific, religious or charitable purposes that are exempt for federal taxation under the Internal Revenue Code, and any organization that exclusively provides models for said schools, colleges and not-for-profit corporations.

(D) Establishments owned and operated by body work practitioners and which employ only body work practitioners as massagists.

[Ord. G-95-10, passed 7-25-95]

§117.04 APPLICATION FOR MASSAGE ESTABLISHMENT LICENSE

Every applicant for a massage establishment license shall file an application under oath with the City of New Haven upon a form provided by the Chief of Police and pay a nonrefundable license fee, which shall be one hundred dollars ($100.00) for the first license year and fifty dollars ($50.00) for each successive renewal license year. Copies of the application shall, within five (5) days, be referred to the Zoning Department, the Allen County Building Department, the Allen County Board of Health, and the New Haven/Adams Township Fire Department. The departments shall, within thirty (30) days after receipt of the application, inspect the premises proposed to be operated as a massage establishment, and shall make written verification to the Chief of Police concerning compliance with the codes of the City of New Haven or Allen County they administer. The Police Department shall further conduct an investigation of the applicant's character and qualifications. Each application shall contain the following information:

(A) A definition of service to be provided.

(B) The location, mailing address and all telephone numbers where the business is to be conducted.

(C) The name and address of each applicant (hereinafter all provisions which refer to applicant include an applicant which may be a corporation or partnership):

(1) If applicant is a corporation, the names and addresses of each of the officers and directors of said corporation and each stockholder owning more than twenty per cent (20%) of the stock of the corporation, and the address of the corporation itself, if different from the address of the massage establishment.

(2) If applicant is a partnership, the names and addresses of each of the partners including limited partners, and the address of the partnership itself, if different from the address of the massage establishment.

(D) The two (2) previous addresses immediately prior to the present address of the applicant.

(E) Proof that the applicant is at least twenty-one (21) years of age.

(F) Individual or partnership applicant's height, weight, color of eyes and hair, and sex.

(G) Copy of identification such as driver's license.

(H) Two color portrait photographs of the applicant at least three (3) inches by three (3) inches. If the applicant is a corporation, two color portrait photographs at least three (3) inches by three (3) inches of all officers and managing agents of said corporation. If the applicant is a partnership, two color portrait photographs at least three (3) inches by three (3) inches in size of each partner, including a limited partner in said partnership. A clear photocopy of a government-issued photo ID may be substituted for the color portrait photographs required in this

subsection.

(I) Business, occupation or employment of the applicant for the three (3) years immediately preceding the date of the application.

(J) The massage or similar business license history of the applicant; whether such person, in previously operating in this or another city or state has had a business license revoked or suspended in the last five (5) year, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.

(K) All criminal convictions of applicant for the last five (5) years (or in the case of a partnership, each partner, or in the case of a corporation its manager, officers, directors, and shareholders owning more than twenty percent (20%) of the stock of the corporation), other than misdemeanor traffic violations, but including all violations of this Chapter, with the dates of convictions, nature of the crimes and place convicted.

(L) The name and address of any massage business or other establishment owned or operated by any person whose name is required to be given in subsection (C) wherein the business or profession of massage is carried on.

(M) A description of any other business to be operated on the same premises and a description of any other business to be operated on adjoining premises, owned or controlled by the applicant.

(N) A list of all employees of the establishment, including all massagists and any and all other employees, with the address, date of birth, and two color portrait photographs at least three (3) inches by three (3) inches of each and every employee. A clear photocopy of a government-issued photo ID may be substituted for the color portrait photographs required in this subsection.

(O) Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.

Upon the completion of the above provided form and furnishing of all foregoing information and fees, the Chief of Police shall accept the application for the necessary investigations. The holder of an establishment license shall notify the Chief of Police of each change in any of the data required to be furnished by this Section within ten (10) days after such change occurs.

[Ord. G-95-10, passed 7-25-95; Ord. G-09-17 passed 12-22-09]

§117.05 ISSUANCE OF LICENSES

(A) Approval or denial of application. The Chief of Police shall act to approve or deny an application for a license under this Chapter within a reasonable period of time, and in no event later than ninety (90) days from the date that said application was filed.

(B) License must be issued. The Chief of Police must issue a license unless he/she finds good cause for denying the license. Good cause for license denial may be based upon any of the reasons listed in Section 117.06.

[Ord. G-95-10, passed 7-25-95]

§117.06 CAUSE FOR DENIAL, REVOCATION OR SUSPENSION OF LICENSE

The Chief of Police may deny, revoke, or suspend a massage establishment license for the following reasons:

(A) The correct license fee has not been tendered to the City.

(B) The applicant for, or holder of, a license, if an individual; or any of the stockholders holding more than twenty percent (20%) of the stock of the corporation; any of the officers and directors, if the applicant or license holder is a corporation; or any of the partners, including limited partners, if the applicant or license holder is a partnership; or the manager or any other person principally in charge of the massage establishment, has been convicted of any of the following offenses or convicted of an offense without the State of Indiana that would have constituted any of the following offenses if committed within the State of Indiana, in the past five (5) years:

(1) An offense involving the use of force or violence upon the person of another that amounts to a felony pursuant to the laws of the State of Indiana.

(2) An offense involving sexual misconduct, which constitutes a felony or misdemeanor under the laws of the State of Indiana.

(C) The applicant for, or holder of, a license has knowingly made any false, misleading, or fraudulent statement of fact in the license application, or in any document required by the City in connection with this Chapter.

(D) The applicant or license holder has had an establishment, massagist, or other similar permit or license denied, revoked, or suspended by the City or any other State or local agency within the past five (5) years.

(E) The applicant, if any individual; or any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, is not over

the age of twenty-one (21) years.

(F) The application was not completely filled out or the application was not correctly filled out.

(G) The establishment would not comply with all applicable laws, including but not limited to, the City's building, zoning, and health regulations, and with this Chapter.

(H) Any person has committed, on the premises of the establishment, an act that would constitute prostitution pursuant to the laws of the State of Indiana, or any offense involving narcotics, dangerous drugs, or gambling, whether or not such person has been convicted of such prostitution, narcotics, dangerous drugs or gambling offense under the laws of the State of Indiana.

(I) The establishment, or any employee of the establishment, has not complied with the provisions of this Chapter.

[Ord. G-95-10, passed 7-25-95; Ord. G-09-17, passed 12-22-09]

§117.07 HEARINGS AND APPEALS

(A) Denial of License. Upon the determination by the Chief of Police that a license applied for ought not be issued, or a license issued should be revoked, a notice shall be sent to the applicant or licensee by certified mail stating the reason for the denial or revocation, and advising the applicant or licensee of the right to a hearing before the Board of Works to appeal the denial or revocation and the right to correct any defect in the application or premises.

(B) Hearing. When a hearing is requested by an applicant or licensee, not less than ten (10) days written notice of such hearing shall be given to the applicant or licensee, which notice shall designate the time and place where the hearing will be held.

(C) Rights Granted. At a hearing conducted pursuant to this Chapter, the applicant or licensee shall have the right to be represented by counsel, to present witnesses, to testify and cross-examine any other witnesses, and to subpoena witnesses. Proceedings shall be conducted under oath.

(D) Adverse Decision. If any decision adverse to the applicant or licensee is made by the Board of Works, after a hearing as provided above, the Board of Works shall provide the applicant or licensee with a written reason for such decision.

[Ord. G-95-10, passed 7-25-95]

§117.08 LICENSE LOCATION

(A) Display required. All establishments, licensed under this Chapter, shall display their

licenses in a visible location in the establishment for which the license was issued.

(B) Annual Term. Each license shall remain valid for a period of one calendar year from the date of issuance unless otherwise suspended or revoked. Such license must be renewed annually, and any renewal shall be for a term of one year.

[Ord. G-95-10, passed 7-25-95; Ord. G-09-17, passed 12-22-09]

§117.09 TRANSFER OF LICENSE

A licensed establishment may be moved to another location providing:

(A) The location meets all the requirements of this Chapter; and

(B) The Chief of Police is notified in writing a minimum of thirty (30) days in advance of the move.

[Ord. G-95-10, passed 7-25-95]

§117.10 FACILITIES NECESSARY

No license to operate a massage establishment shall be issued unless an inspection by the City of New Haven reveals that the establishment complies with each of the following minimum requirements:

(A) Construction of rooms used for toilets, tubs, steam baths and showers shall be made waterproof with approved waterproofed materials, and shall be installed in accordance with the Allen County Building Code.

(B) The premise shall have adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massages. Such nondisposable instruments and materials shall be disinfected after use on each patron.

(C) Closed cabinets shall be provided and used for the storage of clean linen, towels and other materials used in connection with administering massages. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.

(D) A single water closet shall be provided for each twenty (20) or fewer employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the set accommodated therein.

(E) Lavatories or washbasins provided with both hot and cold running water shall be installed in each restroom. Lavatories or washbasins shall be provided with soap and a dispenser and with sanitary towels.

[Ord. G-95-10, passed 7-25-95; Ord. G-09-17, passed 12-22-09]

§117.11 OPERATING REQUIREMENTS

(A) Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.

(B) Prices for all services shall be prominently posted in the reception area in a location available to all prospective customers. No service will be performed for which a price is not posted.

(C) A separate dressing room for each employee and each patron must be available on the premises with individual lockers for each. Doors to such dressing rooms shall open inward and shall be self-closing.

(D) All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity, and shall be laundered after each use thereof, and stored in a sanitary manner.

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

[Ord. G-95-10, passed 7-25-95]

§117.12 PERSONS UNDER AGE EIGHTEEN (18) PROHIBITED ON PREMISES

No person shall permit any person under the age of eighteen (18) years to come to or remain on the premises of any massage establishment, as massagist, employee, or patron without prior written consent from a parent or guardian.

[Ord. G-95-10, passed 7-25-95; Ord. G-09-17, passed 12-22-09]

§117.13 HOURS

No massage establishment shall be kept open for any purpose between the hours of 10:00 p.m. and 8:00 a.m.

[Ord. G-95-10, passed 7-25-95]

§117.14 INSPECTION REQUIRED

(A) It shall be the duty of the Chief of Police through duly authorized representatives to inspect massage establishments from time to time to determine compliance with this Chapter.

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

(C) Upon showing the proper credentials, the representatives of the Chief of Police shall be entitled to inspect portions of the massage establishment open to the public to determine compliance with this Chapter.

[Ord. G-95-10, passed 7-25-95]

§117.15 UNLAWFUL ACTS

(A) It shall be unlawful for any person, in a massage establishment, to place his or her hand or hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage, the breast, genital organ, or pubic area of any other person.

(B) It shall be unlawful for any person, in a massage establishment, to expose his or her genital organ, or if female, the nipple or areola of her breast, to any other person.

(C) It shall be unlawful for any person owning, operating or managing a massage establishment to cause, allow or permit on the premises of such establishment, any person to perform such acts prohibited in subsections (A) or (B) of this section.

(D) It shall be unlawful for any massage service to be carried on within any cubicle, room, booth, or area within a massage establishment which is fitted with a door capable of being locked.

[Ord. G-95-10, passed 7-25-95; Ord. G-09-17, passed 12-22-09]

§117.16 NAME AND PLACE OF BUSINESS

No person granted a license pursuant to this Chapter shall operate the massage establishment under a name not specified in his/her license, nor shall he/she conduct business under any designation or location not specified in the license.

[Ord. G-95-10, passed 7-25-95]

§117.17 TIME LIMIT FOR FILING

Applications for renewals of licenses must be filed not more than sixty (60) days nor less than thirty (30) days prior to termination of an existing license.

[Ord. G-95-10, passed 7-25-95]

§117.18 VIOLATION AND PENALTY

(A) Any license under this Chapter violating any provision thereof shall be subject to license revocation or suspension pursuant to the provisions of this Chapter.

(B) Any person who violates any provision of this Chapter shall be subject to a fine of not less than three hundred dollars ($300.00) and not more than two thousand five hundred dollars ($2,500.00). Each day such violation is committed or permitted to continue shall constitute a separate violation.

[Ord. G-95-10, passed 7-25-95]

§117.19 MAINTAINING PUBLIC NUISANCE

Any building used as a massage establishment in violation of this Chapter, with the actual or constructive knowledge of the owner thereof, or of the agent of the owner managing such building, together with all fixtures and other property used in conjunction with the operation of said building, are hereby declared to be a public nuisance.

[Ord. G-95-10, passed 7-25-95; Ord. G-09-17, passed 12-22-09]

§117.20 SEVERABILITY

Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of said Ordinance shall not be affected thereby.

[Ord. G-95-10, passed 7-25-95]

§117.21 CURRENT ESTABLISHMENTS

All massage establishments must comply with the provisions of this Chapter within ten (10) days after the effective date hereof.

[Ord. G-95-10, passed 7-25-95]

CHAPTER 118: SEXUALLY ORIENTED BUSINESSES

Section

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§118.01 PURPOSE; FINDINGS AND RATIONALE

(a) *Purpose*. It is the purpose of this Chapter to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City. The provisions of this Chapter have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Chapter to condone or legitimize the distribution of obscene material.

(b) *Findings and Rationale*. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Common Council, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); and

Plaza Group Properties, LLC v. Spencer County Plan Commission, 877 N.E.2d 877 (Ind. Ct. App. 2007); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *Andy's Restaurant & Lounge, Inc. v. City of Gary*, 466 F.3d 550 (7th Cir. 2006); *Schultz v. City of Cumberland*, 26 F. Supp. 2d 1128 (W.D. Wisc. 1998), *aff'd in part, rev'd in part*, 228 F.3d 831 (7th Cir. 2000); *Blue Canary Corp. v. City of Milwaukee*, 270 F.3d 1156 (7th Cir. 2001); *Matney v. County of Kenosha*, 86 F.3d 692 (7th Cir. 1996); *Berg v. Health & Hospital Corp.*, 865 F.2d 797 (7th Cir. 1989); *DiMa Corp. v. Town of Hallie*, 185 F.3d 823 (7th Cir. 1999); *Graff v. City of Chicago*, 9 F.3d 1309 (7th Cir. 1993); *North Avenue Novelties, Inc. v. City of Chicago*, 88 F.3d 441 (7th Cir. 1996); *Chulchian v. City of Indianapolis*, 633 F.2d 27 (7th Cir. 1980); *Bigg Wolf Discount Video v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *County of Cook v. Renaissance Arcade and Bookstore*, 122 Ill. 2d 123 (1988) (including cases cited therein); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *LLEH, Inc. v. Wichita County*, 289 F.3d 358 (5th Cir. 2002); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Richland Bookmart, Inc. v. Knox County*, 555 F.3d 512 (6th Cir. 2009); *Richland Bookmart, Inc. v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *City of New York v. Hommes*, 724 N.E.2d 368 (N.Y. 1999); *For the People Theatres of N.Y., Inc. v. City of New York*, 793 N.Y.S.2d 356 (N.Y. App. Div. 2005); *Taylor v. State*, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *Z.J. Gifts D-4, L.L.C. v. City of*

Littleton, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); *People ex rel. Deters v. The Lion's Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); *Reliable Consultants, Inc. v. City of Kennedale*, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005);

and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Chattanooga, Tennessee - 1999-2003; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Ft. Worth, Texas – 2004; Kennedale, Texas – 2005; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; Jackson County, Missouri – 2008; Louisville, Kentucky – 2004; New York, New York Times Square - 1994; and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota),

the Common Council finds:

(1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.

(2) Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the City's rationale for this Chapter, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the City's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the City. The City finds that the cases and documentation relied on in this Chapter are reasonably believed to be relevant to said secondary effects.

The City hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses, including the judicial opinions and reports related to such secondary effects.

§118.02 DEFINITIONS

For purposes of this Chapter, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

"*Adult Bookstore or Adult Video Store*" means a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas." A "principal business activity" exists where the commercial establishment meets any one or more of the following criteria:

(a) At least 35% of the establishment's displayed merchandise consists of said items, or

(b) At least 35% of the wholesale value of the establishment's displayed merchandise consists of said items, or

(c) At least 35% of the retail value (defined as the price charged to customers) of the establishment's displayed merchandise consists of said items, or

(d) At least 35% of the establishment's revenues derive from the sale or rental, for any form of consideration, of said items, or

(e) The establishment maintains at least 35% of its floor space for the display, sale, and/or rental of said items (aisles and walkways used to access said items shall be included in "floor space" maintained for the display, sale, or rental of said items); or

(f) The establishment maintains at least five hundred square feet (500 sq. ft.) of its floor space for the display, sale, and/or rental of said items (aisles and walkways used to access said items shall be included in "floor space" maintained for the display, sale, or rental of said items); or

(g) The establishment regularly offers for sale or rental at least two thousand (2,000) of said items; or

(h) The establishment regularly features said items and regularly advertises itself or holds itself out, by using "adult," "adults-only,' "XXX," "sex," "erotic," "novelties," or substantially similar language, as an establishment that caters to adult sexual interests; or

(i) The establishment maintains an "adult arcade," which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or "specified anatomical areas."

"*Adult Cabaret*" means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, regardless of whether alcoholic beverages are served, which regularly features live conduct characterized by semi-nudity. No establishment shall avoid classification as an adult cabaret by offering or featuring nudity.

"*Adult Motion Picture Theater*" means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas" are regularly shown to more than five persons for any form of consideration.

"*Characterized by*" means describing the essential character or quality of an item. As applied in this Chapter, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

"*City*" means New Haven, Indiana.

"*Employ, Employee, and Employment*" describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

"*Establish or Establishment*" means and includes any of the following:

(a) The opening or commencement of any sexually oriented business as a new business;

(b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or

(c) The addition of any sexually oriented business to any other existing sexually oriented business.

"*Floor Space*" means the floor area inside a sexually oriented business that is visible or accessible to patrons for any reason, excluding restrooms.

"*Hearing Officer*" means an attorney, not otherwise employed by the City, who is licensed to practice law in Indiana, and retained to serve as an independent tribunal to conduct hearings under this Chapter.

"*Influential Interest*" means any of the following: (1) the actual power to operate the sexually oriented business or control the operation, management or policies of the sexually oriented business or legal entity which operates the sexually oriented business, (2) ownership of a financial interest of thirty percent (30%) or more of a business or of any class of voting securities of a business, or (3) holding an office (e.g., president, vice president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates the sexually oriented business.

"*Licensee*" means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a

sexually oriented business license. In the case of an "employee," it shall mean the person in whose name the sexually oriented business employee license has been issued.

"*Nudity*" means the showing of the human male or female genitals, pubic area, vulva, or anus with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

"*Operator*" means any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business regardless of whether that person is an owner, part owner, or licensee of the business.

"*Person*" means an individual, proprietorship, partnership, corporation, association, or other legal entity.

"*Premises*" means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a sexually oriented business license.

"*Regularly*" means the consistent and repeated doing of an act on an ongoing basis.

"*Semi-Nude or Semi-Nudity*" means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

"*Semi-Nude Model Studio*" means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. This definition does not apply to any place where persons appearing in a state of semi-nudity did so in a class operated:

(a) By a college, junior college, or university supported entirely or partly by taxation;

(b) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(c) In a structure:

(1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and

(2) Where, in order to participate in a class a student must enroll at least three days in advance of the class.

"*Sexual Device*" means any three (3) dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

"*Sexual Device Shop*" means a commercial establishment that regularly features sexual devices. This definition shall not be construed to include any pharmacy, drug store, medical clinic, any establishment primarily dedicated to providing medical or healthcare products or services, or any establishment that does not limit access to its premises or a portion of its premises to adults only.

"*Sexually Oriented Business*" means an "adult bookstore or adult video store," an "adult cabaret," an "adult motion picture theater," a "semi-nude model studio," or a "sexual device shop."

"*Specified Anatomical Areas*" means and includes:

(a) Less than completely and opaquely covered: human genitals, pubic region; buttock; and female breast below a point immediately above the top of the areola; and

(b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"*Specified Criminal Activity*" means any of the following specified crimes for which less than five years has elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

(a) rape, sexual assault, public indecency, statutory rape, rape of a child, sexual exploitation of a minor, indecent exposure;

(b) prostitution, patronizing prostitution, promoting prostitution;

(c) obscenity;

(d) dealing in controlled substances;

(e) racketeering, tax evasion, money laundering;

(f) any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or

(g) any offense in another jurisdiction that, had the predicate act(s) been committed in Indiana, would have constituted any of the foregoing offenses.

"*Specified Sexual Activity*" means any of the following:

(a) intercourse, oral copulation, masturbation or sodomy; or

(b) excretory functions as a part of or in connection with any of the activities described in (a) above.

"*Transfer of Ownership or Control*" of a sexually oriented business means any of the following:

(a) The sale, lease, or sublease of the business;

(b) The transfer of securities which constitute an influential interest in the business, whether by sale, exchange, or similar means; or

(c) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

"*Viewing Room*" means the room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video reproduction.

§118.03 LICENSE REQUIRED

(a) *Business License*. It shall be unlawful for any person to operate a sexually oriented business in the City without a valid sexually oriented business license.

(b) *Employee License*. It shall be unlawful for any person to be an "employee," as defined in this Chapter, of a sexually oriented business in the City without a valid sexually oriented business employee license, except that a person who is a licensee under a valid sexually oriented business license shall not be required to also obtain a sexually oriented business employee license.

(c) *Application*. An applicant for a sexually oriented business license or a sexually oriented business employee license shall file in person at the office of the New Haven Chief of Police a completed application made on a form provided by the Chief of Police. A sexually oriented business may designate an individual with an influential interest in the business to file its application for a sexually oriented business license in person on behalf of the business. The application shall be signed as required by subsection (d) herein and shall be notarized. An application shall be considered complete when it contains, for each person required to sign the application, the information and/or items required in this subsection (c), accompanied by the appropriate licensing fee:

(1) The applicant's full legal name and any other names used by the applicant in the preceding five (5) years.

(2) Current business address or another mailing address for the applicant.

(3) Written proof of age, in the form of a driver's license, a picture identification document containing the applicant's date of birth issued by a governmental agency, or a copy of a birth certificate accompanied by a picture identification document issued by a governmental agency.

(4) If the application is for a sexually oriented business license, the business name, location, legal description, mailing address and phone number of the sexually oriented business.

(5) If the application is for a sexually oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process.

(6) A statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in this Chapter, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable.

(7) A statement of whether any sexually oriented business in which an applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):

(i) been declared by a court of law to be a nuisance; or

(ii) been subject to a court order of closure or padlocking.

(8) An application for a sexually oriented business license shall be accompanied by a legal description of the property where the business is located and a sketch or diagram showing the configuration of the premises, including a statement of total floor area occupied by the business and a statement of floor area visible or accessible to patrons for any reason, excluding restrooms. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. Applicants who are required to comply with the stage, booth, and/or room configuration requirements of this Chapter shall submit a diagram indicating that the setup and configuration of the premises meets the requirements of the applicable regulations. The Chief of Police may waive the requirements of this subsection (8) for a renewal application if the applicant adopts a legal description and a sketch or diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

The information provided pursuant to this subsection (c) shall be supplemented in writing by certified mail, return receipt requested, to the Chief of Police within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.

(d) *Signature*. A person who seeks a sexually oriented business employee license under this section shall sign the application for a license. If a person who seeks a sexually oriented business license under this section is an individual, he shall sign the application for a license as applicant. If a person who seeks a sexually oriented business license is other than an individual, each person with an influential interest in the sexually oriented business or in a legal entity that controls the sexually oriented business shall sign the application for a license as applicant. Each applicant must be qualified under this Chapter and each applicant shall be considered a licensee if a license is granted.

(e) The information provided by an applicant in connection with an application for a license under this Chapter shall be maintained by the office of the Chief of Police on a confidential basis, and such information may be disclosed only as may be required, and only to the extent required, by governing law or court order. Any information protected by the right to privacy as recognized by state or federal law shall be redacted prior to such disclosure.

§118.04 ISSUANCE OF LICENSE

(a) *Business License*. Upon the filing of a completed application for a sexually oriented business license, the Chief of Police shall immediately issue a Temporary License to the applicant if the completed application is from a preexisting sexually oriented business that is lawfully operating in the City and the completed application, on its face, indicates that the applicant is entitled to an annual sexually oriented business license. The Temporary License shall expire upon the final decision of the City to deny or grant an annual license. Within twenty (20) days of the filing of a completed sexually oriented business license application, the Chief of Police shall either issue a license to the applicant or issue a written notice of intent to deny a license to the applicant. The Chief of Police shall issue a license unless:

(1) An applicant is less than eighteen (18) years of age.

(2) An applicant has failed to provide information required by this Chapter for issuance of a license or has falsely answered a question or request for information on the application form.

(3) The license application fee required by this Chapter has not been paid.

(4) The sexually oriented business, as defined herein, is not in compliance with the interior configuration requirements of this Chapter or is not in compliance with the locational requirements of any other part of the New Haven Code.

(5) Any sexually oriented business in which an applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):

(i) been declared by a court of law to be a nuisance; or

(ii) been subject to an order of closure or padlocking.

(6) An applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this Chapter.

(b) *Employee License*. Upon the filing of a completed application for a sexually oriented business employee license, the Chief of Police shall immediately issue a Temporary License to the applicant if the applicant seeks licensure to work in a licensed sexually oriented business and the completed application, on its face, indicates that the applicant is entitled to an annual sexually oriented business employee license. The Temporary License shall expire upon the final decision of the City to deny or grant an annual license. Within twenty (20) days of the filing of a completed sexually oriented business employee license application, the Chief of Police shall either issue a license to the applicant or issue a written notice of intent to deny a license to the applicant. The Chief of Police shall issue a license unless:

(1) The applicant is less than eighteen (18) years of age.

(2) The applicant has failed to provide information as required by this Chapter for issuance of a license or has falsely answered a question or request for information on the application form.

(3) The license application fee required by this Chapter has not been paid.

(4) Any sexually oriented business in which the applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):

(i) been declared by a court of law to be a nuisance; or

(ii) been subject to an order of closure or padlocking.

(5) The applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this Chapter.

(c) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be read at any time that the business is occupied by patrons or is open to the public. A sexually oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing.

§118.05 FEES

The initial license and annual renewal fees for sexually oriented business licenses and sexually oriented business employee licenses shall be as follows: one hundred dollars ($100) for the initial fee for a sexually oriented business license and fifty dollars ($50) for annual renewal; fifty dollars ($50) for the initial sexually oriented business employee license and twenty-five dollars ($25) for annual renewal.

§118.06 INSPECTION

Sexually oriented businesses and sexually oriented business employees shall permit the Chief of Police and his or her agents to inspect, from time to time on an occasional basis, the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this Chapter, during those times when the sexually oriented business is occupied by patrons or is open to the public. This section shall be narrowly construed by the City to authorize reasonable inspections of the licensed premises pursuant to this Chapter, but not to authorize a harassing or excessive pattern of inspections.

§118.07 EXPIRATION AND RENEWAL OF LICENSE

(a) Each license shall remain valid for a period of one calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in this Chapter.

(b) Application for renewal of an annual license should be made at least ninety (90) days before the expiration date of the current annual license, and when made less than ninety (90) days before the expiration date, the expiration of the current license will not be affected.

§118.08 SUSPENSION

(a) The Chief of Police shall issue a written notice of intent to suspend a sexually oriented business license for a period not to exceed thirty (30) days if the sexually oriented business licensee has knowingly or recklessly violated this Chapter or has knowingly or recklessly allowed an employee or any other person to violate this Chapter.

(b) The Chief of Police shall issue a written notice of intent to suspend a sexually oriented business employee license for a period not to exceed thirty (30) days if the employee licensee has knowingly or recklessly violated this Chapter.

§118.09 REVOCATION

(a) The Chief of Police shall issue a written notice of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if the licensee knowingly or recklessly violates this Chapter or has knowingly or recklessly allowed an employee or any other person to violate this Chapter and a suspension of the licensee's license has become effective within the previous twelve-month (12-mo.) period.

(b) The Chief of Police shall issue a written notice of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if:

(1) The licensee has knowingly given false information in the application for the sexually oriented business license or the sexually oriented business employee license;

(2) The licensee has knowingly or recklessly engaged in or allowed possession, use, or sale of controlled substances on the premises of the sexually oriented business;

(3) The licensee has knowingly or recklessly engaged in or allowed prostitution on the premises of the sexually oriented business;

(4) The licensee knowingly or recklessly operated the sexually oriented business during a period of time when the license was finally suspended or revoked;

(5) The licensee has knowingly or recklessly engaged in or allowed any specified sexual activity or specified criminal activity to occur in or on the premises of the sexually oriented business; or

(6) The licensee has knowingly or recklessly allowed a person under the age of eighteen (18) years to consume alcohol or appear in a state of semi-nudity or nudity on the premises of the sexually oriented business.

(c) The fact that any relevant conviction is being appealed shall have no effect on the revocation of the license, provided that, if any conviction which serves as a basis of a license revocation is overturned or reversed on appeal, that conviction shall be treated as null and of no effect for revocation purposes.

(d) When, after the notice and hearing procedure described in this Chapter, the City revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued a sexually oriented business license or sexually oriented business employee license for one (1) year from the date revocation becomes effective.

§118.10 HEARING; LICENSE DENIAL, SUSPENSION, REVOCATION; APPEAL

(a) When the Chief of Police issues a written notice of intent to deny, suspend, or revoke a license, the Chief of Police shall immediately send such notice, which shall include the

specific grounds under this Chapter for such action, to the applicant or licensee (respondent) by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the Chief of Police for the respondent. The notice shall also set forth the following: The respondent shall have ten (10) days after the delivery of the written notice to submit, at the office of the Chief of Police, a written request for a hearing. If the respondent does not request a hearing within said ten (10) days, the Chief of Police's written notice shall become a final denial, suspension, or revocation, as the case may be, on the thirtieth (30th) day after it is issued, and shall be subject to the provisions of subsection (b) of this Section.

If the respondent does make a written request for a hearing within said ten (10) days, then the Chief of Police shall, within ten (10) days after the submission of the request, send a notice to the respondent indicating the date, time, and place of the hearing. The hearing shall be conducted not less than ten (10) days nor more than twenty (20) days after the date that the hearing notice is issued. The City shall provide for the hearing to be transcribed.

At the hearing, the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the Chief of Police's witnesses. The Chief of Police shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two (2) days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The Hearing Officer shall issue a final written decision, including specific reasons for the decision pursuant to this Chapter, to the respondent within five (5) days after the hearing.

If the decision is to deny, suspend, or revoke the license, the decision shall advise the respondent of the right to appeal such decision to a court of competent jurisdiction, and the decision shall not become effective until the thirtieth (30th) day after it is rendered. If the Hearing Officer's decision finds that no grounds exist for denial, suspension, or revocation of the license, the Hearing Officer shall, contemporaneously with the issuance of the decision, order the Chief of Police to immediately withdraw the intent to deny, suspend, or revoke the license and to notify the respondent in writing by certified mail of such action. If the respondent is not yet licensed, the Chief of Police shall contemporaneously therewith issue the license to the applicant.

(b) If any court action challenging a licensing decision is initiated, the City shall prepare and transmit to the court a transcript of the hearing within thirty (30) days after receiving written notice of the filing of the court action. The City shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings. The following shall apply to any sexually oriented business that is lawfully operating as a sexually oriented business, or any sexually oriented business employee that is lawfully employed as a sexually oriented business employee, on the date on which the completed business or employee application, as applicable, is filed with the Chief of Police: Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the City's enforcement of any denial, suspension, or revocation of a Temporary License or annual license, the Chief of Police shall immediately issue the respondent

a Provisional License. The Provisional License shall allow the respondent to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the court's entry of a judgment on the respondent's appeal or other action to restrain or otherwise enjoin the City's enforcement.

§118.11 TRANSFER OF LICENSE

A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application.

§118.12 HOURS OF OPERATION

No sexually oriented business shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day.

§118.13 REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS ON PREMISES

(a) A person who operates or causes to be operated a sexually oriented business which exhibits in a booth or viewing room on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.

(1) Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain equipment for displaying films, video cassettes, digital video discs, or other video reproductions. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The Chief of Police may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(2) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

(3) The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.

(4) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no specified sexual activity occurs in or on the licensed premises.

(5) It shall be the duty of the operator to post conspicuous signs in well-lighted entry areas of the business stating all of the following:

(i) That the occupancy of viewing rooms less than 150 square feet is limited to one person.
(ii) That specified sexual activity on the premises is prohibited.
(iii) That the making of openings between viewing rooms is prohibited.
(iv) That violators will be required to leave the premises.
(v) That violations of these regulations are unlawful.

(6) It shall be the duty of the operator to enforce the regulations articulated in (5)(i) though (iv) above.

(7) The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

(8) It shall be the duty of the operator to ensure that no porous materials are used for any wall, floor, or seat in any booth or viewing room.

(b) It shall be unlawful for a person having a duty under subsections (a)(1) through (a)(8) to knowingly or recklessly fail to fulfill that duty.

(c) No patron shall knowingly or recklessly enter or remain in a viewing room less than 150 square feet in area that is occupied by any other patron.

(d) No patron shall knowingly or recklessly be or remain within one foot of any other patron while in a viewing room that is 150 square feet or larger in area.

(e) No person shall knowingly or recklessly make any hole or opening between viewing rooms.

§118.14 LOITERING, EXTERIOR LIGHTING AND MONITORING, AND INTERIOR LIGHTING REQUIREMENTS

(a) It shall be the duty of the operator of a sexually oriented business to: (i) ensure that at least two conspicuous signs stating that no loitering is permitted on the premises are posted on the premises; (ii) designate one or more employees to monitor the activities of persons on the premises by visually inspecting the premises at least once every ninety (90) minutes or inspecting the premises by use of video cameras and monitors; and (iii) provide lighting to the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. Said lighting shall be of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one (1.0) foot candle as measured at the floor level. If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within an operator's station.

(b) It shall be the duty of the operator of a sexually oriented business to ensure that the interior premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level and the illumination must be maintained at all times that any customer is present in or on the premises.

(c) No sexually oriented business shall erect a fence, wall, or similar barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right of way.

(d) It shall be unlawful for a person having a duty under this section to knowingly or recklessly fail to fulfill that duty.

§118.15 REMEDIES

(a) Any premises on which repeated violations of the Chapter occur shall constitute a public nuisance. For purposes of this Chapter, "repeated violations" shall mean three or more violations of this Chapter within a one (1) year period dating from the time of any violation.

(b) The City's legal counsel is hereby authorized to institute civil proceedings to enjoin, restrain, or correct violations of this Chapter. Such proceedings shall be brought in the name of the City, provided, however, that nothing in this section and no action taken hereunder, shall be held to exclude such proceedings as may be authorized by other provisions of this

Chapter, or any of the laws in force in the City, or to exempt anyone violating this code or any part of said laws from any liability which may be incurred.

(c) A first violation of this Chapter shall be punishable by a fine in the amount of two thousand five hundred dollars ($2,500.00). A second or subsequent violation of this Chapter shall be punishable by a fine in the amount of seven thousand five hundred dollars ($7,500.00). Each day a violation is committed, or permitted to continue, shall constitute a separate offense and shall be fined as such.

§118.16 APPLICABILITY OF CHAPTER TO EXISTING BUSINESSES

All preexisting sexually oriented businesses lawfully operating in the City in compliance with all state and local laws prior to the effective date of this Chapter, and all sexually oriented business employees working in the City prior to the effective date of this Chapter, are hereby granted a *De Facto* Temporary License to continue operation or employment for a period of ninety (90) days following the effective date of this Chapter. By the end of said ninety (90) days, all sexually oriented businesses and sexually oriented business employees must conform to and abide by the requirements of this Chapter.

§118.17 PROHIBITED CONDUCT

(a) No patron, employee, or any other person shall knowingly or intentionally, in a sexually oriented business, appear in a state of nudity or engage in a specified sexual activity.

(b) No person shall knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the person is an employee who, while semi-nude, remains at least six (6) feet from all patrons and on a stage at least eighteen (18) inches from the floor in a room of at least six hundred (600) square feet.

(c) No employee who regularly appears semi-nude in a sexually oriented business shall knowingly or intentionally touch a customer or the clothing of a customer on the premises of a sexually oriented business.

(d) No person shall possess, use, or consume alcoholic beverages on the premises of a sexually oriented business.

(e) No person shall knowingly or recklessly allow a person under the age of eighteen (18) years to be or remain on the premises of a sexually oriented business.

(f) No operator or licensee of a sexually oriented business shall knowingly violate the regulations in this section or knowingly allow an employee or any other person to violate the regulations in this section.

(g) A sign in a form to be prescribed by the Chief of Police, and summarizing the provisions of subsections (a), (b), (c), (d), and (e), shall be posted near the entrance of the sexually oriented business in such a manner as to be clearly visible to patrons upon entry. No person shall cover, obstruct, or obscure said sign.

§118.18 SCIENTER REQUIRED TO PROVE VIOLATION OR BUSINESS LICENSEE LIABILITY

This Chapter does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this Chapter. Notwithstanding anything to the contrary, for the purposes of this Chapter, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually oriented business licensee for purposes of finding a violation of this Chapter, or for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

§118.19 FAILURE OF CITY TO MEET DEADLINE NOT TO RISK APPLICANT/LICENSEE RIGHTS

In the event that a City official is required to act or to do a thing pursuant to this Chapter within a prescribed time, and fails to act or to do such thing within the time prescribed, said failure shall not prevent the exercise of constitutional rights of an applicant or licensee. If the act required of the City official under this Chapter, and not completed in the time prescribed, includes approval of condition(s) necessary for approval by the City of an applicant or licensee's application for a sexually oriented business license or a sexually oriented business employee's license (including a renewal), the license shall be deemed granted and the business or employee allowed to commence operations or employment the day after the deadline for the City's action has passed.

§118.20 SEVERABILITY

This Chapter and each section and provision of said Chapter hereunder, are hereby declared to be independent divisions and subdivisions and, not withstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said Chapter, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid. Should any procedural aspect

of this Chapter be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this Chapter.

§118.21 CONFLICTING CODE PROVISIONS REPEALED

Any provision(s) in the New Haven Code of Ordinances specifically in conflict with any provision in this Chapter is hereby deemed inoperative and repealed.

§118.22 EFFECTIVE DATE

This Chapter shall become effective as provided by law.

[Ord. No. G-09-15, passed 12-14-09]

CHAPTER 119: OUTDOOR DINING AREA

Section

119.01 Outdoor Dining Area

§119.01 OUTDOOR DINING AREA

Any dining establishment in New Haven may close, from March 1st to December 15th, a portion of a public sidewalk for the purpose of operating a sidewalk cafe subject to the following conditions and limitations:

1. The New Haven Board of Public Works shall have the authority to grant written permission on written requests submitted by food establishments, reading or drinking places within the City of New Haven.

2. A person or entity may submit an application to the Board of Public Work containing the following information:

A. A brief description of the plans to situate the outdoor dining area, including furniture.

B. Written proof of liability insurance naming the City of New Haven as a co-insured in a form and amount satisfactory to the City Attorney and the underwriter of the City's general liability insurance carrier.

C. For an applicant who wishes to serve alcohol, the following additional requirements and conditions apply:

(i) The applicant must comply with all provisions of I.C. §7.1-3-9-2.

(ii) The applicant shall provide a copy of materials submitted to the Indiana Alcohol & Tobacco Commission as part of its application under this Ordinance.

(iii) A violation of any rule of the Indiana Alcohol & Tobacco Commission shall be grounds for immediate revocation of a permit.

(iv) Written approval must be received from the Indiana Alcohol & Tobacco Commission pursuant to 905 IAC 1-41-4(a) and a copy thereof submitted to, and maintained by, the New Haven Clerk-Treasurer. Any condition placed on the applicant by the Indiana Alcohol & Tobacco Commission shall also be a condition for approval pursuant to this Ordinance.

(v) The dining area shall not be considered part of any "alcohol-free zone" previously established by the New Haven Code, under prior Ordinance G-92-3.

3. The following rules shall apply to any sidewalk dining area:

A. The outdoor dining area shall not be conducted in such a way as to

become a public nuisance.

B. The outdoor dining area shall at all times leave at least 4 feet of flat sidewalk for pedestrian and wheelchair traffic, free from obstructions.

C. The outdoor dining area shall be made available to patrons of the permittee only and no pass through or window service shall be permitted.

D. The outdoor dining area shall be kept in a neat and orderly fashion in appearance and shall be kept free from refuse and debris.

E. The owner of any establishment shall be held strictly liable for any damage to City property within the dining area and failure to pay for any such damage shall be grounds to deny or refuse to renew a permit.

F. No furniture, umbrella or other material placed on the sidewalk by the owner shall obstruct the clear vision of any street sign or traffic regulatory sign.

G. Stereo systems, stereo speakers or audio devices for sound reproduction may be operated in the sidewalk dining area.

H. The owner of any establishment must comply with all state and local fire and building codes.

4. Once approved, the Board of Public Works shall issue a permit good for one year from the date of approval. The Board of Public Works shall review the permit, annually, and decide whether to renew the permit. In deciding whether to grant or renew a permit, the Board of Public Works shall use the criteria set forth above.

[Ord. G-09-03, passed 3-24-09; G-09-15, passed 12-14-09]

TITLE XIII: GENERAL OFFENSES

CHAPTER 130: PERSONS AND PROPERTY

CHAPTER 131: PUBLIC PEACE

CHAPTER 132: SYNTHETIC CANABINOID

CHAPTER 130: PERSONS AND PROPERTY

Section

130.01 Discrimination
130.02 Damaging Street Signs or Guide Posts
130.03 Weapons
130.04 Defacing, Damaging, or Destroying Public Buildings or Property

130.99 Penalty

§130.01 DISCRIMINATION

(A) General provision. It shall be unlawful for any person to commit any act of discrimination or engage in any discriminary practice as defined in this section.

(B) Discrimination in the sale or rental of housing or other real property. It shall be unlawful for any owner, real estate broker, salesperson, or other person or any agent thereof:

(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, national origin, or handicap.

(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 or facilities in connection therewith, because of race, color, religion, sex, national origin, or handicap.

(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, national origin, or handicap, or an intention to make any such preference, limitation, or discrimination.

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

(C) Discrimination in financing of real estate. It shall be unlawful for any person whose business consists in whole or in part in the appraising of property or the making of real estate loans, to deny a loan or other financial assistance to an applicant therefor, or to discriminate against such applicant in the fixing or amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, or to make a lower appraisal valuation because of the race, sex, color, religion, national origin, or handicap of the applicant, or of any person connected with the applicant in connection with the loan or other financial assistance or the purposes of the loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which the loan or other financial assistance is to be made or given; or because of the presence or absence, or the prospective presence or absence, within a neighborhood of concentrations of persons of a particular race, sex, handicap, color, religion, or national origin.

(D) Discrimination in employment.

(1) It shall be unlawful for any person to discriminate against any person by treating the person differently or by excluding from or failing or refusing to extend to any person equal opportunities with respect to hiring, termination, compensation, or other

terms, conditions, or privileges of employment, because of race, sex, color, religion, national origin, or handicap.

(2) It shall be unlawful for any employer to fail to make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped employee or prospective employee, or to fail to make reasonable accommodations to the religious observance or practice of any employee or prospective employee, unless the employer can demonstrate that the accommodation would impose an undue hardship on the conduct of the employer's business.

(3) It shall be unlawful for any person to make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement with respect to employment that indicates a preference, limitation, specification, or discrimination based on race, sex, religion, color, national origin, or handicap.

(E) Discrimination by labor organizations. It shall be unlawful for a labor organization:

(1) To exclude or expel from its membership, or otherwise to discriminate against any individual because of race, color, religion, sex, national origin, or handicap.

(2) To limit, segregate, or classify its membership, or applicants for membership, or to classify or fail or refuse to refer for employment any individual in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit employment opportunities, or otherwise adversely affect his or her status as an employee or as an applicant for employment, because of race, color, religion, sex, national origin, or handicap.

(3) To cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(F) Discrimination in public accommodations. It shall be unlawful for any person or establishment which caters or offers its services or facilities or goods to the general public to discriminate against anyone because of race, sex, color, religion, national origin or handicap.

(G) Discrimination in education. It shall be unlawful for any person, establishment, or governmental agency regularly engaged in the offering of educational services to discriminate against anyone because of race, sex, color, national origin, or handicap.

(H) Other unlawful practices.

(1) It shall be unlawful for any person to aid, abet, incite, compel, or coerce the doing of any act declared by this section to be unlawful.

(2) It shall be unlawful for any person knowingly to obstruct the fair and lawful enforcement of this section by coercing or intimidating any complainant or prospective

complainant, or any witness to any act made unlawful herein, or by destroying any records, documents, or other evidence relevant to any alleged unlawful discriminatory practice as defined in this section, after such person has received actual notice of a discrimination charge or has been served notice of a complaint filed.

(3) It shall be unlawful for any person to discriminate against any other person with regard to, or to deny any other person access to or opportunities in, employment, real estate transactions, education, or public accommodations because any such other person has opposed any practice made unlawful by this section, or because such other person has made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this section.

[Ord. G-84-13, passed 7-10-84]

§130.02 DAMAGING STREET SIGNS OR GUIDE POSTS

It is unlawful for any person to mutilate, destroy, tamper with, or damage any of the street signs and guide posts in the City.

[Ord. 571, passed 4-16-45]

§130.03 WEAPONS

(A) No person shall discharge, shoot, or fire any pistol, rifle, shotgun, air gun, pellet gun, or any spring or air operated gun capable of emitting projectiles, any slingshot, bow and arrow, crossbow, or any device designed to propel a projectile by explosives, or by air or by spring pressure within the corporate limits of the City except in cases where special written permission has been granted by the Chief of Police. Such permission given shall be revoked if unsafe and dangerous acts are evident.

(B) This Section shall not be construed as prohibiting discharge of a weapon:

(1) in defense of life or property under otherwise lawful circumstances;

(2) by law enforcement officers in performance of their duties;

(3) at public or private shooting ranges where permission has been granted by the Chief of Police to construct or operate said range, or

(4) by a person while engaged in farming as may be reasonable or necessary to the farming operation.

(C) The Chief of Police shall establish guidelines for permits; these guidelines shall be received and approved by Council at Council's discretion.

(D) An affected applicant/permittee may appeal denial of a permit to the Board of Works.

[Ord. G-94-18, passed 11-22-94]

§130.04 DEFACING, DAMAGING, OR DESTROYING PUBLIC BUILDINGS OR PROPERTY

It is unlawful for any person to deface, damage, destroy, or vandalize any public buildings or property of the City.

[Ord. G-12-64, passed 6-9-64]

§130.99 PENALTY

Any person violating any provision of this Chapter shall be fined an amount not to exceed Five Hundred Dollars ($500.00) for each offense.

[Ord. G-94-18, passed 11-22-94]

CHAPTER 131: PUBLIC PEACE

Section

131.01 Disorderly Conduct
131.02 Congregating in Public Places
131.03 Disturbing Place of Worship or Public Meetings
131.04 Interference with Public Officials Prohibited
131.05 Civil Emergencies
131.06 Curfew

131.99 Penalty

§131.01 DISORDERLY CONDUCT

It is unlawful for any person or persons to disturb the peace and quiet of the City or of its inhabitants by any of the following actions:

(A) Loud talking or the making of unusual noises;

(B) The crying of any alarm without good cause;

(C) Threatening any person, challenging him to fight, or menacing him with physical injury or pecuniary loss; or

(D) Accosting or approaching any person of the opposite sex unknown to the person and by word, sign, or gesture attempting to speak to or become acquainted with that person against his or her will, except in the transaction of legitimate business.

[Ord. G-12-71, passed 7-13-71]

§131.02 CONGREGATING IN PUBLIC PLACES

It is unlawful for any person to congregate or cause to be congregated a crowd of three or more persons on any public street, alley, sidewalk, parking lot, school or school grounds, building, or any other public place within the City so as to obstruct the same, hinder or annoy passers-by or occupants of adjacent premises, or interfere with the activities normally engaged in on the premises.

[Ord. G-12-71, passed 7-13-71]

§131.03 DISTURBING PLACE OF WORSHIP OR PUBLIC MEETINGS

It is unlawful for any person or persons within the City by any loud or unnecessary talking or shouting, any threatening, abusive, profane or obscene language or violent action, or by any other rude behavior, to interrupt, molest, annoy, or disturb any group of persons convened for the purpose of worship, or any meeting of persons met together for any lawful purpose.

[Ord. G-12-71, passed 7-13-71]

§131.04 INTERFERENCE WITH PUBLIC OFFICIALS PROHIBITED

It shall be unlawful for any person or persons to intentionally impede or interfere with, or attempt to impede or interfere with any policeman, fireman, or other City official in the performance of his duty or emergency functions.

[Ord. G-12-71, passed 7-13-71]

§131.05 CIVIL EMERGENCIES

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

(1) Civil Emergency. A riot or unlawful assembly characterized by the use of actual force or violence, or any threat to use force if accompanied by immediate power to execute the force, by three or more persons acting together without authority of law, or any natural disaster or man-made calamity including flood, conflagration, cyclone, tornado, earthquake, or explosion within the corporate limits of the City resulting in the death or injury of persons or the destruction of property, to such extent that extraordinary measures must be taken to protect the public health, safety, and welfare.

(2) Curfew. A prohibition against any person or persons walking, running, loitering, standing, or motoring upon any alley, street, highway, public property, or vacant premises within the corporate limits of the City during the hours in which a curfew has been imposed, except persons officially designated to duty with reference to civil emergency.

(B) Proclamation by Mayor. When in the judgment of the Mayor a civil emergency is deemed to exist, he shall forthwith proclaim in writing the existence of the civil emergency. In case of the absence of the Mayor from the City, the Chief of Police shall be authorized to act in his stead.

(C) Imposition of curfew. After proclamation of a civil emergency by the Mayor, he may order a general curfew applicable to any geographical areas of the City or to the City as a whole which he deems advisable and applicable, during those hours of the day or night which he deems necessary in the interest of the public safety and welfare.

(D) Additional regulations. After proclamation of a civil emergency, the Mayor may also in the interest of public safety and welfare, make any or all of the following orders:

(1) Order the closing of all retail liquor stores.

(2) Order the closing of all taverns.

(3) Order the closing of all private clubs or portions thereof wherein the consumption of intoxicating liquor or beer is permitted.

(4) Order the discontinuance of the sale of beer.

(5) Order the discontinuance of selling, distributing, or giving away gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.

(6) Order the closing of gasoline stations and other establishments, the chief activity of which is the sale, distribution, or dispensing of liquid flammable or combustible products.

(7) Order the discontinuance of selling, distributing, dispensing, or giving away of firearms or ammunition.

(8) Issue orders that are imminently necessary for the protection of life and property.

(E) Emergency powers. During the period of a declared state of emergency, the Mayor shall have the power to invoke any or all of the following provisions:

(1) Alcoholic beverages. No person shall consume any alcoholic beverages in a public street, a place which is publicly owned, or in any motor vehicle driven or parked thereon which is within a duly designated restricted area.

(2) Weapons. No person shall carry or possess any rock, bottle, club, brick, or weapon, who uses or intends to use the same unlawfully against the persons or property of another.

(3) Incendiary missiles. No person shall make, carry, possess, or use any type of "Molotov Cocktail," gasoline, petroleum-base fire bomb, or other incendiary missile.

(4) Restricted areas. No person shall enter any area designated by the Mayor as a restricted area unless in the performance of official duties or with written permission from the Mayor or his duly designated representative, or such person shall have a residence therein.

[Ord. G-12-71, passed 7-13-71]

§131.06 CURFEW

(A) It shall be unlawful for any person under the age of 16 years to be upon the public streets, alleys, public places, public grounds, or public thoroughfares of the City during the hours from 10:00 p.m. official City time to 5:00 a.m. official City time.

(B) It shall also be unlawful for any parent, guardian, or other adult person having the care and custody of any person under the age of 16 years knowingly to permit the minor person to be upon the streets, alleys, public places, public grounds, or public thoroughfares of the City during the above-mentioned hours.

(C) The provisions of this section shall not apply when the minor person is accompanied by parent, guardian, or other adult person having care or custody of the minor, or while the minor is engaged in some necessary business.

[Am. Ord. G-12-71, passed 7-13-71]

§131.99 PENALTY

Any person violating any provision of this Chapter or any order made by the Mayor of the City in accordance with the terms of this Chapter shall be punished by a fine of not more than $500.

[Ord. G-12-71, passed 7-13-71]

CHAPTER 132: SYNTHETIC CANNABINOID

Section

132.01 Synthetic Cannabinoid

§132.01 SYNTHETIC CANNABINOID

(A) It is hereby declared to be unlawful within the City of New Haven, for any person, including a corporation or other entity, to use, possess, purchase, attempt to purchase, sell, publicly display for sale or attempt to sell, give, or barter any synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity, such as the following:

(1) 1 cis or trans tetrahydrocannabinol, or its optical isomers;
(2) 6 cis or trans tetrahydrocannabinol, or its optical isomers; or
(3) 3, 4 cis or trans tetrahydrocannabinol, or its optical isomers.

Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions are similarly prohibited.

(B) This Section may be enforced by the City of New Haven Police Department, Code Enforcement Division, or Allen County Health Department. Any substance reasonably suspected to be described by Subsection (A) may be seized and held as evidence pending adjudication of the alleged violation.

(C) It is not an offense under Subsection (A) herein if the person was acting at the direction of an authorized law enforcement agent to enforce or ensure compliance with this law prohibiting the sale of the aforementioned substances.

(D) This Section does not apply to any person who commits any act described in this Section pursuant to the direction or prescription of a licensed physician or dentist authorized to direct such act or prescribe such substance. This Section likewise does not apply to the inhalation of anesthesia for a medical purpose or dental purpose.

(E) Any person found to be in violation of this Section will be subject to a civil fine of up to $2,500.00.

(F) Each day during which a violation of Subsection (A) occurs shall constitute a separate offense.

[Ord. No. G-10-5, passed 8-24-10]

TITLE XV: LAND USAGE

CHAPTER 150: SUBDIVISION CODE

CHAPTER 151: ZONING CODE

CHAPTER 152: ECONOMIC REVITALIZATION AREAS CODE

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CHAPTER 154: FLOODPLAIN MANAGEMENT CODE

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CHAPTER 150: SUBDIVISION CODE

Section

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GENERAL PROVISIONS

§150.01 AREA AFFECTED AND EXCLUDED CONVEYANCES

(A) Area affected. Except as provided in paragraph (B) of this Section, no root parcel of land which is located within the territorial jurisdictional area of the City Plan Commission shall be subdivided, unless the subdividing is in conformity with the provisions of this Chapter.

(B) Excluded conveyances. The following conveyances of lots, or parcels from a root parcel, of land by the titleholder of record thereof, are excluded from the necessity of conforming with the provisions of this Chapter:

(1) The conveyance of not more than two lots or parcels from a root parcel of land within any successive 12-month period of time; and

(2) Any number of lots or parcels conveyed from a root parcel of land, provided the lots or parcels so conveyed do not involve any new street or easement access, and provided further that the lots or parcels so created by conveyance are either:

(a) Ten acres or more and used for agricultural purposes; or

(b) Twenty acres and used for any purpose; provided, however, that there shall be no further division of, or conveyances from, the lots or parcels so created during the 12 months succeeding the creation by conveyance of said lots or parcels.

§150.02 RULES OF CONSTRUCTION

In this Chapter, words used in the present tense shall include the future, and the singular includes the plural and the singular. Unless otherwise specified, all distances shall be measured horizontally, in any direction.

§150.03 DEFINITIONS

As used in this Chapter, the following terms shall have the meanings given below unless the context clearly indicates otherwise:

A. Alley. A right-of-way, other than a street, road, crosswalk or easement, designed for the special accommodation of the property it reaches.

B. Arterial Street. An arterial street interconnects with expressways and freeways providing a continuous high mobility network which primarily services regional and intra-city traffic.

C. Block. Property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets, or the nearest intersecting or intercepting street and railroad right-of-way or waterway or the end of a dead-end street.

D. Board. The Board of Public Works and Safety of the City.

E. Board of Health. The Fort Wayne-Allen County Board of Public Health.

F. Boulevard Street. Two distinct lanes of traffic, flowing in opposite directions, which are separated by a physical barrier.

G. Building Line. The line nearest the front of, and across, a lot establishing the minimum open space to be provided between the front line of a building or structure and the street right-of-way.

H. Collector Street. A collector street distributes traffic from the arterial system to neighborhood street systems (minor collectors and local), generally operating with a moderate service level and traffic volume.

I. Commission. The City Plan Commission.

J. Construction Access Road. A temporary, non-dedicated, unplatted right-of-way, other than a street, alley or easement, designed to provide sole ingress and egress for all development and construction equipment, as well as all laborers and materialmen, in connection with the improvement of a platted subdivision of land, including but not limited to the construction of dwellings, buildings and other improvements, which right-of-way is constructed and maintained by the developer and owner at either's sole expense or their cumulative expense and continuously in the absolute ownership and/or exclusive control of the developer and owner until such time as 90% of the record lots have dwellings completed for occupancy or other buildings located thereon, and/or unless by prior release by the City Plan Commission.

K. Council. The Common Council of the City.

L. Dead-End Street. A street having one of its termini closed.

M. Developer. Any person who lays out and subdivides land.

N. Expressway-Freeway. Any expressway-freeway operates at a high service level, consists of limited land access, carries region wide traffic and is generally classified as part of the interstate system.

O. Industrial Street. A street which, by virtue of its location or design, primarily serves as an access to industrial property or serves to conduct traffic from industrial land to a higher classification street.

P. Local Streets. A residential street designed to provide access to adjacent property and to conduct traffic from low volume streets to an activity center or higher classification street.

Q. Lot. A parcel of land of specific from and dimension, situated within a legally recorded plat, and designated by a number or letter, for convenience and accuracy, in legal conveyance of the title thereto.

R. Lot, Corner. A lot abutting two or more streets at their intersection where the interior angle of the intersection does not exceed 135°.

S. Lot, Front of. The side or sides of an interior lot which abuts a street; in a corner lot, the front of the lots shall be determined by the owner or developer of the lot.

T. Lot, Interior. Any lot other than a corner lot, including a through lot.

U. Lot, Through. An interior lot, fronting on two streets.

V. Low Volume Street. A residential street that is of such a design as to discourage any traffic other than the traffic terminating on lots fronting on said street, that serves only adjacent residential lots and does not act as a collector or means of access to lots not fronting thereon, and that is of such a design that no traffic other than that generated by the lots fronting thereon can be added to the street. Unless otherwise provided by approval of both the Commission and the City Engineer, the maximum number of dwelling units on a low volume street shall be 20 lots.

W. Low Volume Aggregate Street. A low volume street in a platted subdivision which qualifies for a curb and gutter waiver and is constructed of compacted aggregate.

X. Marginal Access Street. A street designed to connect not more than two streets and on which no lots front and which are specifically so designated and approved as such on the plat of the subdivision.

Y. Master Plan. The complete plan, or any of its parts, for the development of the City as prepared by the Commission and adopted in accordance with Chapter 174, Acts of 1947, General Assembly of Indiana, and Acts amendatory thereto, as is now or may hereafter be in effect.

Z. Minor collector. A minor collector street serves as a connecting link between collector streets and local streets, primarily serving internally to residential communities.

AA. Pavement Width. The width of the paved surface measured from the outer edges of that surface or, in the case of a curbed surface, measured from the back of the curb to the back of the opposite curb.

BB. Parcel of Land. Any continuous, contiguous quantity of land, not within a legally recorded plat, owned by the same titleholder(s).

CC. Person. A corporation, firm, partnership, association, organization, or any other group acting as a unit, as well as a natural person.

DD. Proposed Plat. The map or drawing on which the subdivider's plan of subdivision is present and which he submits for approval and intends, in its final form, to record.

EE. Root Parcel of Land. Any separate and distinct quantity of land created by virtue of a legally recorded deed which land is not located within a legally recorded plat or approved development plan. For purposes of determining the duration of existence of a root parcel, quantity of land shall not lose its character as a root parcel because of subsequent conveyances of lots or parcels of land therefrom; however, any parcel or lot created from a root parcel of land conveyance which is excluded from the necessity of conforming with the provisions of this Chapter by virtue of §150.01(B) shall, after the expiration of 12 months from the recordation of the deed evidencing such conveyance, be constructed as a new root parcel.

FF. Street. A public way established or dedicated by a duly recorded plan, deed, grant, government authority or by operation of law.

GG. 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, mobile homes, walls, fences, billboards and poster panels, and pools.

HH. Subcollector. A street which functions to conduct traffic between major traffic arterials and/or activity centers. It is a principal traffic artery within a residential area and carries a relatively high volume of traffic.

II. Subdivision (Including the Word “Subdivide”). The division, or the act thereof, by conveyance of a root parcel of land into lots or other parcels therefrom.

JJ. Territorial Jurisdiction. That portion of the City planning jurisdiction lying outside the corporate limits of the City, as provided in IC 36-7-4 and all Acts amendatory thereto, as is now or may hereafter be in effect.

KK. Through Lot. A lot having frontage on two parallel or approximately parallel streets.

LL. Zoning Administrator. The Zoning Administrator of the City.

PROCEDURE AND CONTENTS OF PLAT

§150.10 PRELIMINARY CONSIDERATIONS

In order to make the most of the opportunities relating to the subdivision and to conserve time, effort and expense, the owner or subdivider shall consult with the Commission and other public officials prior to the preparation of the tentative plan of the subdivision. The Master Plan should be reviewed to determine how the proposed plan will fit into the Master Plan. Requirements of the highway plan; school and recreational sites; shopping centers; community facilities; sanitation; water supply and drainage; and relationship to other developments, existing and proposed, in the vicinity, should be determined in advance of the subdivision plan. A thorough estimate of the situation will result in sound decisions with respect to the form, character and extent of the proposed subdivision. No land shall be subdivided for residential use unless adequate access to the land over improved streets or thoroughfares exists or will be provided by the subdivider, or if such land is considered by the Commission to be unsuitable for such use by reason of flooding or improper drainage.

§150.11 APPLICATION FOR PRIMARY APPROVAL OF A PLAT

The application shall contain a statement specifying the intentions of the owner respecting the proposed land use of the development, deed restrictions, drainage, sewage disposal, water facilities and the intended date of the development, and shall be accompanied by a receipt from the Clerk Treasurer showing that a filing fee has been paid in accordance with the current schedule of fees set and published by the Plan Commission. The primary plat must be submitted along with the filing fee no later than 28 days before the proposed hearing thereon. In addition to the aforesaid filing fee and following a determination of the Commission's mailing publication notice cost, the applicant shall pay and/or reimburse said cost to the Commission, in full, prior to said public hearing.

§150.12 SUBMISSION AND CONTENTS OF PLAT

(A) The tracing and 15 copies of the primary plat shall be submitted to the Commission at the time the application for primary approval is filed. The proposed plat shall represent the entire tract which the applicant intends to develop and over which he has an ownership or financial interest and/or control.

(B) The Commission shall set a date for a hearing at which the proposed primary plat will be publicly examined. Notice of such public hearing shall be given by the Zoning Administrator as follows:

(1) By publication in accordance with IC 5-3-1;

(2) To the applicant, in writing, by means of regular United States mail, postage prepaid, addressed to the applicant at the address listed in the application for approval; and

(3) To such other persons as the Commission may designate by rule or regulation duly adopted.

(C) The Commission shall send a copy of the primary plat and written notice of the date, place and time of the public hearing thereupon, to all public agencies and governmental units having a probable interest in the proposed subdivision and plat, requesting their written comments with regard to the primary plat proposed by the applicant.

(D) The plat, the scale of which shall be 100 feet to one inch, shall be drawn on one sheet of paper when possible, using standard engineering symbols with a legend or explanation of the meaning of each of the various symbols on all drawings submitted and shall be prepared in accordance with the standards of designs herein specified and shall show:

(1) Proposed name of subdivision;

(2) Location by township, section, township and range or by other legal description;

(3) Names and addresses of the developer and surveyor who made the plat;

(4) Date, scale and north point;

(5) Location, widths, and names of all existing or prior platted streets or other public ways, railroad and utility rights-of-way, parks and other public and private recreation spaces, existing buildings and structures, and section and corporation lines within and adjacent to the tract;

(6) Adjoining boundary lines of all adjacent subdivisions (if any) showing the name of the developer or some other means of identification;

(7) Layout of proposed streets, their names and widths, and locations of alleys, crosswalk ways, sidewalk locations, and easements, and the location of any construction access roads as required by the City Plan Commission or as deemed necessary by the developer;

(8) Layout of proposed lots, their numbers and dimensions;

(9) Parcels of land intended to be dedicated for public use or set aside for use of property owners in the subdivision;

(10) Building lines, showing all dimensions;

(11) Contours at vertical intervals of not more than five feet where the slope is greater than 10% and no more than two feet where the slope is less than 10%. Elevations shall be marked on such contours based on a datum plane approved by the County Surveyor, or on Sea Level Datum;

(12) Location and type of easements and any limitations on such easements;

(13) Information as to any agreements which have been entered into with the owners of other property within the neighborhood in which the proposed subdivision is located, as to general plans for the entire neighborhood. Reference shall be made to the Master Plan for suggestions as to the general street pattern and design of the neighborhood;

(14) Restrictions of all types which run with the land;

(15) Generalized feasibility information:

(a) Street width and type of surfacing material;

(b) Sanitary sewer pipe location, manhole locations and invert at point of connections to existing facilities;

(c) Water line and fire hydrant locations to point of connections to existing facilities;

(d) Storm sewer improvements locations including pipe, manhole and catch basin locations; detention basin location, capacity and appropriate elevations; storm drainage flow lines;

(e) Sidewalk locations;

(f) Street lighting fixture locations.

(16) Included in said plat, protective covenants running with the land and enforceable by any aggrieved lot owner in the subdivision, or by the City Plan Commission for and on behalf of the City, which covenants shall:

(a) Prohibit the further subdivision of any lot or combination of lots within the plat unless and until the Commission has reviewed and approved such change;

(b) Require that before any lot or tract located within the plat may be used and occupied, such user or occupier shall first obtain from the Zoning Administrator the Improvement Location Permit required under the City Zoning Code, as the same may be amended from time to time;

(c) Provide that before any house or building on any lot in the plat shall be used and occupied as a dwelling or as otherwise provided in the subdivision restrictions, the applicant or any subsequent developing owner of said platted tract shall install all improvements serving said lot as provided in said plans and specifications filed with the Commission; and

(d) Provide for front and side yard building lines, utility easements and use thereof, and such other provisions as may be compatible with the use and development of the subdivision; that the covenants pertaining to the establishment of easements for public and municipal utilities and sewers shall contain provisions specifying that all such easements dedicated on the face of the plat shall be kept free of all permanent structures; that any structure, shrubbery, trees, or other installation thereon, whether temporary or permanent, shall be subject to the paramount right of the entities for which such easements are intended to benefit to install, repair, maintain or place their utility or sewage facilities; and that the removal of any such obstructions by utilities or sewage treatment works shall in no way obligate them either in damages or to restore the obstruction to its original form.

§150.13 HEARING PROCEDURE; ACTION BY COMMISSION

(A) Within 30 days after the date of receipt of the application for primary approval, the proposed plat and the filing fee, the Commission staff shall announce the date and time of the public hearing for primary approval of the plat to be held before the Commission. The Zoning Administrator shall also provide notice of such hearing as follows:

(1) By publication in accordance with IC 5-3-1;

(2) To the applicant, in writing, by means of regular United States mail, postage prepaid, addressed to the applicant at the address listed in the application for approval;

(3) To all public agencies and governmental units having a probable interest in the proposed plat, furnishing a copy thereof and requesting their written comments with regard thereto; and

(4) To such other interested parties and in such manner as the Commission may designate by rule.

(B) The public hearing for primary approval of the proposed plat shall be conducted in accordance with such procedures as the Commission may adopt by rule.

(C) After public hearing upon the proposed plat, the Commission shall determine if the plat complies with and satisfies the standards prescribed for primary approval under this Chapter. Within a reasonable time after such hearing, the Commission shall either grant, with or without conditions, or deny primary approval of the proposed plat and enter written findings and a decision in accordance with such action, signed by any one of the following: The President, the Vice President, the Secretary or the Zoning Administrator for the Commission; provided, however, that if primary approval is denied, the written findings entered by the Commission shall set forth the

reasons for such denial. If primary approval is granted, the plat shall be certified on behalf of the Commission by any one of the officials named above.

(D) Notice of the Commission's decision upon the application for primary approval shall be provided by furnishing a copy of its written findings and decision to the applicant and to such remonstrators or other interested parties, if any, as the Commission may designate by rule. Such notice shall be furnished by the Zoning Administrator within five days after the Commission's decision in the manner prescribed by the Commission, by rule duly adopted.

(E) Primary approval of a plat by the Commission shall be valid for one year from the date of approval unless the applicant, prior to the expiration of such one-year period, shall have applied for and received the Commission's approval for an extension of time to obtain secondary approval. If by the expiration of such initial one-year period of time, or during any period of extension approved by the Commission, the applicant does not obtain secondary approval of all or part of the area included in the plat for which primary approval had been granted, then the primary approval granted for the plat shall lapse, and be considered as null and void. In the event the Commission grants secondary approval for only a portion of the plat, the applicant thereafter will not be obligated to adhere to any time limitations for requesting secondary approval of the remainder of the plat.

PRINCIPLES AND DESIGN STANDARDS FOR PRIMARY APPROVAL

§150.25 GENERAL PROVISIONS

Every subdivision hereafter designated shall comply with the following principles and standards set forth in this Subchapter, and the plat thereof shall be prepared to show the same. The subdivision shall be in harmony with the Master Plan and all applicable sections of the City Zoning Code as now or hereafter amended.

§150.26 STREET SYSTEM

(A)(1) Minimum right-of-way shall be as follows:

Type of Street	Feet
Local Street	50
Low volume street	50
Low volume aggregate	50
Industrial street	50
Boulevard street	As determined by the City Engineer
Minor collector street	As determined by the City Engineer
Collector and arterial streets as shown in the Master Plan	80
Expressways and Freeways	120

(2) In case of a local, low volume, low volume aggregate, or industrial street to be constructed without curbs or gutters, the minimum right-of-way shall be 50 feet; provided, however, when topographic conditions or other engineering considerations warrant an additional right-of-way, said width shall be determined by the City Engineer.

(B) The centerlines of intersecting streets should intersect as nearly at right angles as possible.

(C) The simultaneous intersection of streets resulting in traffic from more than four directions is prohibited.

(D) At street intersections, the property or right-of-way lines of corner lots shall be rounded at the street intersection corner with an arc which shall have a minimum radius of at least ten feet drawn tangent to each of the intersecting property lines.

(E) When one or more of the streets involved in an intersection is a boulevard, minor collector, arterial or collector street or expressway or freeway, the foregoing minimum standards may be increased by the Commission.

(F) Alleys with a minimum width or right-of-way of 20 feet may be required in all business, commercial, and industrial districts. Except where justified by unusual conditions, alleys will not be permitted in residential districts.

(G) No dead-end street shall be permitted where the same is in conflict with the Master Plan. No permitted dead-end street shall provide principle frontage to more than 20 lots. Every permitted dead-end street shall terminate in a circular right-of-way with a minimum diameter of 100 feet. The said street shall terminate with a paved turn-around with a minimum outside curb diameter of 75 feet, unless the Commission approves an equally safe and convenient form of paved space instead of the required turning circle. Temporary dead-end streets will be permitted where the approved primary plat shows that the street will be extended to conform to the provisions of this Chapter. A circular right-of-way in excess of the required street right-of-way at the termination of a temporary dead-end street shall not be required.

(H) The minimum radius of horizontal curvature measured on the centerline of the street shall be:

Type of Street	**Minimum Radius (Feet)**
Expressways-Freeways	As shown on the Master Plan
Arterial streets	500
Collector streets	300
Minor collector streets	250
All other streets	150

Between reversed horizontal curves there shall be a tangent of at least 25 feet, or more if the Commission deems it appropriate because of the sharpness of the curves.

(J) Wherever there exists a dedicated or platted portion of a street or alley or easement adjacent to the proposed subdivision, the continuation of the street, alley or easement right-of-way to the prescribed width shall be platted within the proposed subdivision unless the Commission finds it unnecessary.

(K) In no case shall the name of any street, road, drive or avenue already in use or established by plat anywhere in the City be used except in the case of a direct extension, and in no instance shall any street name include the word north, south, east or west, unless it denotes a geographic location.

(L) Any street subject to the provisions of this Chapter shall be constructed in such a manner as to permit acceptance into the City Street Maintenance Program, and shall be dedicated to the public for their usual and intended purpose; provided, however, that the requirements for street construction and dedication specified in this Chapter may be waived by the Commission, where permitted by this Chapter. Following completion into said Maintenance Program, any necessary maintenance bond(s) shall be timely filed in accordance with this Chapter.

§150.27 BLOCKS

(A) Blocks shall not exceed 1,320 feet in length unless unusual circumstances justify a greater length.

(B) Whenever possible, blocks shall be of sufficient dimension to allow two tiers of lots of appropriate depth.

§150.28 LOTS

(A) All lots shall abut on a street which is accessible to an established public street already in use.

(B) Side lines generally shall be at right angles to straight street, and radial to curved street lines.

(C) Lot dimensions and areas shall not be less than the minimum specified by the City Zoning Code, as now or hereafter amended, for the district in which the lot is located.

(D) Provisions shall be made in the subdivision design and restrictions for off-street parking as required by the City Zoning Code, as now or hereafter amended.

(E) Whenever lots which front on two or more streets are platted along arterial streets, collector streets or limited access highways as shown in the Master Plan, the design shall be such that access to these lots shall be only from an interior street.

§150.29 EASEMENTS

(A) Where alleys are not provided, easements shall be provided for utilities, sewers and storm drains. Such easements shall generally be located along rear or side lot lines in which case a minimum width of 14 feet, seven feet on each side of the lot line, shall be provided, or if such easement is within a lot, the total minimum width of 14 feet shall be provided. Easements shall be so laid out that a proper continuity may be had for utilities from block to block.

(B) In order to protect stream banks and to allow the maintenance or reconstruction of any legal open drain or of any open drain intended primarily for the conveyance of natural drainage or storm drainage, and in order to meet the needs of the Allen County Drainage Board under authority of Chapter 305, Acts of 1965, General Assembly of the State of Indiana, and all Acts amendatory thereto, open drainage easements shall be provided as follows:

(1) Not less than 30 feet in width beyond the top of one bank of any legal drain and not less than five feet in width beyond the top of the second bank, with the measurement between the tops of bank being approved by the Allen County Surveyor and with the whole being arranged and approved by the Allen County Surveyor so as to permit the reconstruction of the drain in a particular manner;

(2) No open drainage easement shall be less than 50 feet in width or shall be other than off-set as indicated immediately above;

(3) No trees or permanent structure above grade, including such structures for the use of any private or franchised public utility, shall be permitted in any open drainage easement, and the protective covenants running with the land shall so state; structures below grade and for the use of a franchised public utility may be permitted within the wider side of an open drainage easement when adjacent to the outer edge of said wider side;

(4) At the risk of the landowner as indicated by Section 601 of the above Chapter 305, Acts of 1965, temporary structures, fences, or shrubs or bushes for decorative purposes, are permitted within an open drainage easement only if not within five feet of the top of bank, and the protective covenants running with the land shall so state.

(C) In order to protect river banks and to allow for widening or relocating, an easement of 30 feet (or more as may be required by the County Surveyor) measured from the low water line along each bank of any river shall be provided.

(D) A guy line easement of five feet in width and 20 feet in length, bisecting the obtuse angle of any deflection in the centerline of a utility easement, shall be provided. Said easement length shall be measured from the apex of the deflection angle.

(E) Every plat shall contain a statement to the effect that all utility easements as dedicated on the face of the plat shall be kept free of all permanent structures and the removal of any obstruction by a utility company shall in no way obligate the utility company in damages or to restore the obstruction to its original form.

§150.30 MARKERS

The intersection of all boundary lines at the exterior boundaries of a plat shall be marked by a galvanized or wrought iron pipe or iron steel bar at least two feet in length and not less than one inch in diameter. Such marker shall be set so that the center of the marker will coincide exactly with the intersection of the lot or property lines at that point and shall be set so that the top of the marker is level with the surface of the surrounding ground.

§150.31 FLOOD PLAIN MANAGEMENT

In addition to the flood plain management provisions found in the Zoning Code, the Plan Commission shall review each plat to insure that:

(A) All such proposed developments are consistent with the need to minimize flood damage.

(B) Adequate drainage is provided so as to reduce exposure to flood hazard.

(C) Adequate drainage is provided so as not to increase the exposure of flood hazard to adjacent lands.

(D) All public utilities and facilities are located and constructed so as to minimize and eliminate flood damage. These facilities and utilities include but are not limited to sewer, gas, electric and water systems.

IMPROVEMENT PROVISIONS

§150.45 STREETS

(A) Streets shall be completed to grades shown on the plat, profiles, and cross sections as approved by the Board.

(B) Streets shall be improved to the minimum widths as follows:

(1) Local streets.

(a) Two-way streets:

[1] 27 feet if curbs are used (may be 23 feet when there is off-street parking for eight cars on each lot and low traffic potential).

[2] 22 feet if curbs are not used (may be 20 feet when there is off-street parking for eight cars on each lot and low traffic potential).

(b) One-way streets: 20 feet if curbs are used; 18 feet if curbs are not used.

(2) Low volume streets.

(a) Two-way streets:

[1] 27 feet if curbs are used (may be 23 feet when there is off-street parking for eight cars on each lot).

[2] 22 feet if curbs are not used (may be 20 feet when there is off-street parking for eight cars on each lot).

(b) One-way streets: 20 feet if curbs are used; 18 feet if curbs are not used.

(3) Low-volume aggregate streets: 22 feet if curbs are used, except:

(a) Boulevard: 18 feet per traffic lane if curbs are not used.

(b) Minor collector: As determined by the City Plan Commission and the City Engineer.

(c) Industrial street: 27 feet with curbs.

(d) Collector street: 33 feet with curbs.

(e) Arterial street: 37 feet with curbs.

(C) The street, according to its type, shall be graded, surfaced and improved to the dimensions required by the cross sections, and the work shall be performed in the manner prescribed by the Board.

(D) The Commission may waive or modify the above requirements of this Section for limited volume streets when the curb and gutter requirement has been waived as provided for in §150.46(B) below of this Chapter provided that a condition is placed upon said waiver that a restrictive covenant be included in the plat containing said street, which names the street and lot numbers having access to the street and contains the following statement:

> "MAINTENANCE PROVISION NOTICE BY BOARD OF WORKS AND SAFETY - Until such time as the above named street is constructed to meet the required specifications and provisions established as street maintenance criteria by the Board, said street or road will not be included in the New Haven Street Maintenance Program."

§150.46 CURBS AND GUTTERS

(A) The Commission shall require curb and gutter to be installed on each side of any street surface, except as hereinafter set forth in this Section, constructed of plain Portland cement, concrete, or molded asphaltic concrete, or other materials acceptable to the Board. They may be either the vertical curb, the roll curb, integral curb and gutter, or separate curb and gutter type.

(B) The Commission may permit the omission of curbs and gutters in any subdivision when final topography, street longitudinal profile, and drainage system design are acceptable to the Commission; when adequate provisions are made in the protective covenants running with the land to permit access to and freedom from obstruction of the drainage system; and when the street is properly acceptable to the Commission as a local street, low-volume street, low-volume aggregate street, or boulevard street; and provided that every lot fronting thereon shall have a minimum lot area of 40,000 square feet, and provided further that the minimum lot width of all lots fronting thereon is 150 feet.

(C) The provisions of this Chapter shall apply to any existing recorded subdivision plat approved by the Commission, provided the owners of record of more than 50% of the said platted subdivision real estate file application for omission of curbs and gutters under this Section, and there being legal notice thereof (in a manner of a primary plat) establishing a time and place of public hearing and/or curb and gutter requirement be omitted as set forth above.

§150.47 SIDEWALKS

(A) Grading of the entire right-of-way shall be provided for the location of sidewalks one foot from front lot lines and a proper grade shall be provided by the developer according to standards shown on plans, profiles, and cross sections approved by the Board.

(B) Sidewalks shall be provided by the developer on each side of all streets within the subdivision; provided, however, the Commission may waive or amend the above requirements only in those subdivisions with less than two lots per gross acre and only upon showing by the developer that sidewalks will serve no specific or future need.

(C) All required sidewalks shall be designed and installed to comply with the Americans with Disabilities Act, and with all rules and regulations promulgated thereunder, including but not limited to Public Right of Way Accessibility Guidelines, in effect at the time of the design and installation as may be amended from time to time.

[Ord. Z-13-16, passed 11-12-13]

§150.48 SANITARY SEWAGE DISPOSAL

The developer shall install, or cause to be installed, a system for the disposal of sanitary sewage in the subdivision by one of the following means:

(A) Public system. A complete sanitary sewer system which shall convey the sewage into an established municipal or other public agency sanitary sewage disposal and treatment system, at a point and in a manner approved in writing by the municipal or other public agency involved. The plans for the complete installation of the sewage system showing all locations, material size, profiles and any connections thereto, shall be prepared by a registered engineer at the

expense of the subdivider or developer and shall be approved by and meet the requirements of the affected municipal or other public agency.

(B) Private or quasi-public system. A public or quasi-public sanitary sewage system shall consist of either of the following:

(1) A complete sanitary sewage system to convey the sewage to a treatment plant provided by the developers or others in accordance with the requirements of the Board and Board of Health.

(2) A complete sanitary sewer system which shall connect into the sanitary sewage system of a sewage disposal company which shall hold a certificate of territorial authority issued by the Public Service Commission of Indiana, authorizing such sewage disposal service for the area in which the subdivision is located. The plans for the complete installation of the sewer system within the subdivision showing all locations, size, material, profiles, and capacities shall be submitted to and be approved by the Board and the Board of Health.

(C) Septic tanks. If the developer submits acceptable evidence to the Board and the Plan Commission that neither of the above forms of sewage disposal and treatment is necessary due to the low density of the proposed development or the lack of limiting development to existing or planned (public or quasi-public) sanitary systems, then the Commission may permit the use of private sanitary sewage of a septic tank and absorption field or other approved treatment system, when laid out in accordance with the standards and approval of the Board or the State Board of Health.

§150.49 WATER SUPPLY AND STORM SEWERS

(A) Water supply. The developer shall install or cause to be installed a water system for the subdivision by one of the following methods:

(1) Public system. A public system consisting of a complete water main system which shall be connected to a public or other community water supply which is approved by the City. The plans for the complete installation showing the size, location, depth, material, and all connections thereto including fire hydrants, shall meet the requirements and receive the approval of the Board.

(2) Private system. A private system consisting of:

(a) A community water supply system including well, pump, and all appurtenances thereto, necessary to supply a minimum pressure of 40 pounds per square inch. The plans showing location, depth, size, and material of mains, valves, and connections thereto shall meet the requirements of and be approved by the Board and State Board of Health; or

(b) A complete water main system which shall connect into the water main system of a utility company which shall be authorized to operate within the area in which the subdivision is located and which shall be subject to the control of the Public Service Commission of Indiana. The plans for the complete installation of the water main system within the subdivision showing size, location, depth, material, and all connections thereto, including fire hydrants, shall be approved by and meet the requirements of the Board.

(3) Individual supply. If the developer submits acceptable evidence to the Board and the Plan Commission that neither of the above forms of water supply is necessary due to the low density of the development, the lack of limiting physical site condition, and the proximity of the development to existing or planned (public or quasi-public) water systems, then the Commission may permit an individual water supply on each lot in the development subject to compliance with all requirements and approval of the Board or State Board of Health.

(B) Storm sewers. An adequate storm water system with surface inlets shall be installed by the subdivider. The plans for the drainage of the subdivision showing topography,

direction of flow, size, location, material, profiles, and all connections thereto, shall meet the requirements of and be approved by the County Surveyor.

§150.50 STREET SIGNS AND RECREATION SPACE

(A) Street signs. Standard City street signs shall be provided and installed by the subdivider or developer at all street intersections at the direction of the Commission.

(B) Recreation space.

(1) Commission-approved recreation space shall be provided in all subdivisions wherein the minimum net lot area is less than 12,000 square feet. The purpose of this space shall be to meet the immediate and future recreation needs of the subdivision's residents in a neighborhood setting. Recreation space shall be provided at the rate of 750 square feet per dwelling unit.

(2) Recreation space may be provided in a centrally located site, in distinctly separated sites or connecting links between separated activity areas, or adjacent to other existing or proposed recreation spaces. The Commission shall determine if the proposed space is suitable for the intended use.

(3) This requirement may be waived when, in the opinion of the Commission, the applicant has satisfactorily demonstrated that he has provided alternative methods for meeting the recreational needs of his subdivision's residents or the resulting open space is less than 10,000 square feet.

(4) All subdivisions with recreation space must contain acceptable covenants which, in the opinion of the Commission, insure adequate maintenance of those recreation spaces.

SECONDARY APPROVAL OF PLAT

§150.60 PROCEDURE AND CONDITIONS

(A) Procedure. Following the granting by the Commission of primary approval of a plat, the applicant shall notify the Zoning Administrator for the Commission of his intent to seek secondary approval of either all or a portion of the plat. In the event the applicant intends to seek secondary approval of only a portion of the plat, the applicant shall specifically describe and designate such area so as to reasonably identify the same. The applicant shall also at that time file with the Commission staff the plat in the form and with the contents prescribed hereinafter. The Zoning Administrator shall then cause to be scheduled a meeting of the Commission for the purpose of reviewing the plat and determining whether secondary approval shall be granted, and provide notice to the applicant of the date and time of such meeting. No other notice of such meeting need be given, except as required by law. The Commission staff shall then review all

submissions made by the applicant to insure the requirements for secondary approval stated in this Chapter have been satisfied and make a recommendation to the Commission for the granting or denial of secondary approval of the plat.

(B) Conditions. The Commission will consider secondary approval of a plat only after the applicant has accomplished the following:

(1) Filed with the Commission a complete set of plans and specifications for the development of all street, sewers, water supply and other utilities and facilities in the subdivision in accordance with the requirements of this Chapter; and

(2) Installed all of the improvements required by this Chapter, in accordance therewith and in accordance with the said plans and specifications on file, and delivered to or filed with the Commission all necessary approvals and acceptances from all applicable agencies and authorities;

(3) In the event all of such improvements have not been so installed, accomplish one of the following:

(a) Filed with the Commission, for those improvements already installed, if any, all necessary approvals and acceptances from all applicable agencies and authorities.

(b) Executed and posted with the Commission a performance bond, in accordance with the regulations adopted by the Commission, to insure installation, acceptance and approval of the improvements as shown by said plans and specifications for the subdivision filed with the Commission which bond shall:

[1] Be in an amount determined by the Commission to be sufficient to complete the improvements and installation in accordance with this Chapter;

[2] Provide surety satisfactory to the Commission;

[3] Run to the Commission; and

[4] Specify the time for completion of the improvements and installation.

(c) If a performance bond required under this Chapter is posted with the Commission by an applicant, any funds received from such performance bond shall be used by the Board only for completion of the improvements for which the bond was provided and for which there was no prior appropriation. The Commission may make, or cause to be made, such improvement and installations. Upon submission by the developer of the document required under the regulations adopted by the Commission, or its duly authorized representative, shall release

such performance bond and discharge the developer and surety, if any, from further liability or responsibility thereunder.

(4) Paid in full to the Commission all costs incurred for the furnishing of notice required under this Chapter and/or by rule of the granting of primary approval of the plat by the Commission.

(5) Filed with the Commission the plat in the form and with the contents prescribed hereinafter.

§150.61 FORM AND CONTENTS OF PLAT

(A) Form of plat. The plat for which secondary approval is sought shall be submitted to the Commission in the form of an original tracing on tracing cloth or tracing paper, in ink, and shall be a complete and accurate layout drawn to scale acceptable to the Commission staff and shall contain all additions, corrections and deletions required by the Commission.

(B) Contents of plat. The plat for which secondary approval is sought shall also contain and show the following:

(1) The boundary lines of the tract subdivided, together with accurate distances and angles and the exact location of all existing and recorded streets intersecting the boundary of the tract;

(2) Angles or true bearings and distances to the nearest established street line or existing monuments, which shall be accurately described on the plat;

(3) An accurate metes and bounds description of the tract and its title as shown by the records in the office of the Allen County Recorder;

(4) Street names;

(5) The length of all arcs and radii, central angles, internal angles, points of curvature and tangency, and the length of all tangents;

(6) All easements for public services and utilities;

(7) Lot numbers and dimensions and individual house numbers for each lot. House numbers will be in accordance with the uniform City numbering system as administered by the Commission;

(8) Street lines with accurate dimensions and the location of streets, alleys, and lot lines, together with the location of any construction access roads;

(9) The accurate outline of all property which is offered for dedication for public use with the purpose thereof indicated and all property that may be reserved by deed covenant or restriction for the common use of property owners of the subdivision;

(10) Building line location and dimension;

(11) Restrictions of all types which run with the land;

(12) Name of the subdivision;

(13) Name and address of the subdivider;

(14) North point, scale, and date;

(15) Section or reverse lines or other legal lines of location superimposed on the final plat;

(16) Dedication of public streets and lands;

(17) Engineering plans which include street plans, profiles and cross sections, storm sewer plans and profiles, sanitary sewer plans and profiles, water plans, sidewalk plans and cross sections and street and sidewalk lighting fixture locations when applicable;

(18) Such other data as the Plan Commission may by rule require;

(19) Minimum flood protection on all lots within an FF (Floodway Fringe) District as designated on the City Zoning Maps.

§150.62 ACTION BY PLAN COMMISSION; CERTIFICATION AND RECORDING OF PLAT

(A) Action by the Plan Commission.

(1) Within a reasonable time following the applicant's satisfaction of all requirements stated under this Subchapter, the Commission shall either grant, with or without conditions, or deny secondary approval of the plat. If secondary approval is denied, the Commission shall, within three days thereafter, furnish the applicant with a written list of the reasons for such denial.

(2) If secondary approval is granted by the Commission, all certifications required under this Subchapter shall be obtained by the applicant prior to recording, and the plat shall be signed and certified on behalf of the Commission by one of the following: the President, the Vice President, the Secretary or the Zoning Administrator for the Commission.

(3) The Commission may grant secondary approval of the plat subject to the expiration of time provided for appeal under IC 36-7-4-708 of the primary approval of the plat; provided, however, that the plat for which secondary approval has been granted shall not be signed or certified by the Commission, prior to the expiration of such appeal period.

(4) Notwithstanding the requirements of this Chapter for submission to the Commission of certain approvals for improvements installed, the Commission may, upon written request by the applicant supported by evidence that all submissions have been timely filed, grant secondary approval of a plat although one or more of such approvals may not have been delivered to or received by the Commission. The Commission may grant such secondary approval only when the applicant provides a written statement made under oath and approved by the Commission for recordation as a supplement to the protective covenants, stating that the applicant will cause to be provided at his cost all things necessary to attain or accomplish the delivery of the required approval(s) which shall not then have been delivered to or received by the Commission. If the developer does not then deliver such approval(s) in a timely fashion, the Commission is hereby empowered to refuse to issue either Improvement Location Permits or Certificate of Occupancy Permits. Once the applicant has thereafter secured and delivered to the Commission the required approval(s), the Zoning Administrator shall then execute a recordable document, which shall be recorded by the applicant at his expense, rescinding the aforesaid supplement to the protective covenants.

(B) Certification and recording of plat.

(1) Certifications. In addition to the execution and certification of the Commission, each plat submitted to the Commission for secondary approval shall contain the following:

(a) Certificate forms indicating the approval by the Board, the Allen County Surveyor, and the Board of Health (when required). The style and wording of such forms shall be as prescribed by the Commission;

(b) A statement in substantially the following form:

"We _____ the undersigned, owners by virtue of that certain deed shown in Deed Record ____, page ___ or (Document No._____), in the office of the Recorder of Allen County, Indiana, of the real estate shown and described herein, do hereby lay off, plat and subdivide, said real estate in accordance with the information shown on the final plat. This subdivision shall be known and designated as _____ an addition to _____; and

(c) A certificate signed by a land surveyor, registered in the State of Indiana, in substantially the following form:

"I _____, hereby certify that I am a Land Surveyor licensed in compliance with the laws of the State of Indiana; that this plat correctly represents a survey completed by me on _____; that all markers shown thereon actually exist; and that their locations, size, type and material are accurately shown.

(2) Recording procedures. Within one year of the granting of secondary approval of the original of said plat, in its final form and with all required contents, and any restrictive covenants, as approved by the Commission, together with a money order, cashier's or certified check, or cash equal to the total cost of recording said plat in the office of the Recorder of Allen County, Indiana; upon receipt of said plat, the Zoning Administrator shall satisfy himself that the plat submitted for recordation complies strictly in its form and contents with the plat for which secondary approval was granted by the Commission. The Zoning Administrator shall forthwith thereafter have the plat signed and certified for and on behalf of the Commission by one of the officials designated in this Chapter and shall cause such plat to be duly recorded. In the event a plat for which secondary approval has been granted by the Commission has not been submitted to the Zoning Administrator for certification and recordation within the aforesaid period of time, or in the event any recorded plat fails to contain on its face the required signature and certifications, the approval of the Commission shall be deemed to be automatically withdrawn and the plat shall be deemed to be of no force or effect.

CHAPTER 151: ZONING CODE

Section

General Provisions

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§151.001 PURPOSE

The zoning regulations and zoning districts as herein set forth are made in accordance with a comprehensive plan in order that adequate light, air, convenience of access, and safety from fire, flood, and other danger may be secured; that congestion in the public streets may be lessened or avoided; and that the public health, safety, comfort, morals, convenience, and general public welfare may be promoted. They are made with reasonable regard to existing conditions, the character of buildings erected in each district, and the conservation of property values throughout the territory under the jurisdiction of the New Haven Plan Commission of the County of Allen, Indiana.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.002 DEFINITIONS

Accessory Living Quarters. Living quarters within an accessory building for the sole use of persons employed on the premises. Such quarters have no kitchen facilities and are not rented or otherwise used as a separate dwelling.

Accessory Use.

(1) A building or use subordinate to another structure or use located on the same lot and which does not change or alter the character of the premises.

(2) Public utility, communication, electric, gas, water, and sewer lines, their supports, and incidental equipment.

(3) Where a substantial part of the wall of an accessory building is a part of the wall of the main building or where an accessory is attached to the main building in a substantial manner as by a roof, the accessory building shall be counted as part of the main building.

Agricultural Building or Structure. A building or structure designed primarily for agricultural purposes in which the majority of the structure is used for the storage of crops or materials used in the preparation thereof, or for storage, protection, and maintenance of farm machinery and equipment, or for housing or preparation of livestock or poultry for marketing, all primarily for the use of the owner or occupant.

Agricultural Land Uses. The use of land for agricultural purposes including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture and animal and poultry husbandry, and the necessary accessory uses for packing, treating, or storing the produce.

Provided that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.

Alley. Right-of-way other than a street, road, crosswalk, or easement, designed for the special accommodation of the property it reaches.

Amortization. The process of discontinuing nonconforming land uses, as determined by the zoning map of the Plan Commission's jurisdictional area.

Animal Hospital. A medical facility for the treatment of household domestic animals and pets that is operated by, or wherein the treatment is under the direct supervision of, a veterinarian licensed to practice by the State of Indiana. For purposes of this Chapter, "Veterinarian Clinic" shall also be considered an animal hospital.

Antenna. An arrangement of wires or metal rods used in the sending and/or receiving of electromagnetic waves.

Antenna Structure. Any structure that is utilized for the mounting point of antennas.

Board. The Board of Zoning Appeals of the City.

Building. A structure having a roof supported by columns or walls designed, built, or used for the enclosure, shelter, or protection of persons, animals, chattels, or property.

(1) Detached Building. A building having no structural connection with another building.

(2) Height of a Building. The vertical distance measured from the adjoining street centerline grade at a point opposite the principal frontage of the building to the highest point of ceiling of the top story in the case of a flat roof; to the deck line of a mansard roof; and to the main height level between the eaves and ridge of a gable, hip, or gambrel roof. Where the buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished lot grade at the front of the building.

(3) Main Building. A building constituting the principal use of a lot.

(4) Nonconforming Building. A legally existing building which fails to comply with the regulations set forth in this Chapter applicable to the district in which the building is located.

(5) Semi-Detached Building. A main building having one wall in common with an adjacent main building.

Building Line. A line with a fixed location parallel to the front street line, as determined by this Chapter or recorded deed restrictions, over which the foundation wall or any enclosed porch, vestibule, or other such portion of a building shall not project.

Building Material Debris Disposal Site. A site designed for the purpose of disposing of building materials from a demolition site or sites without creating nuisances or hazards to public health, safety, or welfare.

Building Surface. The total surface of a building face to which a sign is attached.

Cemetery. Land used for burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundary of the cemetery.

Certificate of Occupancy. A certificate issued by the Zoning Administrator stating that the occupancy and use of land or a building or structure referred to therein complies with the provisions of this Chapter.

Child Care Home/Center or Day Nursery. A facility or dwelling which is operated by a person, whether licensed or not, to provide care for or maintenance of four or more children (other than the operator's own family and children of whom operator is legal guardian and children of the operator's immediate relatives) during a portion of the day for two or more consecutive weeks. For the purpose of this Chapter, certified public, private, or parochial schools or other educational or religious institutions shall not be constituted as a child care home or center.

Clinic, Medical and Dental. A facility organized and operated for the primary purpose of providing health services for outpatient treatment and special study of human sick or injured by three or more licensed physicians and their professional associates practicing medicine together; and including laboratories and other related service facilities operated in connection with the clinic.

Commission. The New Haven Plan Commission.

Construction Signs. Any sign announcing the names of architects, engineers, contractors, or other individuals or firms involved with the construction, alteration, or repair of a building project or announcing the character of the building enterprise or the purpose for which the project is intended.

Council. The Common Council of the City.

Cul-De-Sac Street. A dead-end street that terminates in a circular right-of-way and does not provide more than one access point onto another street, nor act as a collector, or means of access to lots not fronting thereon.

Directional Sign. An on-premise sign in front of a building containing information relative to expediting pedestrian or vehicular traffic flow and parking.

District or Zone. An area within which there are uniform regulations governing the use, height, area, size, and intensity of use of buildings and land and open spaces about buildings.

Drive-In Restaurant. Any place or premise used for sale, dispensing, or serving of food, refreshment, or beverages, in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

Dumpster. A portable or "roll off" container for the temporary storage of trash, rubbish or construction debris, and similar materials, until it can be hauled away for proper disposal.

Dwelling. Any building which is wholly or partly used, or intended to be used, for a residence by human occupants, including but not limited to the use of living, sleeping, cooking, and eating. For purposes of definition of this Chapter only, temporary housing such as hotels, motels, lodging, recreational vehicles, boarding or tourist homes shall not be regarded as dwellings.

(1) Multiple-Family Dwelling. A building or portion thereof used for occupancy by three or more families living independently of each other. For purposes of this Chapter, a condominium structure containing three or more individual units shall be defined as "Multiple-Family Dwelling."

(2) Multiple Group Dwelling. A group of two or more multiple dwellings occupying a parcel of land in common ownership and having any yard, court, compound, or service in common.

(3) One-Family Dwelling. A building used for occupancy by one family.

(4) Two-Family Dwelling. A building used for occupancy by two families living independently of each other.

Easement. An acquired privilege or right-of-use or enjoyment which one person may have in the land of another.

(1) Roadway Easement. A roadway approved by the Commission over private property which permits a specific and limited use of that thoroughfare to the grantee of the easement.

(2) Utility and Service Easement. A portion or strip of land which is part of a lot or parcel, but which has been reserved for the specific purpose of utilities and related services.

Educational Institution. Public, parochial, charitable, or nonprofit junior college, college, or university, other than trade or business schools, including instructional and recreational uses,

with or without living quarters, dining rooms, restaurants, heating plants, and other incidental facilities for students, teachers, and employees.

Embellishment. Letters, figures, characters, or representatives in irregular forms which are to be used as a supplement to the primary sign structure.

Entrance Sign. A sign used to identify a planned district or platted subdivision with the intention of providing knowledge about the complete project and not a single entity or unit.

Facia Sign. A sign attached to or erected against a wall of a building.

Family. One or more persons living as a single housekeeping unit, as distinguished from a group occupying a hotel, club, nurses home, rooming house, nursing home, fraternity or sorority house. A family shall be deemed to include servants.

Fence. Any solid structure of 2-1/2 feet or more in height that is attached to the ground with the intent of separating two areas in a visual or physical manner.

Flashing Sign. Any sign which contains an intermittent or flashing light source.

Flood or Floodwater. The water of any river or stream which is above the bank or outside the channel and banks of the river or stream.

(1) Flood Hazard Areas. Any flood plain, floodway district, floodway fringe district or combination thereof.

(2) Flood Plain. The area adjoining a river or stream which has been, or may hereafter be, covered by floodwater.

(3) Regulatory Flood. That flood having a peak discharge which can be expected to be equaled or exceeded on the average of once in a 100-year period, as calculated by a method of procedure which is acceptable to and approved by the Natural Resources Commission. This flood is equivalent to a flood having a probability of occurrence of 1% in any given year.

(4) Regulatory Flood Profile. A longitudinal profile along the thread of a stream showing the maximum water surface elevations attained by the regulatory flood.

Flood Insurance Rate Map (FIRM). The map issued and approved by the Federal Emergency Management Agency, effective July 18, 1983, and any revisions thereto, delineating flood hazard areas and insurance risk premium zones applicable in the jurisdiction of the Commission.

Flood Insurance Study. A scientific engineering report published by the Federal Emergency Management Agency, along with the corresponding floodway map and the flood

insurance rate map, both effective July 18, 1983, and any revisions thereto, which defines the boundaries of the flood hazard areas within the community.

Flood-Proofed Building. A commercial or industrial building designated to exclude floodwaters from the interior of that building.

Flood-Protection Grade. The elevation of the lowest floor of a building or structure, including a basement, necessary to provide protection from the regulatory flood. If a commercial or industrial building is flood-proofed as herein defined, the elevation to which the building is protected shall be considered the flood protection grade.

Floodway (FW) or Regulatory Floodway. The channel of a river or stream and its adjoining areas as defined and regulated by the State of Indiana, which are those portions of the flood plain 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.

Floodway Fringe (FF). Those portions of the flood hazard areas lying outside the floodway.

Floodway Map. The map issued and approved by the Federal Emergency Management Agency, effective July 18, 1983, and any revisions thereto, delineating the floodway and floodway fringe boundaries in the jurisdiction of the Commission.

Freeboard. A justifiable additional amount of height above the regulatory flood profile which is intended to safely determine the flood-protection grade.

Freestanding Building. An independent building which is physically separated from any other structure on the same parcel and is further identified by its own parking lot and landscaping layout, circulation flow, and other features which qualify a building as a complete independent unit.

Frontage. The length of the property line of any parcel along each street which it borders.

(1) Garage, Private. A detached accessory building, or a portion of a main building, used for the storage of self-propelled vehicles where the capacity does not exceed three vehicles, or not more than one and one-half vehicles per family housed in the building to which the garage is accessory, whichever is the greater.

(2) Garage, Public. Any building or structure other than a private garage, and which is used for storage, repair, rental, greasing, washing, servicing, adjusting, or equipping of automobiles or other motor vehicles.

Gross Floor Area. The total floor area of all stories of a building or buildings, measured at the outside foundation. Public or common mall areas, such as an open or covered passageway or concourse providing access to rows of stores, shall be excluded from the definition of gross floor area.

Gross Leasable Floor Area. The total floor area of a structure designed for tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, if any, expressed in square feet and measured from outside wall faces.

Half Story. A story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of the story.

Height of a Sign. The vertical distance measured from the base ground level to the highest point of the sign.

Home Occupation. Any use conducted entirely within a dwelling and participated in solely by members of the family, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof or have any exterior evidence other than a sign, as provided for in these regulations, and in connection with which there is no commodity sold on the premises except that which is produced thereon. Dancing and band instrument instruction, nursing homes, tea rooms, tourist homes, beauty parlors, animal hospitals, kennels, barber shops, and retail business or trade shall not be considered home occupations.

Hotel. A structure, or portion thereof, in which more than five guest rooms are used to provide or offer temporary accommodations for transient guests.

Identification Sign. Any permanently attached, freestanding, roof, or projecting on-premise sign which advertises or identifies the premises where a business, service, or activity is located.

Improvement Location Permit. A permit issued by the City or its duly authorized representative stating that the proposed erection, reconstruction, enlargement, moving, or placement of a building, structure, or other development of real estate as provided for in IC 36-7-4 complies with the provisions of this Chapter and authorizes work therefor.

Incidental Sign. Any accessory sign which advertises goods, services, or facilities which are available on the premises where the sign is located. Any sign required by law shall not be counted as an incidental sign.

Incinerator or Incineration Operation. The controlled combustion of waste materials in conformance with all applicable local, State, and federal laws or regulations.

Junk Yard. Any land or building used for abandonment, storage, keeping, collecting, or baling of paper, rags, scrap metals, other scrap or discarded materials, or for abandonment, demolition, dismantling, storage, or salvaging of automobiles, or other vehicles, machinery, or parts thereof. The outside storage, abandonment, demolition, dismantling, or salvaging of one or more unlicensed automobiles or other vehicles subject to licensing, shall classify the land subject to this use as a “Junk Yard.”

Kennel. Any premises, or portion thereof, on which five or more animals of a household domestic species over four months of age are kept, or any premises, or portion thereof, on which three or more animals of a household domestic species are boarded, groomed, bred, or cared for in return for remuneration, or are kept for the purpose of sale.

Landfill. A facility where waste of any sort is to be disposed of through placement on or beneath the surface of the ground, whether in contact with the soil or contained in an engineered structure or container of any sort.

Lot. A parcel of land occupied or to be occupied by a building and its accessory buildings or uses, or by group dwellings and their accessory buildings, together with such open spaces as are required under the provisions of this Chapter, having at least the minimum area required by these regulations for a lot in the zone in which the lot is situated and having its principal frontage on a public street or public way or a recorded private easement in a form approved in writing by the Plan Commission.

(1) Corner Lot. A lot abutting two or more streets at their intersection where the interior angle of the intersection does not exceed 135 degrees.

(2) Front of a Lot. The side or sides of an interior or through lot which abuts a street. In a corner lot, the front of the lot shall be determined by the owner or developer of the lot.

(3) Interior Lot. Any lot, other than a corner lot, including a through lot.

(4) Record Lot. The land designated as a separate and distinct parcel of land on a legally recorded subdivision plat (or in legally recorded deed) filed in the office of the Allen County Recorder.

(5) Minimum Lot Width at the Building Line. The least permissible width of a lot measured horizontally along the front building line.

(6) Net Lot Area. The total horizontal area included within the area defined by the rear, side, and front lot or proposed front street line. No alley, public way, public land, or area proposed for future street purposes is included in the net area of a lot.

(7) Through Lot. An interior lot that has legal direct access onto two or more streets or roads.

Lot Lines. Lines bounding a lot, as hereinafter described.

(1) Front Lot Line. The line running along the front of the lot and separating it from the street. In these regulations, the front lot line is called the “Front Street Line.” In a through lot, both lines abutting the streets are deemed "front street lines."

(2) Rear Lot Line. The lot line generally opposite or parallel to the front street line, except in a through lot. If a rear lot line is less than 10 feet long or the lot comes to a point at the rear, the rear lot line is assumed to be a line at least ten feet long, lying wholly within the lot, parallel to the front street line or, parallel to the chord of the arc of the front street line.

(3) Side Lot Line. Any lot line other than a front street line or a rear lot line. A side lot line separating the lot from a street is a "Side Street Line."

Major Arterial. Those highways so designated on the map contained in the Comprehensive Plan and entitled "1990 Transportation Plan."

Marquee Sign. A sign displayed, erected, or supported, on an overhanging marquee, canopy, awning, or other similar cover or shelter.

Master Plan. The complete plan, or any of its parts, for the orderly development of the City as prepared by the Commission and adopted in accordance with IC 36-7-4-100 et seq., and all acts amendatory thereto, as is now or may hereafter be in effect.

Minor Arterial. Those highways so designated on the map contained in the Comprehensive Plan and entitled "1990 Transportation Plan."

Mobile Home. Any structure entitled by the State of Indiana as a "Mobile Home" or any structure that is built on a chassis and can be used without a permanent foundation as a dwelling unit, office, or other use, and is usually designed for transportation after fabrication on streets or other public ways on its own wheels, but may also be transported by flatbed or other trailer.

Mobile Home Court. Any tract of ground on which two or more trailer coaches or mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

Mobile Sign. A sign which is designed to be moved from one location to another and is not intended to remain as a permanent sign.

Mobile Structure. Any prefabricated office trailer, mobile classroom, sales office, self-contained commercial structure, or similar unit that is intended to be placed in a permanent or semi-permanent manner on a given piece of property for more than ninety (90) days.

Modular Home. Any single-family, unattached, manufactured living unit entitled by the State of Indiana as a "Modular Home" or any living unit that is usually without wheels and frequently constructed on a perimeter frame rather than a chassis and designed for transportation after fabrication on streets or other public ways on its own wheels, but may also be transported by flatbed or other trailer.

Motel. A series of attached, semi-detached, or detached dwellings containing bedroom, bathroom, and closet space, where each unit has convenient access to a parking space for the use of

the unit's occupants. With the exception of the apartment of the manager or caretaker, the units are built for and devoted to the use of automobile transients. The site of the motel has direct and convenient access to a main traveled road.

Motor Vehicles. Automobiles, trucks, tractors, trailers, semi-trailers, bicycles, motorcycles, scooters, airplanes, buses, and farm implements, whether self-propelled or designed to be pulled, pushed, or carried by another motor vehicle.

Motor Vehicle Salvage Yard. An area of land used for any of the following uses: storing, wrecking, dismantling, cutting, or breaking of motor vehicles and serviceable parts from worthless and useless parts, marketing of the valuable and serviceable parts, and disposing of the worthless and useless parts. The storing, wrecking, dismantling, cutting, or breaking of one or more unlicensed or expired licensed motor vehicle shall classify the land subject to this use as a "Motor Vehicle Salvage Yard."

Multi-Faced Sign. Any sign in a three dimensional configuration, including but not limited to cubes, spheres, and cylinders.

Nonconforming Use. A use of a building or of land lawfully existing at the time this or previous zoning codes became effective and which does not conform with regulations of the district in which the use is located.

Off-Premise Sign. Any sign located on premises other than those of the business or activity it is intended to identify or describe.

Off-Street Parking Space. A space other than on a street, passageway, or alley, designed for use or used for the temporary parking of a motor vehicle, and being not less than nine feet wide and 20 feet long including driveway and garage on private residential property.

On-Premise Sign. Any sign identifying or advertising a business, person, activity, good, product, or service located on the premises where the sign is installed.

Painted Graphics. Any advertisement painted directly onto the wall of a building.

Parochial School. A school maintained by a religious body for either primary or secondary instruction.

Political Sign. Any temporary sign pertaining to an election or a referendum or carrying the picture or name of a person seeking election or appointment to a public office.

Portable Storage Unit Or Container. Any container, storage unit, device or other portable structure that is designed to be rented, leased or purchased for the storage of commercial, industrial or residential household goods and which is located for such purposes outside an enclosed building. A commonly accepted name for these storage containers is PODS, an acronym for Portable On-Demand Storage. This definition shall include truck trailers or truck boxes originally used for transportation, but now used for storage. This definition shall not include trash dumpsters,

roll-off containers and sanitary containers for storing trash and debris.

Private Landing Field. A landing field used solely for the convenience of the owner or lessee of the property, utilizing a sod landing strip, having hangar facilities for not more than two aircraft, with no commercial sales or service establishments located on the property.

Private Pool. Any constructed pool or portable private pool, used for swimming, wading, or bathing, over 24 inches in depth of water or with a top water surface exceeding 250 square feet and which is used for a pool in connection with a family dwelling unit and is available only to the family of the householder and his private guests.

Private School. Private preprimary, primary, grade, high, or preparatory school, or academy, not owned by any governmental unit or not owned or conducted by or under the sponsorship of a religious or charitable organization.

Projecting Sign. A sign which is affixed to any building, wall, or structure and extends greater than 18 inches beyond the building wall or parts thereof.

Public Information Sign. Signs of a public, noncommercial nature to include safety signs, trespassing signs, traffic signs, signs indicating scenic or historical points or interest, memorial plaques, and the like, and all signs erected by or on order of a public officer in the performance of a public duty.

Public Area. An open area available for public use (other than a street or alley) and designated for use or used for the temporary parking of more than four motor vehicles, whether free or for compensation, or as an accommodation for clients or customers.

Public Water and Sewer System. Systems designed to serve a district, community, municipality or individual development, or portions thereof, by a public, quasi-public, or private utility.

Real Estate Sign. An on-premise sign pertaining to the sale, construction, rental, or lease of the property on which it is located.

Recreation Space.

(1) Developed. Real estate devoted to recreational purposes which contains Commission-approved site improvements, including but not limited to shelters, swimming pools, tennis courts, lakes, and playground fixtures among others.

(2) Undeveloped. Real estate devoted to recreational purposes which is void of buildings or structures and under common ownership by a government or private entity for the use and enjoyment of a community of individuals.

Recreational Vehicle. A device designed for travel, recreational camping, or vacation purposes which either has its own motor power or is mounted on or drawn by another vehicle, including but not limited to travel trailers, camping trailers, truck campers, and motor homes.

Refuse Pickup Station. Those areas wherein facilities are located for the temporary storage of refuse. These areas may serve as convenient collection points for refuse if contained in approved containers and removed to final disposal site on a regular basis.

Responsible Party. An officer, a corporation director, or a senior management official of a corporation, partnership, limited liability company, or business association that is an applicant; or an individual, a corporation, a limited liability company, a partnership, or a business association that owns, directly or indirectly, at least a ten percent (10%) interest in the applicant.

Riding Stable.

(1) Commercial. Any premises or portions thereof, on which horses or other such animals are maintained for the public to ride for monetary remuneration or other forms of compensation.

(2) Private. Any premises or portions thereof, on which a private club, association, or other private organization maintains horses or other such animals to be ridden exclusively by its membership and guests thereof.

River or Stream. All open channels, whether natural, man-made, or modified by man, which carry or discharge water.

Roof Sign. A sign erected on or above a roof or parapet of a building.

Rooming or Boarding House. A dwelling in which, for compensation, lodging or meals are furnished regularly to not more than five nontransient guests. Separate cooking facilities are not provided for guests. A rooming or boarding house shall not be deemed a home occupation.

Satellite Television Antenna. An apparatus capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit. (References to “All Antennas” include satellite television antennas.)

Sign. Any identification, description, illustration, or device which is in view of the general public and which directs attention to a person, place, commodity, activity, institution, organization, or business. Also, any board, device, or structure, or part thereof used for advertising, display, or publicity purposes. Signs placed or erected by governmental agencies for the purposes of showing street names or traffic directions or regulations for other governmental purposes shall not be included herein.

Site Area.

(1) Gross. The entire land area within the boundaries of a site, including all existing and proposed public and private rights-of-way.

(2) Net. The entire land area within the boundaries of a site, excluding all the area of any existing and proposed public and private rights-of-way.

Storage Building. Buildings used for the storage or warehousing of goods, but not including temporary storage containers such as Portable Storage Units or tractor trailers used for storage.

Story. That portion of a building included between the surface of any floor and the surface of the floor next above, or if there is no floor above it, then the space between any floor and the ceiling next above it; also any portion of a building used for human occupancy between the topmost floor and the roof. A basement shall not be counted as a story unless the height of the surface of the first floor above the average elevation of the finished lot grade at the front of the building exceeds four feet.

Street. A public way established or dedicated by duly recorded plat, deed, grant, governmental authority, or by operation of law.

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, mobile homes, waste cells and units, walls, fences, billboards and poster panels, and pools.

Temporary Sign. A sign which is not permanently installed, such as an advertising display, constructed of cloth, canvas, light fabric, cardboard, or other light material.

Tenant House. As allowed in the A-1 zoning district shall be defined as a single dwelling unit used solely by a person or persons employed on the premises. Mobile homes may be considered as "Tenant Houses" when used only as defined above.

Territorial Jurisdiction. That portion of Allen County, Indiana, lying both within and outside the corporate limits of the City over which the Plan Commission has exclusive planning, zoning, and subdivision control, as provided in IC 36-7-4-100 et seq., and all acts amendatory thereto, as is now or may hereafter be in effect.

Tourist Home. A building in which one but not more than five guest rooms are used to provide or offer overnight accommodations for transient guests.

Trade or Business School. Secretarial or business school or college when not publicly owned or not owned or conducted by or under the sponsorship of a religious, charitable, or nonprofit organization; or a school conducted as a commercial enterprise for teaching instrumental music, dancing, barbering, hair dressing, drafting, or for teaching industrial or technical skills.

Unlicensed Motor Vehicle. A motor vehicle without proper, current license plates, registration or inspection certificate to be lawfully operated on public ways.

Unlicensed Motor Vehicle Storage Yard. Premises used for the outside storage of one or more unlicensed motor vehicles.

Usable Satellite Signal. A satellite signal which, when viewed on a conventional television set, is at least equal in picture quality to that received from local commercial television stations or by way of cable television.

Use.

(1) Use. The employment or occupation of a building, structure or land for a person's service, benefit, or enjoyment.

(2) Open Use. The use of a lot without a building or including a building incidental to the open use with a ground floor area equal to 5% or less of the area of the lot.

Waste Facility. A commercial facility where special, hazardous, toxic, radioactive, industrial, medical, municipal, or sludge wastes are treated, recycled, transferred, stored, or disposed of, including refuse pickup stations and incinerators.

Yard. A space on the same lot with a main building, open, unoccupied, and unobstructed by structures, except as otherwise provided in this Chapter.

(1) Yard, Front. A yard extending across the full width of the lot, the depth of which is the least distance between the street right-of-way line and the building line.

(2) Yard Rear. A yard extending across the full width of the lot between the rear of the main building and the rear lot line the depth of which is the least distance between the rear lot line and the rear of such main building.

(3) Yard, Side. A yard between the main building and the side lot line, extending from the front yard or front lot line where no front yard is required, to the rear yard. The width of the required side yard is measured horizontally, at ninety (90) degree angles with the side lot line, from the nearest point of the side lot line to the nearest part of the main building.

[Ord. G-38-80, passed 12-9-80; Ord. G-13-83, passed 7-12-83; Ord. G-86-19, passed 9-9-86; Ord. Z-92-15, passed 8-11-92; Ord. Z-94-11, passed 8-9-94; Ord. Z-95-4, passed 5-9-95; Ord. Z-96-9, passed 9-22-96; Ord. No. Z-13-21, passed 2-25-14]

§151.003 SCOPE OF CHAPTER

(A) Structures and uses affected by zoning.

(1) No structure or land shall hereafter be used and no structure or part thereof shall be erected, moved, or altered unless in conformity with the provisions of this Chapter. Unless a land use is allowed hereby, the use shall not be considered in conformity herewith.

(2) All land uses which were legal conforming uses subsequent to the original adoption of the New Haven Zoning Code, which became effective 7-11-62, but are no longer considered as permitted uses as a result of amendments to the Code, nevertheless shall be construed as conforming uses and treated as such. Similarly, structures or approved plats or development plans which originally met yard and area requirements, but as a result of amendments to the Code no longer meet the requirements, shall also be construed as conforming.

(B) Exemption of agricultural uses. Nothing contained in these regulations shall impose restrictions or require a permit with respect to land used or to be used for agricultural purposes, or with respect to the erection, maintenance, repair, alteration, remodeling, or extension of agricultural buildings, or structures to be used for agricultural purposes upon such land, except that the buildings or structures for agricultural purposes should conform to building or setback lines. Dwelling units, however, are not considered exempt from the regulations of this Chapter and shall meet all requirements contained herein.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80; Ord. Z-94-11, passed 8-9-94]

§151.004 ESTABLISHMENT OF DISTRICTS

(A) For the purpose of this Chapter the area within the territorial jurisdiction of the Commission is divided and classified into the districts designated as follows.

Designation	Name
A-1	Agricultural
FW and FF	Flood Hazard
RS-1	Residential Single-Family
RS-2	Residential Two-Family
RS-3	Residential Multiple-Family
RS-P	Residential Planned
MH	Manufactured Housing
C-1A	Professional and Personal Services
C-1	General Commercial
C-2	Planned Shopping Center
C-4	Roadside Commercial
C-P	Planned Business
I-1	Light Industrial
I-2	General Industrial
I-3	Heavy Industrial
I-P	Planned Industrial

(B) The boundaries of the zoning maps are established as shown on the official zoning maps which shall be located in the office of the Zoning Administrator.

(C) Lands previously under the jurisdiction of the City Plan Commission of the City of Fort Wayne, Indiana, or the Allen County Plan Commission, and as a result of annexation or extension of the Commission's territorial jurisdiction are now under the jurisdiction of the New Haven Plan Commission, shall automatically be reclassified into the corresponding New Haven Zoning District when such lands are included within jurisdiction of the Commission.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.005 ELIMINATION OF DISTRICTS

(A) On 12-9-80 the following zoning classifications were eliminated: R, C-3, C-5, I-4.

(B) The real estate previously classified in the above districts were classified as follows.

Old District	New Classification
R	RS-1
C-3	C-1
C-5	C-4P
I-4	I-2P

(C) Concurrently, the New Haven zoning maps were changed accordingly.

(D) Real estate previously designated by this Chapter as A-2 (Flood Hazard) shall be classified as either FW (Floodway) or FF (Floodway Fringe) to comply with the provisions of the National Flood Insurance Program.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80; Ord. G-12-83, passed 7-12-83]

§151.006 INTERPRETATION OF ZONING MAP

Where, due to the scale, lack of detail, or illegibility of the zoning map, there is an uncertainty, contradiction, or conflict as to the intended location of any zoning district boundary as shown thereon, the Zoning Administrator shall make an interpretation of the map on the request of any person. Any person aggrieved by any such interpretation may appeal the interpretation to the Board of Zoning Appeals. The Zoning Administrator and the Board of Zoning Appeals, in interpreting the zoning map or deciding any appeal, shall apply the following standards:

(A) Zoning district boundary lines are intended to follow lot lines, or be parallel or perpendicular thereto, or along the center line of alleys or streets, or along water courses, contour lines, or other similar established lines.

(B) Where zoning district boundary lines are so indicated that they approximately follow lot lines, the lot lines shall be construed to be the boundary lines.

(C) 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.

(D) If, after the application of the foregoing rules, uncertainty still exists as to the exact location of a zoning district boundary line, or the physical or cultural features existing on the ground are at variance with those shown on the official zoning map, the boundary line shall be determined in a reasonable manner, considering the history of uses of property and the history of zoning ordinances and amendments.

(E) If the exact location of the FW (Floodway) or FF (Floodway Fringe) District boundary line cannot be determined from the zoning maps, the Zoning Administrator shall refer to the Floodway Map, the Flood Insurance Rate Map, and the Flood Insurance Study prepared by the Federal Emergency Management Agency in making a determination.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.007 DISTRICT CLASSIFICATION

The terms A district, RS district, C or I district shall be deemed to refer respectively to all districts designated by the same letter, for example, C district shall include the C-1, C-2, C-4 and C-P districts.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.008 MEASUREMENT OF DISTANCE

Unless otherwise specified, all distances shall be measured horizontally, in any direction.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.009 FILING FEES

An applicant shall be charged a filing fee for al taskes to be accomplished by the Board of Zoning Appeals, Plan Commission, Zoning Administrator, and Zoining Hearing Officer in accordance with the requirements of Chapters 150 and 151 of the New Haven Code. This fee, which shall be non-refundable, shall be paid with the submission of an application, or in the case of

notices, within the time specified by invoice. The amount of the filing fee shall be set by Rule of the Plan Commission. Any fees not paid shall be due together with interest of 12 percent per annum, attorney's fees, and all other costs of collection.

[Ord. G-02-11; passed 8-27-02]

PARKING AND LOADING

§151.020 OFF-STREET PARKING

(A) The following off-street parking spaces shall be provided and satisfactorily maintained, as specified in §151.022 (B), by the owner of or person using property, for each building which is hereafter erected or at the time any structure is enlarged or increased in capacity or at the time the use of property is hereafter changed. Off-street parking space shall be provided as follows:

(1) Each automobile parking space shall be not less than 180 square feet in area.

(2) For any place of assembly without fixed seats, at least one parking space for each 120 square feet of gross floor area thereof.

(3) For any auditorium, gymnasium, stadium, church, or theater, or any other similar place of assembly, at least one parking space for each six seats based on the maximum seating capacity, including fixed and movable seats.

(4) For any automatic car wash, a reservoir space on the lot for not less than ten automobiles per washing lane.

(5) For any bank, funeral home, office building, professional office, library, museum, welfare institution, or any other similar use, at least one parking space for each 400 square feet of gross floor area thereof.

(6) For any barber shop or beauty shop, at least three off-street parking spaces for each barber or beautician using the shop.

(7) For any bowling alley, at least four parking spaces for each bowling lane thereof.

(8) For any C-2 Planned Shopping Center, at least five and one-half parking spaces per 1,000 square feet of gross leasable floor area.

(9) For any commercial or business office having a gross floor area in excess of 10,000 square feet and occupied solely by the employees of a single business or entity, at least one parking space for each 800 square feet of gross floor area thereof.

(10) For any eating or drinking establishment or any other similar use where customers are seated and served within a building, at least one parking space for each 200 square feet of gross floor area thereof.

(11) For any eating or drinking establishment or any other similar use where customers are served outside of a building, at least one parking space for each 50 square feet of gross floor area thereof, provided, however, that there shall not be less than six spaces for each such establishment.

(12) For any food market establishment or any other similar use, there shall be at least one parking space for each 200 square feet of gross floor area.

(13) For any furniture store, household appliance store, or mechanical trades display store, or any other similar use, at least one parking space for each 1,000 square feet of gross ground floor area thereof, plus one space for each 1,500 square feet of the gross area of floors other than the ground floor used for sales, displays, or show purposes.

(14) For any high school, at least one parking space per seven students, based on the maximum number of students enrolled.

(15) For any hospital, sanitarium, sanatorium, convalescent home, or any other similar use, at least one parking space for each three beds or any portion thereof.

(16) For any hotel in a C-4 district or any other similar use, at least one parking space for each sleeping room.

(17) For any launderette, laundromat, self-service laundry, washateria, or any similar use, at least one parking space for each two washing machines or portion thereof.

(18) For any manufacturing, processing, wholesaling, storage, or any other industrial use or commercial establishment not specifically set out in this division, at least one parking space for each two employees, plus sufficient spaces to park all company-owned or leased motor vehicles, semi-trailers, and trailers.

(19) For any medical clinic or any other similar use, at least six parking spaces for each doctor or dentist using the facility, plus one space for each two regular employees.

(20) For any mobile/modular housing projects, at least two parking spaces per lot shall be provided.

(21) For any motel in all districts where permitted, at least one parking space for each sleeping room.

(22) For any multiple-family dwelling, at least one and one-half parking spaces per dwelling unit.

(23) For any retail store or service, except those specified above, at least one parking space for each 400 square feet of gross floor area thereof.

(24) For any self-service car wash, at least three off-street parking spaces for each washing stall.

(25) For any single-family or two-family dwelling, at least two parking spaces for each dwelling, plus one parking space for each two sleeping rooms rented to persons not members of the family occupying the dwelling.

(B) In the case of mixed uses in the same building or structure, the total requirements for off-street parking facilities shall be the sum of the requirements of the various uses computed separately on the basis of the items set out in this Section, and off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use except as hereinafter specified in this Section.

(C) Nothing in this Section shall be construed to prevent collective provisions for any off-street parking facilities for two or more buildings or uses. Provided, that the total number of off-street parking spaces shall not be less than the sum of the requirements for the various individual uses involved computed separately on the basis of the items set out in this Section.

(D) All parking spaces provided pursuant to this Section shall be on the same lot with the building or use for which the spaces are required, except that the Board of Zoning Appeals, after public hearing, may permit the parking spaces to be on any lot within 300 feet of the building provided that the requirements of (A) (16) and (21) above, and hereof shall not be waived. Provided, that if the Board determines, after public hearing, that it is impractical to provide parking spaces on the same lot with the building or use for which such spaces are required, or within 300 feet thereof, the Board may permit the parking spaces to be on a lot a greater distance than 300 feet from the building or use, subject to appropriate conditions imposed by the Board regarding the location, character, or other features of the proposed lot for parking spaces as are reasonably required for the purpose of this Chapter.

(E) The distance to any parking space area as herein required shall be measured between the nearest point of the off-street parking facility and the nearest point of the building the parking facility is to serve.

(F) All parking facilities provided pursuant to this Section, except those required by (A)(12), (20), (22), and (25) above, shall be directly accessible from a street.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.021 OFF-STREET LOADING AND UNLOADING

On the same premises with every building, structure, or part thereof, hereafter erected, established, or enlarged, and occupied for manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, laundry, dry cleaning, or other uses, involving the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained space for vehicles standing, loading, and unloading as follows:

(A) A 12 foot by 35 foot loading space with 14 feet height clearance for every 20,000 square feet or fraction thereof in excess of 3,000 square feet of floor area or land used for above-mentioned purposes. Provided, that in no case shall the required off-street loading space be part of the area used to satisfy the off-street parking requirements of this Chapter.

(B) In the event the loading area is within 400 feet of an RS district, and the loading area is not obstructed from view from the RS district by a physical barrier, the area shall be screened in accordance with §151.022 (D).

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.022 PARKING AREA IMPROVEMENT

(A) Nothing contained in this Section shall be deemed to apply to any off-street parking space or driveway for single-family dwelling units.

(B) The Board of Public Works and Safety is authorized and required to prescribe to minimum specifications for paving or surfacing of all land used for off-street parking, whether required by this Chapter or otherwise, and all driveways not excepted in (A) above.

(C) All land which hereafter is placed in use for off-street parking, and all driveways thereto, shall be paved or surfaced with materials and in a manner which meets or exceeds such minimum specifications prescribed by the Board of Public Works and Safety.

(D) Where the land used for off-street parking adjoins an RS, RS-P, or MH district, a solid wall, compact evergreen screen, hedge, uniformly painted board fence, or earth mound shall be erected and maintained between the land and the adjacent RS, RS-P, or MH district. Unless in conflict with §§151.120 and 151.121, the screening element shall be at least five feet and not more than eight feet in height.

(E) All land used for off-street parking in districts for which front yards are required by this Chapter shall be located not less than five feet from any property line abutting on a street.

(F) Any light used to illuminate land used for off-street parking or driveways thereto shall be installed and maintained so as to reflect the light away from any adjoining RS district.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.023 MAINTENANCE OF SPACES

Any parking or loading space established prior to 12-9-80 and which is used or intended to be used in connection with any main building, structure, or use, or any spaces designed and intended to comply with the requirements of this Chapter for any such main building or structure erected after such effective date, shall hereafter be maintained so long as the building or structure

remains, unless the owner provides and maintains in another location an equivalent number of required spaces which conform to the provisions of this Chapter.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.024 PARKING FOR MULTIPLE-FAMILY HOUSING

Parking areas for multiple-family housing may be located in any yard except the required front yard or required side yard facing the street.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.025 ACCESS ROADS

This Section provides a plan to require private construction and maintenance of access roads at certain locations, based upon the following requirements:

(A) The purpose of the access road plan is to achieve a reduction in traffic conflicts and congestion and enhance traffic safety by limiting the number of access points onto major streets from adjacent real estate.

(B) On real estate located adjacent to the streets, roads and highways described in subsection (F), there shall be constructed access roads, appropriate permanent accesses to access roads from public rights of way, and necessary right-of-way improvements, in order to achieve the purpose stated in subsection (A).

(C) An owner of real estate shall construct, at the owner's expense, such access road, permanent access, and right-of-way improvements as may be required by the New Haven Plan Commission.

(D) The access roads and permanent accesses to them shall be privately maintained by the owner of the property on which an access road or access is located, except for such portion of a permanent access which the City of New Haven agrees to maintain.

(E) The New Haven Plan Commission shall be authorized to do the following:

(1) Adopt written plans describing the specific areas where access roads will be located, and the manner and timing of their construction.

(2) Designate documentation necessary to implement the access road plan.

(3) Designate the specifications for construction of access roads, permanent accesses, and right-of-way improvements.

(4) Adopt such rules as it may deem necessary to implement the access road plan as stated in the Comprehensive Plan.

(5) Impose construction of an access road, permanent access, and right-of-way improvements as a condition of the issuance of an Improvement Location Permit or a Certificate Of Occupancy, unless the New Haven Plan Commission permits the owner to make a written commitment for such installation at a later time.

(6) Require an access to a public right-of-way from real estate upon which an access road is located, to remain only temporarily, and to be removed or closed at such time as connection to a permanent access is possible.

(7) Enforce a violation or breach of an obligation to construct or maintain an access road or permanent access, construct right-of-way improvements, or remove a temporary access, which might be required under this Comprehensive Plan, an access road plan, a rule of the New Haven Plan Commission, or any other related commitment or document. The remedies available for such enforcement shall include any legal or equitable remedies available, including injunctive relief and recovery of attorney fees, costs and expenses incurred in connection with such proceedings.

(F) The New Haven Plan Commission shall be authorized to require access roads to be constructed along the following streets and highways:

(1) All present and future arterials as defined by the New Haven Comprehensive Plan.

(2) Expressways, other limited access highways, and their interchanges.

(3) Any other street or highway which the New Haven Plan Commission reasonably deems necessary or desirable in the development of real estate to achieve the purpose stated in subsection (A).

(G) In designating areas for the location of access roads, the New Haven Plan Commission shall be guided by recommendations of the Urban Transportation Advisory Board, or its successor.

[Ord. G-92-2, passed 3-25-92]

NONCONFORMING USES AND STRUCTURES

§151.035 CONTINUANCE OF NONCONFORMING STRUCTURE

(A) Maintenance permitted. A nonconforming structure lawfully existing on 12-9-80 may be maintained, except as otherwise provided in this Section.

(B) Repairs. A nonconforming structure may be repaired or altered provided no structural change shall be made.

(C) Additions, enlargements, or moving. A structure nonconforming as to use, height, yard requirements, or lot area per dwelling shall not be added to or enlarged in any manner unless the structure can comply with one of the following:

(1) If the structure, including additions or enlargements, is made to conform to the use, height, yard, and area requirements of the district in which it is located, or

(2) If a structure is conforming as to use, but nonconforming as to height, yard, or lot areas requirements, the structure may be added to or enlarged provided that the nonconforming height, yard, or lot area dimensions are not decreased.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.036 CONTINUANCE OF NONCONFORMING USE

(A) Continuation and change of use. Except as otherwise provided in this Chapter:

(1) A nonconforming use lawfully existing on 12-9-80 may be continued;

(2) A nonconforming use may be changed to any use found within the same zoning classification that the original nonconforming use would have been legally permitted in, or to a use permitted within a more restrictive zoning classification.

(B) Expansion prohibited.

(1) A nonconforming use in a structure designed for a conforming use shall not be expanded or extended into any other portion of the conforming structure nor changed except to a conforming use.

(2) A nonconforming use on a part of a lot shall not be expanded or extended into any other portion of the lot.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.037 NONCONFORMING VARIANCE

The Board of Zoning Appeals may authorize on appeals in specific cases such variance from the terms of this Subchapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Subchapter will result in unnecessary hardship, and so that the spirit of this Subchapter shall be observed and substantial justice done, provided, that no action shall be taken or decision made except after public hearing.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.038 PLACEMENT OF MOBILE HOMES

(A) Placement restricted.

(1) A "Mobile Home" shall mean for the purposes of this Section any prefabricated mobile living unit or dwelling, including all equipment appurtenant thereto, including, but not limited to, jacks, temporary support, temporary foundation, wheels, steps, or like equipment.

(2) No mobile home shall be placed or maintained in any area of the City not designated as a mobile home park. This restriction has equal application in business as well as residential areas.

(3) This division shall not apply to any mobile homes or trailers presently existing in nondesignated areas within the City, and shall have no retroactive application or effect.

(B) Any mobile home court which existed on 12-9-80 and which is located in a district which permitted a mobile home court either as a permitted use or by Special Exception shall be regarded as conforming use and may be continued, except that any change in layout, expansion, or extension shall be subject to all provisions of §151.095.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80; Ord. G-85-9, passed 4-9-85]

§151.039 AMORTIZATION

(A) Whenever a nonconforming use has been discontinued for a period of 12 months, the use shall not thereafter be reestablished and use thereafter shall conform to the provisions of this Chapter.

(B) No building damaged by fire or other causes to the extent that its restoration will cost more than double its assessed valuation shall be repaired or rebuilt except to conform to the provisions of this Chapter.

(C) Any nonconforming open use of land lawfully existing on 12-9-80 and not previously designated as a nonconforming open use of land by any prior zoning ordinance, shall be discontinued on or before five years after 12-9-80. Any nonconforming open use of land that has been previously zoned as a nonconforming open use of land with a five-year amortization period established, shall be discontinued on or before the date as established under the previous zoning jurisdiction.

(D) Any nonconforming billboard or advertising structure not attached to a building, lawfully existing on 12-9-80, shall be discontinued on or before ten years after the effective date of this ordinance unless a discontinuance date has been established by a prior zoning ordinance in which case the prior date of discontinuance shall apply. Any mobile sign existing on the effective date of this ordinance amendment must be removed from the site one year therefrom.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.040 NONCONFORMING USES OR BUILDINGS IN FLOOD HAZARD AREAS

In addition to any other provisions of this Section, any building, structure, or other use in the FW (Floodway) or the FF (Floodway Fringe) District which is not at or above the flood protection grade or does not otherwise comply with the provisions of §151.091 of this Chapter, shall be a nonconforming use and is subject to the following:

(A) In an FW (Floodway) District, a nonconforming use or structure may not be expanded or enlarged unless written approval is obtained from the Indiana Natural Resources Commission.

(B) In an FF (Floodway Fringe) District, a nonconforming structure may undergo expansion, alteration, or enlargement, provided the modification is on a one-time only basis and such modification does not increase the value of the structure by more than 40% of its pre-improvement market value (excluding the value of the land), unless the structure is permanently modified to comply with the provisions of §151.091 herein.

[Ord. G-13-83, passed 7-12-83]

CONTINGENT USES

§151.050 PERMITTED CONTINGENT USES

The contingent uses hereinafter set forth shall be permitted by the Board of Zoning Appeals, after public hearing, in any district where the uses are essential or desirable to the public convenience or welfare provided, however, no permit for a contingent use shall be granted if the Board shall find that the use is in conflict with any plan duly adopted by ordinance of the Council. In granting the permit, the Board may impose appropriate conditions regarding the location, character, and other features of the proposed building, structure, or use as are reasonably required by the purposes of this Chapter. The permitted contingent uses are identified as follows:

(A) An airport or similarly designed area for the landing and taking off of aircraft, but excluding private landing fields as defined by this Chapter, provided that:

(1) The proposed location is in accordance with the master plan of the airports for Allen County. If such a plan has not been adopted, the proposed location must be approved by the Plan Commission in regard to the compatibility with the New Haven Comprehensive Plan as from time to adopted.

(2) The area and the arrangement of all improvements shall be sufficient, for the class of airport proposed, to meet the requirements of the Federal Aviation Agency, the Aeronautic Administration of Indiana and any other rightfully involved governmental agency.

(3) Any buildings, hangars, or other structures shall be at least 100 feet from any street or lot line.

(4) No application shall be considered, unless it is accompanied by a plan, drawn to scale, showing the proposed location of the airport; boundary lines; dimensions; names of owners of abutting properties; proposed layout of runways, flight patterns, landing strips or areas, taxi strips, aprons, roads, parking areas, hangars, buildings, and other structures, and facilities; the location and height of all buildings, structures, trees, and overhead wires falling within the airport approach zones and less than 500 feet distant from the boundary lines of the airport; other pertinent data, such as topography and grading plan, drainage, water, and sewerage, and the like.

(B) Cemetery.

(C) Governmental installation not otherwise permitted.

(D) A hospital, nursing home, sanitarium, or asylum which does not treat mental, drug, or alcoholic patients.

(E) Medical health center or clinic, with parking provided as specified by this Chapter.

(F) Public utility facilities such as radio and television transmitter stations and towers; petroleum and natural gas transmission lines, pumping stations, and facilities; electric substations and telephone exchanges where not otherwise permitted by this Chapter; railroad lines; classification yards and terminals; and other similar uses of a public utility or public service nature, including structures and appurtenances for their enclosure, maintenance, and operation.

(G) Educational institution.

(H) Fairground.

(I) Transient amusement enterprise, medicine show, or circus, the chief activity of which is carried on for gain or profit.

(J) Private school.

(K) Golf course.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.051 TEMPORARY CONTINGENT USE

Notwithstanding anything to the contrary herein, the Board of Zoning Appeals, after public hearing, may permit a temporary contingent use, for any period less than six months, to permit a use in conflict with any plan duly adopted by ordinance of the Council to aid the completion, construction, erection, repair, or maintenance of public works or projects, pursuant to contract with any governmental body, unit, authority, or sovereign. Provided, in all cases, the following conditions shall be imposed on the contingent use or user:

(A) The contingent use shall be located not more than 1,000 feet from any part of the public works under contract.

(B) The contingent use shall conform to the performance standards as specified in §§151.090 through 151.105 for the zoning district under which the contingent use is a permitted use.

(C) At the completion of the contract for which the contingent use was permitted, the contingent use must be promptly removed and the temporary contingent use site restored to its original condition.

(D) The contingent use shall be subject to such other restrictions as the Board of Zoning Appeals may see fit to require.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.052 EXTENSION

The Zoning Administrator shall, with approval of the Council, have the right to extend the period duly authorized by the Board of Zoning Appeals as aforesaid for one successive period of 60 days, on the expiration of the original temporary contingent use granted by the Board, where in the opinion of the Zoning Administrator, approved as aforesaid, the expiration of the period originally granted by the Board causes unreasonable hardship on the contingent use or user and where, by the granting of the extension, the public welfare and convenience will be served by the completion of the contract within the extension period, and substantial justice served.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

SPECIAL EXCEPTIONS

§151.060 PUBLIC HEARING FOR SPECIAL USE

Special Exceptions may be permitted by the Board of Zoning Appeals, after public hearing, only in the specified districts indicated in §151.061. No permit for a special use shall be granted unless the Board shall have first found that the public convenience and welfare will substantially be served and that the proposed use will not be unduly detrimental to the surrounding area. Provided, in the case of mobile and modular homes, the Board need not find that the public convenience and welfare will be substantially served. In the exercise of its approval the Board may impose such additional conditions regarding the location, character, and other features of the proposed building or structure or use as it may deem advisable in the furtherance of the purposes of this Chapter.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.061 SPECIAL USES PERMITTED

The Board of Zoning Appeals may permit the following:

(A) In any A-1 district, a veterinary clinic, animal hospital, animal boarding place, or kennel provided that no part of any building, pen, or run shall be within 100 feet of any lot or property line.

(B) In any A-1 district, an antique shop, provided that any outdoor display of articles for sale shall be at least 50 feet from any street or property line.

(C) In any A-1, RS-1, RS-2, or RS-3 district, a beauty shop in the home provided that:

(1) The beauty shop must be entirely within the dwelling and clearly incidental and secondary to the use of the dwelling for residential purposes and not change the character thereof or have any exterior evidence of a beauty shop other than those features required by the Indiana State Board of Beauty Culturists Examiners.

(2) The use is limited to one beautician who resides in the dwelling.

(3) Off-street parking spaces are provided as required in §151.020.

(4) No Special Exception be granted for a period to exceed five years.

(D) In any A-1 or RS-1 district, the temporary use, for a period of not more than three years subject to renewal, of a single-family dwelling for a boarding or rooming house on a finding by the Board that the rooming house will not constitute a nuisance because of sidewalk or street

traffic, noise, or type of physical activity, and that the use will not tend to affect adversely the use and development of adjoining properties or the immediate neighborhood.

(E) In any A-1, RS-1, RS-2, RS-3, or RS-P district, a child care home or center on a finding by the Board that the use will not constitute a nuisance because of traffic, number of children being cared for, noise, or type of physical activity.

(F) In any A-1, RS-1, RS-2, or RS-3 district, a hospital, nursing home, sanitarium, asylum, or other institution which cares for mental, drug, or alcoholic patients or is a penal or correction institution, subject to the conditions that:

(1) No part of any building in which inmates or patients are housed is, or is proposed to be, located less than 300 feet from any bounding lot or street line.

(2) Adequate off-street parking space is provided.

(3) Protective fencing, as required by the Plan Commission, is provided where necessary.

(G) In any RS-1, RS-2, or RS-3 district, a dwelling on any lot or parcel of land immediately abutting along its side lot line or lying directly opposite across a street from any commercially or industrially developed commercial or industrial district, may be used for limited office purposes provided that the use is in accordance with the following requirements:

(1) The uses shall be confined to the offices of doctors, dentists, lawyers, accountants, realtors, engineers, and similar professional persons, who are required to live in the building.

(2) The uses shall not change or alter the exterior appearance of the premises, and no name plate or other sign exceeding two square feet in area shall be displayed on the premises. Wherever possible, in the opinion of the Board, all entrances, driveways, walks, parking areas, and signs incidental to the use shall be located on the side of the building nearest to the commercial or industrial district.

(H) In any RS-1, RS-2, RS-3, C-1, or C-1A zoning district, a mobile home or modular home as the primary use of a parcel provided, however, that the granting of the exception would not create, establish, or permit a mobile home court as defined in §151.002.

(I) In any RS-1 District, a private landing field as defined in §151.002.

(J) In any A-1 district, a sports stadium or arena, race track, camp grounds, swimming pool, square dance barn, recreation hall, or other similar recreational establishments of a commercial nature.

(K) In any A-1 or RS-1 district, a miniature golf course or a golf or baseball driving range or other similar recreational establishment of a commercial nature.

(L) In any A-1 or RS-1 district, a riding stable of a commercial nature, subject to the following:

(1) The stable shall be located on a tract of not less than five acres.

(2) Such use in an RS-1 zone shall be for a five-year period subject to renewal.

(3) No building shall be located less than 100 feet from the nearest property line.

(M) In any A-1 district, an outdoor archery, rifle skeet or trap shooting range of either a commercial or private nature for a period of three years subject to renewal.

(N) In any A-1 district, subject to the provisions of any state or local law, an indoor rifle or pistol range of either a commercial or private nature, provided that the range is constructed in such a manner as to eliminate any danger whatever to persons or property.

(O) In any A-1, RS-1, RS-2, or RS-3 district, a golf course, country club, swimming club, and meeting halls of private clubs and organizations, except that land intended for use by a swimming club or association which was so designated at the time of approval of the final subdivision plat, and which is not less than 150 feet from the edge of the subdivision as approved on the preliminary plat, need not require a Special Exception Permit provision for the serving of food, refreshments, or entertainment as an accessory use.

(P) In any A, RS, C, or I district, a not-for-profit recreational field together with its customary accessory uses. Recreational fields may include, but shall not be limited to baseball diamonds, football and soccer fields, model airplane flying areas, and similar recreational areas.

(Q) In any A or RS district, a handicraft shop in a dwelling wherein solely members of the family who reside in the dwelling may sell their handicrafts such as ceramics, costume jewelry, trinkets, and the like. The use must be clearly incidental and secondary to the use of the dwelling and must not change the character thereof or have any exterior evidence other than a sign, as provided for by these regulations.

(R) In any RS-1, RS-2, or RS-3 zoning district, a private riding stable as defined in §151.002.

(S) In any RS-1, RS-2, RS-3, I-1, I-2, or I-3 district, the use of vacant land for the removal of natural material or deposits including but not limited to sand, gravel, clay, rock, stone, earth, or top soil, subject to the following:

(1) All applications for the uses shall be accompanied by a map or plat showing the area proposed to be included in the extraction or removal operation; an estimate or time required for the removal of material; and a final grading plan which shows the existing ground elevations of the site and the land immediately adjacent thereto, the location and elevation of all bounding streets or roads, and the final elevation of the site at the termination of the operation with respect to the elevations of the immediately adjacent land and bounding streets or roads.

(2) Unless the Board specifies otherwise, the land areas exposed by the operation shall not have a final cut slope of steeper than three feet horizontal to one foot vertical distance and shall be left suitable for development purposes in accordance with the final grading plan approved by the Board.

(3) Unless otherwise permitted by the Board of Zoning Appeals, temporary operating cut slopes steeper than one foot horizontal to one foot vertical shall in no case be brought closer to an exterior property line, right-of-way line of any street, roadway, or alley, as existing or as proposed in the master plan, than 50 feet where a sight screen is provided or 75 feet in the case where no provision is made for sight screening.

(4) Explosives shall be used only between sunup and sundown except in the case of an emergency.

(5) All buildings, structures, or equipment shall be entirely removed from the property within one year after the expiration of the permit.

(6) Dikes or other barriers and drainage structures shall be provided to prevent silting of natural drainage channels or storm drains in the area surrounding the uses.

(7) Where required by the Board, final cut slopes shall be treated to prevent erosion; topsoil shall be replaced on the slopes to support vegetation; ground cover shall be planted within 12 months after a cut slope is excavated to its final position; and the ground cover shall be maintained for a period of time sufficient to provide vegetation of a density that will prevent erosion.

(8) Where required, suitable plant material shall be placed and maintained to screen cut slopes from public view. There shall be no open storage of discarded machinery, trash, or junk which would present an unsightly appearance.

(9) Quarries and sand and gravel pits shall be operated so as to keep dust and noise to a minimum, and access roads shall be maintained as dust-free surfaces from the public street to within 100 feet of the loading point within the quarry or sand and gravel pit.

(10) Vehicles carrying materials from quarries or sand and gravel pits shall be located in such a manner as to prevent spilling rock, gravel, sand, or other materials of a mineral nature while in transit on roads and highways.

(11) Quarry or sand and gravel excavations which may penetrate near or into a usable water-bearing stratum shall be conducted in such a manner that any such stratum so approached or encountered will not be subject to pollution or contamination either during quarrying operations or the excavation of a sand and gravel pit or subsequent to the abandonment of the quarry or sand and gravel pit.

(T) In any A, RS, MH, C or I district, a temporary directional subdivision sign which includes the name and directions to a new land development. The sign may include any other copy approved by the Board and shall be placed in a location approved by the Board. In determining the location of the proposed structure, the Board shall consider the front yard

requirement for the district in which the sign is to be located in addition to the distance of the proposed structure from adjoining residences. The Board shall also prescribe the maximum amount of time the temporary sign may be located on the approved site.

(U) In any A-1 district, a trucking operation primarily engaged in commercial transportation of agricultural products other than those raised on the premises; feed mills where grain is processed on a commercial basis; poultry establishments and animal slaughter houses where animals other than those raised on the premises are processed on a wholesale basis; commercial welding shops; livestock sales or auction barns; commercial dairy for the processing, packaging and distribution of dairy products; and fertilizer sales, mixing, and storage.

(V) In any A-1, A-2, or RS-1 district, a greenhouse or plant nursery provided retail sales are limited to the sale of plants and the commodities used in the direct care of plants.

(W) In any A-1, RS-1, RS-2, or RS-3 district, storage facility for the uninhabited storage of recreation vehicles including but not limited to travel trailers, boats, boat trailers, campers, snowmobiles, motor homes, and similar recreation vehicles.

(X) In any A or RS zoning district, a temporary field office or model home may be granted an extension as provided for in §151.090.

(Y) In any A-1, RS-1, RS-2, or RS-3 district, a tourist home provided that such use will meet all other applicable governmental regulations.

(Z) In any A-1 or RS-1 zoning district, a two-family dwelling unit as the primary use on a parcel of real estate.

(AA) In any A, R, RS, C, or I district, satellite antennas shall be permitted in the side yard provided that the following are shown to the satisfaction of the Board of Zoning Appeals:

(1) No usable satellite signal can be obtained from the rear yard.

(2) If there is no usable satellite obtainable from the rear yard because of accessory structures and/or trees in applicant's own yard, no Special Exception will be permitted.

(3) Satellite antennas shall be located and designed to reduce visual impact from surrounding properties at street levels and from public streets.

(4) Satellite antennas shall be constructed as specified in §151.090(B)(1)(h).

(5) Height requirements shall be followed as specified in §151.090(B)(1)(h).

(BB) (1) In any district properly zoned for the structure’s intended use, a mobile structure shall be granted a Special Exception if:

(a) The nature and intensity of the operation involved in the proposed Special Exception is compatible with surrounding land uses, and;

(b) The proposed Special Exception will create a desirable precedent in the area, and;

(c) The proposed development has been designed in a manner that will be harmonious with other uses permitted in its zoning district, and;

(d) The proposed development will not create an undue hazard for vehicular or pedestrian traffic.

(2) This Subsection shall not apply to any mobile structures presently existing in the City of New Haven, and shall have no retroactive application or effect.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80; Ord. G-13-83, passed 7-12-83; Ord. G-86-19, passed 9-9-86; Ord. Z-92-15, passed 8-11-92; Ord. Z-93-14, passed 7-13-93; Ord. Z-95-4, passed 5-9-95]

§151.062 CONSIDERATION BY BOARD OF ZONING APPEALS

In considering a petition for any permitted Special Exception, the Board of Zoning Appeals shall give due regard to the following factors as they will apply to the particular situation:

(A) The location and size of the use; the nature and intensity of the operations involved in or conducted in connection with it; its site layout, including parking space requirements; and its relation to streets giving access to it so that vehicular traffic to and from the use will not create undue hazards to the normal traffic of the vicinity, taking into account, among other things, vehicular turning movement in relation to routes of traffic flow, relation to street intersections, sight distances, and relation to pedestrian traffic.

(B) The nature, location, size, and site layout of the use so that it will be harmonious to the district in which it is situated.

(C) In connection with any application for any Special Exception under the City of New Haven Zoning Code, the burden of proving that a Special Exception should be granted shall be placed solely upon the applicant.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80; Ord. Z-96-9, passed 9-22-96]

§151.063 EXISTING USES

All Special Exceptions, except landfills, waste facilities, or building material debris disposal sites which existed on 12-9-80, and which are located in a district which would permit the

use in accordance with the provisions of the Section, shall be regarded as conforming uses and may be continued, except that major changes in layout, expansion, or extension to the uses shall be subject to Board review and approval as required for Special Exception.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80; Ord. Z-96-9, passed 9-22-96]

§151.064 CONFORMING USES

All Special Exceptions hereafter authorized by the Board of Zoning Appeals in accordance with the provisions of this Subchapter shall be regarded as conforming uses and may be continued, except that major changes in layout, expansion, or extension to the use shall be subject to Board review and approval as required for Special Exception.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

SOLID WASTE DISPOSAL

§151.075 PERMITTED USES

(A) A landfill, building material debris disposal site, or other Board-approved waste facility is permitted only upon a finding that there will be no violation of §§151.076 through 151.082 and that the use will not constitute a nuisance and provided that the area, and setback requirements as specified by the Board of Zoning Appeals, are complied with.

(B) In addition to the requirements of §§151.076 through 151.082, any facility approved under this Subchapter shall also have received all applicable federal, State and local approvals required by statute or ordinance, prior to the issuance of an Improvement Location Permit and a Certificate of Occupancy Permit.

[Ord. Z-96-9, passed 9-22-96]

§151.076 LAND USE RESTRICTIONS

(A) Open dumping shall not be permitted under this Section or under this Chapter.

(B) In any A-1, I-1, I-2, or I-3 district, a landfill, building material debris disposal site, or waste facility may be permitted by the Board of Zoning Appeals in compliance with all requirements and regulations of this Chapter. The Board may impose standards and set requirements for site access, yards, drainage, screening, signing, fencing, and the like together with surety bonds, supervision standards, and similar controls or detailed requirements for equipment or operation that it may deem necessary in the furtherance of the purposes of the Chapter. Whenever the applicable standards or requirements of any other ordinance or governmental unit or agency thereof are higher or more restrictive, the latter shall control.

[Ord. Z-96-9, passed 9-22-96]

§151.077 APPLICATION AND APPROVAL PROCEDURES

(A) Special Exception applications for landfills, building material debris disposal sites, or other Board-approved waste facilities shall include all data required by this Chapter accompanied by the filing fee.

(B) Any applicant for Special Exception under this Section shall be required to provide a nonrefundable application fee in the sum of $2,500. In addition, the applicant shall be required to pay all costs incurred by the Board of Zoning Appeals in reviewing the application for a Special Exception including any costs associated with obtaining expert geological, hydro-geological, economic or other experts with respect to potential impact of the proposed facility. The Board of

Zoning Appeals is hereby authorized under this Chapter to incur such expenses in connection with hiring consultants or other advisors to the Board as it may deem reasonable. The applicant shall be required to reimburse the Board when requested upon reasonable notice for all such expenses failing which the application may be denied.

(C) Preliminary application information shall include the following:

(1) Name of the applicant and its corporate status if a corporation.

(2) Legal description of the site.

(3) U.S.G.S. topographical quadrangle map or maps as necessary to include the proposed site and the man-made and natural surface features within one mile of the site.

(4) A map which depicts zoning and specific existing land use within one mile of the proposed site.

(5) A plot plan of the site and adjacent areas at an acceptable scale which includes the location of all existing and proposed access and on-site roads, existing and proposed buildings, water courses, surface water runoff, fencing, and contours at intervals of no more than two feet.

(6) A map showing a typical trench or waste area, the portions of the site where waste will be deposited showing the direction of the operation and the portions of the site to be used only for the acquisition of cover, and also showing soil type boundaries within the site.

(7) A report on the site's soil conditions as determined by the U. S. Soil Conservation Service or other qualified agency, including an indication of soil types with boundaries and limitations.

(8) A narrative describing the proposed operation, including the following:

(a) Population and areas expected to be served by the proposed site.

(b) Anticipated quantity, types and resources of materials to be deposited.

(c) Proposals for recycling, reclamation, and salvaging operations.

(d) Proposals for handling bulky waste such as refrigerators, stoves, trees, tires, and the like.

(e) Proposals for on-site collection and after-hours collection.

(f) Winter and inclement weather operating procedures.

(g) Thickness of daily and final cover, source and type of cover material.

(h) Procedures for dust control; blowing paper and open burning prevention.

(i) Proposed methods for control of rodents and insects.

(j) Proposed leachate control measures.

(k) Proposed methods for handling animal carcasses, oils, hazardous materials, flammables, and the like.

(l) Proposed land use after completion of the project and approximate elevation of the completed site with respect to existing elevation.

(m) A delineation of the regulatory flood boundaries as defined by the Federal Emergency Management Agency.

(n) Any other data the Board, at a preliminary hearing, may rule necessary.

(D) Final application requirements for landfills, waste facilities, and building material debris disposal sites shall include the following:

(1) A final plot plan including all information required in the preliminary stage together with final drainage design and the location of all soil boring and on-site wells.

(2) Working drawings, engineering information, and computations of the proposed operation showing the method of operation direction and details on trenches or waste areas including the size of the working face; surface water drainage patterns, plans and cross-sectional drawings of on-site roads; proof of proper material in adequate quantity for cover; size and legend of all signs.

(3) A full geological and hydro-geological evaluation of the site by a competent specialist based on not less than the following:

(a) Soil borings. Through consultation with the Indiana Department of Environmental Management, soil borings shall be taken on the site.

(b) Well information. A submission of boring information and map location for all wells located within 2 miles of the proposed site for which the information has been recorded with the Indiana Department of Natural Resources and the Indiana Department of Environmental Management.

(c) Details of construction and location of ground water monitoring wells and gas venting systems.

(4) A narrative report setting forth the following operational information:

(a) Name and address of party responsible for the operation and maintenance of the operation.

(b) The equipment to be used for placement and compaction of all waste, excavation of soil, moving of stockpiled soil and the application of soil to be compacted; provisions for backup equipment.

(c) On-site records to be kept.

(d) Safety and hygienic facilities for employees.

(e) Finalized leachate control measures.

(f) A statement describing the final conditions of the site following completion of the fill operation, with respect to seeding, grading, and final site work.

(5) A narrative report with the following information to assist the Board in making its determination:

(a) An environmental assessment.

(b) An engineering plan, including procedures for closure and post-closure monitoring and for financial assurance with respect to post-closure monitoring procedures.

(c) Information concerning the risk and probable impact of an accident during transportation of wastes to the site.

(d) Information concerning the risk and probable impact of contamination of ground and surface water by leaching and runoff from the proposed landfill, building material debris disposal site, or waste facility.

(e) Information concerning the risk of fire or explosion from disposal or treatment methods.

(f) Information concerning the impact on the City of New Haven and the surrounding township and county in terms of health, safety, cost, and consistency with local planning and development.

(g) Information concerning the nature of the probable environmental impact, including the specification of the predictable adverse effects on:

[1] the natural environment and ecology;

[2] public health, population density, and safety;

[3] scenic, historic, cultural, and recreational value;

[4] water and air quality, and wildlife.

(h) Information concerning an evaluation of measures to mitigate adverse effects.

(i) Information relating to concerns and objections raised by the public.

(6) An affidavit, given under oath on the personal knowledge of the affiant, containing the following information for the applicant and each responsible party of the applicant:

(a) A description of all civil and administrative complaints against the applicant or responsible party for the violation of any State or Federal environmental protection law that:

[1] Has resulted in a fine or civil penalty of more than $10,000.00 within five (5) years of the submission of the affidavit; or

[2] Has resulted in a negotiated settlement or dismissal, regardless of whether or not culpability was otherwise ostensibly denied, resulting in a payment to the Plaintiff of an amount of more than $10,000.00 within five (5) years of the submission of the affidavit.

(b) A description of all pending criminal complaints alleging the violation of any State or Federal environmental protection law that may have been filed against the applicant or responsible party of the applicant within five (5) years before the date of submission of the affidavit.

(c) A description of all judgments or criminal convictions entered against the applicant or a responsible party of the applicant within five (5) years before the date of submission of the affidavit for the violation of any State or Federal environmental protection law.

(d) A description of all judgments or criminal convictions of a felony constituting a crime of moral turpitude under the laws of any State or the United States that are entered against the applicant or a responsible party of the applicant within five (5) years before the date of the affidavit.

(e) A description of Federal, State and Local environmental permits, including identification numbers, that the applicant or a responsible party of the applicant holds.

(7) Any other data the Board may rule necessary for submission at a final hearing.

[Ord. Z-96-9, passed 9-22-96]

§151.078 REVIEW BY BOARD

(A) Prior to the granting of a Special Exception for a landfill, waste facility, or a building material debris disposal site, the Board of Zoning Appeals shall have held public hearings for both a preliminary approval and final approval of same. The hearings, at the election of the applicant, may be separate or consolidated. In the event the applicant chooses simultaneous hearings, the application information must include all data required for both the preliminary and final approvals.

(B) The purpose of the Board in reviewing testimony and information at a preliminary hearing will be to ascertain if the public convenience and welfare will be substantially served by the proposal and if it will be unduly detrimental to the surrounding area, based primarily on information available without the development of detailed final plans or in-depth geologic investigation. In the event the Board shall have found after a preliminary hearing that the public convenience and welfare would be substantially served and after reviewing the preliminary information that the proposal would not be unduly detrimental to the surrounding area, a final hearing will be conducted. Complete detailed plans, specifications, geologic and hydro-geologic and drainage information and the like required in §151.077 paragraph (D) must accompany the application for the final hearing. The granting of a preliminary approval shall in no manner be deemed to commit the Board to any final approval in the event that final data reveals limitations or conditions which would render the proposal detrimental to the area, or if final plans be incomplete, inadequate, or unacceptable.

[Ord. Z-96-9, passed 9-22-96]

§151.079 APPROVAL REQUIREMENTS

(A) The applicant will be required to demonstrate to the satisfaction of the Board of Zoning Appeals that the siting of a new landfill, building material debris disposal site, or waste facility, or the expansion of an existing landfill, building material debris disposal site, or waste facility, is in the public interest, would not unduly effect property values in the City, the adjoining township, or the adjoining county, and would serve the public convenience and necessity. The Board of Zoning Appeals will have discretion to determine whether these standards have been met.

(B) In connection with its consideration of the application, the Board of Zoning Appeals shall consider:

(1) The existing geological and hydro-geological characteristics of the site.

(2) The monitoring program proposed by the applicant such as to protect groundwater quality.

(3) An assessment of the environmental impact.

(4) The engineering plan including procedures for closure and post-closure monitoring including the adequacy of financial assurance on the part of the applicant to guarantee the protection of the public and the environment.

(5) An evaluation of the proposed landfill's, building material debris disposal site's, or waste facility's impact on the air, water and other natural resources of the City, the adjoining township and the adjoining county.

(6) An environmental failure mode assessment.

(7) The environmental and social impacts of:

(a) The risk and probable impact of an accident during transportation of wastes.

(b) The risk and probable impact of contamination of ground and surface water by leaching and run off from the proposed facility.

(c) The risk of fire and explosion from improper storage and disposal methods.

(d) The impact on the City, adjoining township, and the adjoining county in terms of health, safety, cost, and consistency with local planning and existing development.

(e) The nature of the probable environmental impact, including a specification of the predictable adverse effects on:

[1] the natural environment and ecology;

[2] public health, population density, and safety;

[3] scenic, historic, cultural, and recreational value;

[4] water and air quality, and wild life.

(f) An evaluation of measures to mitigate adverse effects; and

(g) Concerns and objections raised by the public.

(C) In determining the approval of a Special Exception for a landfill, building material debris disposal site, or other waste facility, the Board of Zoning Appeals shall have found that in addition to meeting all other requirements and tests of this Subchapter, the proposed Special Exception meets or exceeds the following standards, requirements, and limitations. The Board may permit variation from the approval requirements set forth below for waste facilities or industrial landfills auxiliary to an industrial use and at the same industrial site.

(1) Minimum site size 70 acres.

(2) Minimum required depth of front, rear, or side yards shall be 100 feet, wherein no portion of the filling operation shall be conducted. Roadways may be within the front, rear, or side yards if maintained dust-free.

(3) The entire landfill, building material debris disposal site, or waste facility operation shall be enclosed with a substantial wall, fence, or other approved barrier at least five feet in height. Facilities for after-hours acceptance of waste need not be within the fencing area.

(4) A site screening strip at least 30 feet in width shall be provided and maintained between the exterior boundaries or property lines of the project and the fencing set forth in (3) above. Site screening can include planting and earth berming or mounding. All site screening proposals are to be specifically approved by the Board.

(5) Only necessary identification and directional signs shall be permitted.

(6) Ingress or egress points to or from the site shall be a minimum of 125 feet from any adjacent property line. Those portions of the site's roadways which are within 150 feet of the public street or streets serving the facility shall be maintained in a state so as to avoid blowing dust problems. In the event a landfill, building material debris disposal site, or waste facility is proposed on a site which has no frontage on a public right-of-way and is served by an easement or access road, the 125-foot dimensional requirement may be waived by the Board if the Board deems it appropriate.

[Ord. Z-96-9, passed 9-22-96]

§151.080 OPERATIONAL REQUIREMENTS

Any landfill or building material debris disposal site approved under the provisions of this Chapter shall be subject to the following operational requirements. Failure to comply with the operational requirements shall be deemed a violation of this Chapter and subject to the penalty provisions of §151.999.

(A) A landfill operation shall be under the direction of a responsible individual at all times. Access to a landfill or building material debris disposal site shall be limited to those times when an attendant is on duty and only to those authorized to use the site for the disposal of waste.

(B) Unloading of waste shall be continuously supervised.

(C) Measures shall be provided to control dust and blowing waste. The entire area shall be kept clean and orderly.

(D) Waste shall be spread so that it can be compacted in layers generally not exceeding a depth of two feet of compacted material. Large and bulky items, when not excluded from the site, shall be disposed of in a manner approved by the Board of Zoning Appeals.

(E) A compacted layer of at least six inches of suitable material shall be placed on all exposed waste by the end of each working day.

(F) A layer of suitable cover material compacted to a minimum thickness of two feet shall be placed over the entire surface of each portion of the final lift.

(G) All daily cover depth must be continually maintained and final cover depths shall be maintained for a period of two years.

(H) No waste shall be burned on the premises except in an incinerator approved as part of the total site plan in a manner approved by the Board.

(I) Salvaging shall be organized so that it will not interfere with prompt disposal of waste or create unsightliness or health hazards. Scavenging (the uncontrolled removal of materials) shall not be permitted.

(J) Conditions unfavorable for the production of insects and rodents shall be maintained by carrying out routine landfill or building material debris disposal operations in a systematic manner. Supplemental insect and rodent control measures shall be instituted whenever necessary as determined by the Zoning Administrator or the Indiana Department of Environmental Management.

(K) The site, including the fill surface shall be graded and provided with drainage facilities to minimize runoff onto and into the fill, to prevent erosion or washing of the fill, to drain off rainwater falling on the fill, and to prevent the collection of standing water.

(L) Cover material shall be of such character that it can be compacted to provide a tight seal and shall be free of putrescible materials and large objects.

(M) Adequate numbers, types, and sizes of properly maintained equipment shall be used in operating the landfill or building material debris disposal site in accordance with good engineering practice and with these rules. Emergency equipment shall be available on the site or suitable arrangements made for such equipment during breakdown or during peak loads.

[Ord. Z-96-9, passed 9-22-96]

§151.081 COMPLETION REQUIREMENTS

On completion of the landfill or building material debris disposal site operation or on the closing of any phase thereof, the land shall be graded, backfilled, and finished to a surface which will result in a topography in substantial conformity to the approved site plan and prepared in a manner as approved on the final site plan.

[Ord. Z-96-9, passed 9-22-96]

§151.082 REQUIRED PERMITS; BOND

(A) No landfill operation, building material debris disposal site, or other Board-approved waste facility, or phase thereof, shall be started until an Improvement Location Permit and a Certificate of Occupancy Permit have been issued by the Zoning Administrator and a bond filed thereof, as set forth in (B) below. Prior to the issuance of the aforementioned permits, the Zoning Administrator shall determine that a Special Exception has been granted for the proposed use and all applicable conditions of the approval have been complied with. Applications for the Improvement Location and Certificate of Occupancy Permits shall be made on forms supplied by the Zoning Administrator and shall be accompanied by a surety bond subject to Zoning Administrator's approval for the faithful performance of all applicable requirements of this Chapter, including the operation and completion of the landfill, building material debris disposal site, or waste facility in accordance with the approved plan thereof. Permits may be issued and bond filed for the total operation or for one or more phases thereof, as shown on the final site plan.

(B) The bond shall run jointly and severally to the City and any other governmental agency requiring a similar bond, and shall be in an amount set by the Board. The bond shall specify the time for completion of all applicable requirements of this Chapter and shall specify the total operational area, or phase thereof, covered by the bond, and shall be continuously maintained for a period not less than one year after the landfill, building material debris disposal site, or waste facility, or phase thereof, shall have been properly completed.

[Ord. Z-96-9, passed 9-22-96]

PERMITTED USES

§151.090 A-1 AGRICULTURAL DISTRICT

(A) Purpose. The Agricultural District is established to permit the full range of agricultural activities as well as limited types of low density residential development and other uses customarily conducted in agricultural areas.

(B) Permitted uses.

(1) Accessory uses, including the following:

(a) Home occupations.

(b) Office in a one-family dwelling, provided that the use is incidental to the main use as a dwelling and further provided that the use is limited to a person actually residing in the dwelling.

(c) Living quarters such as tenant house, apartment, or room for persons employed on the premises and not rented or otherwise used as a separate dwelling.

(d) Barns and other bona fide farm buildings.

(e) Private garages and private greenhouses.

(f) Roadside stands, offering for sale agricultural or other products grown or produced on the premises on which the stand is located, provided the stand is located at least 25 feet from the front property line, and off-street parking is provided in accordance with this Chapter.

(g) Private landing field as defined in this Chapter.

(h) All antennas shall be a permitted accessory use in accordance with the following standards:

[1] Antennas and antenna structures, except satellite antennas, which are not located on the principal structure shall be located to the side or rear of the principal building on a lot and shall meet all yard requirements in §151.129 and §151.130.

[2] A satellite television antenna having a diameter of four feet or less may be located on the principal building or an accessory building on a building lot, subject to the height regulations in paragraph 3 below.

[3] A satellite television antenna shall have a maximum height of 20 feet when located on the ground. Satellite antennas located on the principal building or an accessory building as described in paragraph 2 shall not exceed the height limitation for the district in which they are located. The height of an antenna or the combined height of an antenna and antenna structure shall not exceed the height limit for the district in which it is located as follows:

District	Maximum Height
A-l, C-lA, C-l, C-2, C-4	135 feet
RS-l, RS-2	75 feet
RS-3, MH	75 feet
I-l, I-2, I-3, I-4	135 feet
C-P, I-P	Maximum height as shown on the Commission-approved development plan.

[4] Any antenna having printed matter on or attached to its surface shall be treated as a sign in accordance with the regulations in §§151.145 through 151.148.

[5] All cable and connections from all antennas to other equipment on the premises exceeding six feet in length shall be buried underground when the antenna is located on the ground, or appropriately concealed when the antenna is located on the building.

[6] Not more than one satellite television antenna shall be allowed on any lot.

[7] All antennas and the construction and installation thereof shall conform to applicable building and electrical regulations and requirements.

[8] All antennas shall meet all manufacturer's specifications, be non-combustible, of corrosive-resistant material and be erected in a secure, wind-resistant manner.

[9] All antennas must be adequately grounded for protection against a direct strike of lightening.

[10] All antennas shall be located and designed to reduce visual impact from surrounding properties at street levels and from public streets.

[11] All antennas may be inspected for compliance with this Chapter by the Zoning Administrator or his/her designee.

[12] All portions of the radiating part of an antenna shall not be accessible to the general public.

[13] All portions of the antenna structure and related supports shall be contained within the lot perimeter.

[14] The use shall be incidental and subordinate to and commonly associated with the operation of the primary use of the lot.

[15] The current Federal Communications Commission (FCC) regulations which are more restrictive than the provisions of this Chapter shall govern.

(2) Agricultural uses, including but not limited to, floriculture; horticulture; forestry; crop and tree farming; gardening; dairy, stock, and poultry farming; and the operation of any machinery or vehicles and other uses customarily incidental thereto; but excluding slaughter houses, fertilizer works, bond yards, plants for the processing of animal skins or hides, and plants for the reduction of animal matter.

(3) Churches, convents, monasteries, other places of worship; public and parochial schools.

(4) Single family residences.

(5) Libraries, museums, and similar institutions of a noncommercial nature.

(6) Parking or storage of farm vehicles, farm machinery, and other motor vehicles used on the premises in connection with any use permitted in the A-1 district.

(7) Public buildings or uses supported in whole or in part by local or county taxes or by special public assessments; and other public uses provided that any land or buildings used in connection therewith are publicly owned and operated; and provided that dumps, incinerators, and dog pounds or any other use that might be a nuisance by reason of odor or noise shall not be permitted except on the grant of a special exception or contingent use permit, whichever is applicable.

(8) Rental of guest rooms to not over three roomers, but excluding rental of rooms to tourists.

(9) Riding stable of a private noncommercial nature on at least three acres of land.

(10) A sawmill for the cutting of timber grown in the immediate area.

(11) Signs, including professional name plates, those advertising home occupations or sale or lease of the premises, and other permanent, and temporary signs, in accordance with the provisions of §§151.145 through 151.148.

(12) Swimming pools (private) providing they meet yard requirements as set forth in §§151.134 and 151.135(B)(5); however, excluding swimming pools of a club, cooperative, corporation, or any association or organization of any type except as specified under the conditions of §151.061(O).

(13) Sand, gravel, or clay pits; rock or stone quarries; mining; removal of earth or top soil or other operation involving the removal or extraction of natural material deposits; but only as a special exception.

(14) A temporary field office on a land development site providing that the use is limited to the land developer for a period not exceeding three years from the approval date of the final plat. Provided, the Board of Zoning Appeals, after petition for extension filed by the land developers and public hearing held thereon, as provided by law, may extend the three-year limitation period for any additional period approved by the Board.

(15) A model home within an approved subdivision plat may be used for a temporary sales office for sale of homes within the subdivision for a maximum period of one year. The Board of Zoning Appeals may grant an extension to this time period, after a public hearing, for additional period to be determined by the Board.

(16) Portable Storage Containers and Dumpsters according to the following requirement:

(a) Portable Storage Containers and Dumpsters shall not be used as an accessory structure, permanent storage building, utility building, shed, or other such uses.

(b) Portable Storage Containers and Dumpsters must be used on a lot of record with the existence of a primary residence, or used during the construction of a primary residence, or unless used in connection with the construction associated with an approved major subdivision, development plan, or other approved construction site.

(c) There shall be no more than one Portable Storage Container or Dumpster per lot of record. A lot of record may have one of each within the limits established in this Section 151.090(B)(16).

(d) Portable Storage Containers shall be restricted to no larger than 8 feet wide, 40 feet long and 8 1/2 feet high.

(e) Portable Storage Containers and Dumpsters shall be

allowed on a lot of record once per any twelve (12) month period for no more than a total of forty-five (45) days, unless it is being used on an approved construction site as described in Section 151.090(B)(16)(b) above, or in no case more than six (6) months. Portable Storage Containers and Dumpsters may be allowed in C and I districts for a longer period of time if approved by the Board of Zoning Appeals as a Special Exception under Section 151.061 of this Ordinance.

(f) Portable Storage Containers and Dumpsters used as part of a permitted construction project shall be permanently removed from the premises within thirty (30) working days of the issuance of a Certificate of Occupancy.

(g) Portable Storage Containers and Dumpsters shall only be placed on or projecting into the public right-of-way adjacent to a lot of record if it is not possible to be placed elsewhere on the lot of record. Any placement of a Portable Storage Container or Dumpster in, or projecting into, the public right-of-way is subject to the review and approval of City of New Haven Engineering Department. The Engineering Department will review the proposal for potential negative impacts on the safety of the traveling public in such rights-of-way. The Engineering Department has the authority to deny the location of a Portable Storage Container or Dumpster in the right-of-way when issues of public safety warrant such denial. There shall be a lighted barricade located at the end or ends of any unit located partially or entirely in the public right-of-wav. The Engineering Department may impose additional time, place and manner restrictions on the Portable Storage Container or Dumpster in the interests of public safety.

(h) Violations of this Section 151.090(B)(16) shall be subject to the Enforcement provisions at §151.158, the remedy provisions at §151.998, and the penalty provisions at §151.999 of this Zoning Ordinance.

(i) An Improvement Location Permit shall be required for all Portable Storage Containers and Dumpsters located on a lot of record completely or partially outside of the public right-of-way, and shall be subject to the improvement location permit requirements of Section 151.156 of this Zoning Ordinance. No Improvement Location Permit shall be required for a Portable Storage Container or Dumpster entirely within the public right-of-way, but approval for such location shall first be received from the Engineering Department.

(j) Any Portable Storage Container or Dumpster located on a lot or parcel on the effective date of the provisions of this Section 151.090(16) shall be allowed to remain for a maximum of 45 days from

the effective date. Portable Storage Containers or Dumpsters located in the public right-of-way on the effective date of this Section are subject to the review and approval of the City of New Haven Engineering Department.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80; Ord. G-86-19, passed 9-9-86; Ord. Z-94-11, passed 8-9-94; Ord. Z-95-4, passed 5-9-95; Ord. Z-13-21, passed 2-25-14]

§151.091 FW AND FF FLOOD HAZARD DISTRICTS

(A) Purpose.

(1) The Flood Hazard Districts are established to limit development in the flood-prone areas near any water course, protecting the public health, safety, and welfare while minimizing the financial burden and inconvenience imposed on the individual property owners and the general public through periodic floods and overflow of water onto land.

(2) The Flood Hazard District is divided into two subdistricts: the FW (Floodway) District and the FF (Floodway Fringe) District. These subdistricts provide an additional measure of protection where flooding potential has been identified. The subdistrict requirements and limitations are additional to all other provisions of the principal zoning designation for which the real estate has been classified.

(B) Permitted Uses.

(1) FW (Floodway) District. Uses permitted in the FW (Floodway) District shall be regulated by the Indiana Natural Resources Commission as established in IC 13-2-22-14. However, in no instance may a use be permitted in the FW (Floodway) District which is not a permitted use in the principal zoning designation established for the real estate by §151.096 herein. The boundaries of the FW District as delineated on the floodway map prepared and approved by the Federal Emergency Management Agency are overlaid on the official zoning maps. The Zoning Code may also classify additional areas within the FW (Floodway) District based upon the best information available for those streams or stream segments not included on the Floodway Map.

(2) FF (Floodway Fringe) District.

(a) All uses permitted in the respective principal zoning district shall be permitted. However, prior to the issuance of an Improvement Location Permit within an FF District, the Zoning Administrator shall establish a minimum flood protection grade. The flood protection grade shall be two feet above the Regulatory Flood Profile as established in the Flood Insurance Study for the City.

(b) The boundaries of the FF (Floodway Fringe) District are delineated on the Flood Insurance Rate Map as those areas subject to flood hazard from the

regulatory flood which are outside the boundaries of the regulatory floodway. The FF District boundaries are overlaid on the official zoning maps. The Zoning Code may also classify additional areas within the FF District based upon the best information available for those streams or stream segments not included in the Flood Insurance Rate Map.

(c) Nonresidential structures may be constructed within the FF (Floodway Fringe) District below the minimum flood protection grade provided:

[1] The structure shall be flood-proofed as defined herein to an elevation two feet above the Regulatory Flood Profile.

[2] All flood-proofed buildings shall be constructed to withstand the flood depths, pressures, velocities, impact, and uplift forces and other factors associated with the regulatory flood.

[3] The plans and specifications for all necessary structural facilities and modifications are certified by a professional engineer or registered architect licensed in the State.

[4] The use of the structure complies with all provisions of the applicable principal zoning designation for which the real estate is classified.

(C) Floor elevation record. A record of the lowest floor elevation for any new improvement within an FW or FF District shall be maintained by the Zoning Administrator. The elevation shall be furnished to the Zoning Administrator at the time of application for the Improvement Location Permit.

(D) Warning and disclaimer of liability. The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on engineering and scientific considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice and debris jams. This Chapter does not imply that real estate outside of delineated flood hazard areas, as defined herein, will be free from flooding or flood damages. This Chapter does not create liability on the part of the State, the Indiana Natural Resources Commission, the City, or the Plan Commission, or any elected or appointed official or employee thereof for any flood damages that result from reliance on this rule or any administrative decision lawfully made thereunder.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80; Ord. G-13-83, passed 7-12-83]

§151.092 RS-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

(A) Purpose. The suburban residential district is intended to provide a variety of areas for single-family developments while offering maximum design flexibility to the extent that each area is an attractive, stable, and orderly residential environment.

(B) Permitted uses.

(1) All uses permitted in the A-1 District except that the following uses are permitted only as a special exception in the RS-1 District.

(a) Sawmills.

(b) Mobile homes and modular homes.

(c) Landing field, private.

(d) Riding stable, private.

(C) District regulations. The Plan Commission may, as indicated in §§151.127 through 151.136, reduce the minimum lot size and yard requirements subject to the conditions set forth in §150.51. When such reductions in requirements are reviewed, emphasis will be placed on the following areas: plat design and layout, pedestrian walkways, recreation areas, and building arrangement.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80; Z-94-11, passed 8-9-94]

§151.093 RS-2 TWO-FAMILY RESIDENTIAL DISTRICT

(A) Purpose. The medium density residential district is intended to provide for a living environment commonly associated with two-family dwellings. Typical housing types would include single-family attached units and two-family dwellings.

(B) Permitted uses.

(1) All uses permitted in the RS-1 District.

(2) One-family dwelling attached; excepting mobile and modular homes unless permitted by special exception.

(3) Two-family dwellings, excepting mobile and modular homes unless permitted by special exception.

(C) District regulations. The Plan Commission may, as indicated in §§151.127 through 151.136, reduce the minimum lot size and yard requirements subject to the conditions set forth in §150.51. When such reductions in requirements are reviewed, emphasis will be placed on the

following areas: plat design and layout, pedestrian walkways, recreation areas, and building arrangement.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.094 RS-3 MULTIPLE-FAMILY DISTRICT

(A) Purpose. The Multiple-Family District is established to permit multiple residences in an urban environment where compatibility with surrounding land uses is maintained and all of the facilities necessary for urban living are provided.

(B) Permitted uses. All uses permitted in the RS-2 District, plus the following:

(1) Apartment-hotel.

(2) Accessory uses, including office space, in accordance with the following provisions. In any multiple dwelling and multiple-group dwellings, there may be maintained on the premises an office for the conducting of business incidental to the rental, operation, service, and maintenance of the project, provided that no such office shall occupy a floor area greater than that of one dwelling unit and no sign used in connection with the office shall exceed three square feet in size.

(3) Multiple dwellings and multiple group dwellings; excepting mobile or modular homes unless permitted by special exception.

(4) Fraternity and sorority houses.

(5) Rooming or boarding houses.

(C) Submission procedures and requirements.

(1) Before an Improvement Location Permit may be issued for a multiple-family or multiple-group development containing five or more dwelling units, the Plan Commission must approve a preliminary and final development plan for the entire tract. The submissions and procedures required to obtain the development plan approval are set forth in §§151.115 and 151.116.

(2) In determining its approval or disapproval of a proposed development plan and supporting data, the Commission shall require compliance with the following specific RS-3 requirements:

(a) Either public or private streets may be provided; however, all public streets must meet the requirements of Chapter 150. If private streets are constructed, proposals for a minimum right-of-way of 50 feet is required. Streets shall be surfaced with a portland cement concrete, asphaltic concrete, or other

approved hard surface. A typical cross-section must be submitted to the City Highway Engineer for comments.

(b) In computing the maximum permitted density for the development proposal, there shall be a minimum of 3,500 square feet of net land area provided for each dwelling unit within the proposed development.

(D) Design standards. In determining the action to be taken on a proposed development plan, the Commission shall be guided by the design standards as set forth in §151.117 and supplemented below.

(1) In any multiple-family or multiple-group development, no building shall be closer than 25 feet to the adjacent project boundary line nor within 50 feet of a public right-of-way line when the project abuts a public street or highway.

(2) In any multiple-family or multiple-group development, 45% of the net site area shall be placed in recreation space of which 120 square feet per dwelling shall be developed recreational land. Within multiple-family developments, required yards may be included as undeveloped recreation space.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.095 MH MANUFACTURED HOUSING DISTRICT

(A) Purpose. The intent of this district is to provide sites for mobile or modular housing communities at appropriate locations in relationship to the existing and potential development of the surroundings while establishing an attractive residential environment.

(B) Permitted uses.

(1) All uses permitted in the RS-1 District.

(2) Mobile/modular housing projects under common ownership.

(C) Submission procedures and requirements. Prior to the issuance of an Improvement Location Permit in an MH District, a preliminary and final development plan for the total site shall be reviewed and approved by the Plan Commission. The submissions and procedures required to obtain the development plan approval are set forth in §§151.115 and 151.116. In determining its approval or disapproval of a proposed development plan and supporting data, the Commission shall review for compliance with the following:

(1) Lot area and density.

(a) The tract to be developed shall contain a minimum of five acres.

(b) Each lot shall contain a minimum area of 5,000 square feet.

(c) All lots within the proposed project shall have a minimum lot width of 50 feet.

(2) Yard requirements.

(a) The minimum perimeter front yard depth where the project abuts a public right-of-way shall be 50 feet from the right-of-way.

(b) A minimum side and rear yard depth of 25 feet is required along the perimeter of any MH District.

(c) Minimum interior yards for the project shall be provided in accordance with the following standards: a minimum required setback of eight feet from the existing right-of-way of any interior street within the project; the minimum distance between units shall be 25 feet, provided, dwellings with extensions may project ten feet into the side yard adjacent to the main entry or to the side lot line opposite to the main entry, provided, further, that in no case shall a dwelling have less than 18 feet aggregate of side yards between homes; a minimum rear yard of eight feet shall be provided.

(3) Streets. Public or private streets may be provided; however, all public streets must meet the requirements of Chapter 150. If private streets are to be constructed the following conditions must be met.

(a) Minimum street improvement widths.

[1] Off-street parking, 27 feet.

[2] On-street parking, 36 feet.

(b) Streets shall be surfaced with a portland cement concrete, asphalt concrete, or other approved hard surface. A typical cross-section must be submitted to the City Highway Engineer for comment.

(D) Design standards. In determining action to be taken on a proposed development plan, the Commission shall be guided by the design standards as set forth in §151.117 and supplemented below.

(1) At least 750 square feet per living unit shall be reserved for open/recreation space areas. This figure is in addition to any private open areas created by yard requirements.

(2) A minimum of two paved off-street parking spaces shall be provided per lot.

(3) Each lot shall be provided with a ten-foot by ten-foot concrete slab which will serve as a location for individual tenant storage.

(4) A hard-surfaced walkway or patio connecting the dwelling with its off-street parking area shall be provided.

(5) Each lot shall contain an area reserved for the placement of a living unit, the base construction (foundation, pads, ribbons) of which shall meet or exceed the Indiana State Board of Health and the Allen County Building Department specifications.

(6) Each living unit shall be skirted, entirely enclosing the bottom, within 90 days after its placement.

(7) Each living unit lot shall be provided with anchors, tie-downs, or other devices, as per Indiana State Board of Health rules and regulations, or any other requirements imposed by law for insuring the stability of the manufactured home.

(E) Prior to the location of any mobile/modular home in a mobile home court which meets the requirements of this Chapter, the developer, owner, or lessee of the court shall have applied for and been issued a Certificate of Occupancy from the Zoning Administrator. The Certificate of Occupancy may be issued for any number of living units. However, all improvements serving those units must be installed and operational. If the mobile home court is located within an FF (Floodway Fringe) District, the Zoning Administrator shall establish a minimum flood protection grade for each proposed mobile home site prior to the issuance of a Certificate of Occupancy. The applicant shall also certify to the Zoning Administrator that all provisions of 44 CFR 60.3-C-5 have been met.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80; Ord. G-13-83, passed 7-12-83]

§151.096 RS-P PLANNED RESIDENTIAL DISTRICTS

(A) Purpose. The intent of a planned residential district is to encourage innovative development of residential communities and offer developers of land the maximum amount of flexibility in design and development. As a means to assure maximum efficiency, standards governing lot size, yards, and building location may be varied, subsequent to approval by the Plan Commission.

(B) Permitted uses.

(1) Planned district.

(a) RSP-1 Planned Single-Family.

(b) RSP-2 Planned Two-Family.

(c) RSP-3 Planned Multiple-family Housing.

(d) RSP-MH Planned Manufactured Housing.

(2) The uses permitted in each district shall be the same as those permitted within the corresponding RS-1, RS-2, RS-3 and MH Districts found in this Chapter.

(3) On recommending establishment of the RS-P District, the Commission shall supplement each such district by appending thereto maximum permitted number of dwelling units per gross acre of land contained in each district. The maximum number shall be stated in dwelling units per acre and shall appear on the zoning maps.

(C) Development plan submission procedures and requirements. Prior to the issuance of an Improvement Location Permit in an RS-P District, the Commission shall have approved a preliminary and final development plan for the entire site. The submission and procedures required to obtain the development plan approval are detailed in §§151.115 and 151.116.

(D) Design standards. In determining the action to be taken on a proposed development plan, the Commission shall be guided by the design standards set forth in §151.117.

(1) The maximum permitted density per acre for each planned residential district is as follows:

Zoning District	**Number of Dwelling Units**
RSP-1	4.4 per gross acre
RSP-2	6.8 per gross acre
RSP-3	22 per gross acre
RSP-MH	6.2 per gross acre; however, if the real estate is to be subdivided, the RSP-1 requirements are applicable to the RSP-MH District.

(2) The height and bulk of buildings, parking and loading requirements, and yard requirements will be equal to those in the regular districts unless waived by the Commission at the time of development plan approval. If the regular requirements are waived, then the Commission will establish new minimum requirements based on the following:

(a) Type of dwelling proposed.

(b) Amount of recreation space adjacent to the subject lot.

(c) Abutting natural features.

(d) Pedestrian walkways.

(e) Overall compatibility and livability with surroundings.

(3) All planned residential districts shall have recreational space unless waived by the Commission. Recreation space provisions shall be as follows:

(a) Within the RSP-1, RSP-2, and RSP-MH District, recreation space shall be provided at a rate of 750 square feet per dwelling.

(b) Within the RSP-3 District, 45% of the net site area shall be maintained in recreation space of which 120 square feet per dwelling shall be developed recreational land.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.097 C-1A PROFESSIONAL AND PERSONAL SERVICES DISTRICT

(A) Purpose.

(1) The Professional and Personal Services District is intended to accommodate those nonresidential uses of a professional or personal service nature which are of low intensity and often serve as a buffer between commercial and residential uses of real estate.

(2) C-1A District parcels shall not be used for sales, storage, or display of wholesale or retail merchandise with the exception of those uses permitted by (B) below.

(B) Permitted uses. All uses permitted in the RS-1 District plus the following:

(1) Professional services, including but not limited to the following:

(a) Medical clinics with related facilities such as prescription service.

(b) Law offices.

(c) Professional engineering offices.

(d) Architects offices.

(e) Accountants offices.

(f) Real estate and related services.

(g) Finance and insurance offices, banks.

(h) Optometry services.

(i) Funeral homes, mortuaries.

(2) Services and sales, limited to the following.

(a) Photography and art studios.

(b) Sales and repair of musical instruments.

(c) Watch repair shop.

(d) Barber and beauty shop.

(e) Commercial art studio.
(f) Advertising office.

(g) Music and dance studio, as a secondary use in a single- or multiple-family dwelling.

(3) Accessory uses.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.098 C-1 GENERAL COMMERCIAL DISTRICT

(A) Purpose. The General Commercial District is established to include areas that are appropriate to all types of retail and service establishments, primarily using inside display areas, which offer a complete range of goods and services to consumers.

(B) Permitted uses. All uses permitted in the C-1A District plus the following:

(1) Agriculture.

(2) Automobile service, including but not limited to the following:

(a) Service station, but not including major automotive, mechanical, or body repair or refinishing, and not to exceed, including accessory uses and structures, two (2) acres in size.

(b) Tire and accessory store.

(c) Self-service automobile wash.

(3) Business service, including but not limited to the following:

(a) Bank, currency, exchange, savings and loan association, loan office.

(b) Travel bureau, taxi station.

(c) Public utility customer service.

(d) Commercial office.

(4) Clothing, service, including but not limited to the following:

(a) Tailor, dressmaking shop, costume rental.

(b) Shoe repair, hat cleaning or repair.

(c) Self-service laundry, cleaning or laundry pickup station, pressing establishment.

(5) Equipment service, including but not limited to the following:

(a) Household appliance.

(b) Electrical appliance, radio store.

(c) Photo supply shop.

(d) Phonograph and record shop.

(6) Food service, including but not limited to the following:

(a) Caterer.

(b) Bakery goods outlet.

(c) Ice cream or candy shop.

(d) Grocery, supermarket, fruit or vegetable store, meat market, delicatessen.

(e) Restaurant, tavern, tea room, night club.

(f) Package liquor store.

(7) Personal service, including but not limited to the following:

(a) Masseur or reducing salon, cosmetic store.

(b) Medical appliance.

(8) General retail service, including but not limited to the following:

(a) Book store, hobby shop, gift shop, antique shop, and art store.

(b) Bird store or pet shop, toy shop.

(c) Drug store, stationery or newsdealer store, cigar store.

(d) Department store, dry goods store, notion store.

(e) Furrier, including cold storage of garments.

(f) Hardware, garden equipment supply store, paint store.

(g) Haberdashery, ready-to-wear shop.

(h) Interior decorating or furniture store.

(i) Jewelry store, and leather goods.

(j) Millinery shop, shoe store.

(k) Music conservatory school.

(l) Retail florist including greenhouse.

(m) Variety store, sporting goods store.

(n) Pawn shop, second-hand store.

(9) Amusement enterprise, including but not limited to the following:

(a) Bowling alley, skating rink.

(b) Billiard or pool hall, penny arcade.

(c) Indoor theater.

(d) Dance hall or studio.

(10) Hotel, motel, private club or lodge.

(11) Advertising sign or billboard in accordance with the provisions of §§151.145 through 151.148.

(12) Telephone exchange and electrical substation.

(13) Accessory uses.

(14) Animal hospital or kennel catering to household pets, as distinguished from agricultural animals, provided all animal runs are located within an enclosed building, and provided further that all noises and odors be confined to the interior of the building or buildings, and provided further that same not be operated as to constitute a nuisance in the neighborhood.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80; Ord. Z-07-02, passed 3-13-07]

§151.099 C-2 PLANNED SHOPPING CENTER DISTRICT

(A) Purpose. The C-2 Planned Shopping Center District is established in order to insure the provisions of adequate commercial facilities at an appropriate location and of an appropriate design, scale, and intensity which will create a harmonious and functional relationship with the immediate surroundings and the community. In reviewing the proposed C-2 District, the Plan Commission will consider the nature of the proposed uses, the total size of the proposed project, and the composition of all existing development and zoning in the proposed C-2 District. Traffic generation, both pedestrian and vehicular, and its impact on surrounding streets and highways will also be of major importance in the Commission's review process. Each proposed shopping center, as well as expansion of existing centers will be evaluated in accordance with the goals and policies of the comprehensive plan. The C-2 District is not intended to be utilized by a single business or use, but rather should be a harmonious arrangement of different establishments which will serve the community.

(B) Subdistricts and permitted uses. Prior to tracts of real estate being developed as planned shopping centers, the real estate shall be rezoned to a specific C-2 subdistrict and be subject to the requirements of that subdistrict.

(1) C-2A Neighborhood Shopping Center.

(a) The neighborhood shopping center shall be designated with the sole intent of serving the surrounding residential neighborhoods by providing goods and services that meet day-to-day needs. Tenants typically found within this center include grocery and drug stores. A major tenant space shall not exceed a maximum of 30,000 square feet of gross floor area and no more than two major tenants shall be permitted. No single tenant space other than those permitted above shall exceed 20,000 square feet of gross floor area. The maximum gross

floor area shall be limited to 25% of the net site area, provided no C-2A shopping center shall exceed 109,000 square feet of gross floor area as defined herein, regardless of site size.

(b) Permitted uses shall include all C-1A and C-1 uses except residences, hotels, motels, private clubs or lodges, telephone exchanges, electrical substations, animal hospitals, and kennels.

(2) C-2B Community Shopping Center.

(a) The community shopping center, in addition to serving the function of a neighborhood center, may provide access to a greater variety of merchandise. Tenants within this center are similar in character, as well as drawing power, to those stores found within a neighborhood center. Tenants typically include grocery, drug, and variety stores.

(b) A major tenant space shall not exceed a maximum of 60,000 square feet of gross floor area and not more than one major tenant shall be permitted; however, in lieu of this requirement, there may be two major tenants permitted with a limit per tenant not to exceed a maximum of 45,000 square feet of gross floor area. No single tenant space other than those permitted above shall exceed 30,000 square feet of gross floor area. The maximum floor area shall be limited to 25% of the net site area, provided, no C-2B shopping center shall exceed 218,000 square feet of gross floor area as defined herein, regardless of site size.

(c) Permitted uses include all C-2A uses and, in addition, animal hospitals and kennels as more specifically set forth under the C-1 District permitted use provisions of this Chapter.

(3) C-2C Metropolitan Shopping Center.

(a) The metropolitan shopping center is intended to serve a community of neighborhoods. Tenants are intended to be retail and service oriented, and may include a department store, specialty store, discount store or variety store.

(b) A major tenant shall not exceed a maximum of 90,000 square feet of gross floor area and not more than two major tenants shall be permitted. No single tenant space other than those permitted above shall exceed 60,000 square feet of gross floor area. The maximum gross floor area shall be limited to 25% of the net site area, provided, no C-2C shopping center shall exceed 327,000 square feet of gross floor area as defined herein, regardless of site size.

(c) Permitted uses include C-2B uses and additionally, hotels, motels, private lodges or clubs, telephone exchanges, and electrical substations.

(4) C-2D Regional Shopping Center.

(a) The regional shopping center provides complete comparison shopping. The center's drawing power stems from a wide variety of retail goods and services as well as a number of large traffic generators including one or more department stores. Tenant space size is unlimited as well as the number of tenants allowed. Building coverage shall not exceed 25% of the net site area although overall site size is not limited.

(b) Permitted uses include all C-2C uses.

(C) Exceptions to subdistrict requirements. The Plan Commission, to enhance a degree of flexibility in shopping center development, may grant requests for exceptions to the subdistrict requirements as set forth in (B) above; however, the Commission may not waive the 25% maximum site coverage by buildings or the maximum gross floor area of enclosed space for the entire center as set forth for each subdistrict. Exceptions may only be granted after the request has been reviewed at a public hearing, which hearing may be held in conjunction with a request for development plan approval, and if the Commission finds that:

(1) The intent and spirit of the requirements of this Chapter as they relate to the zoning subdistrict are met; and

(2) The exception is not contrary to the public interest; and

(3) The intent of the master plan as it relates to commercial policies is met.

(D) Submission procedures and requirements.

(1) The reclassification of real estate to a C-2 shopping center designation shall be processed in the same manner as any other petition for rezoning, except that the following additional data must be submitted together with the petition for rezoning:

(a) A generalized sketch plan of the site.

(b) A traffic survey of adjacent streets and highways including existing traffic counts and the anticipated additional traffic generation created as a result of the proposed development.

(c) The shopping center's expected trade area as well as existing and proposed population within this area.

(2) Prior to the issuance of an Improvement Location Permit for a C-2 shopping center, the Plan Commission shall have approved a preliminary and final development plan. The submission requirements and the procedures required to obtain the development plan approval are set forth in §§151.115 and 151.116.

(E) Design standards. In determining the action to be taken on a proposed development plan, the Commission shall be guided by the design standards as set forth in §151.117 and as supplemented below.

(1) Parking and circulation of vehicles and pedestrians. In addition to the general use provisions of §§151.020 through 151.024, the Commission shall review the following items:

(a) The provision of facilities for the handicapped and parking for bicycles.

(b) Pedestrian circulation to the center from adjacent properties as well as internal pedestrian circulation.

(c) The overall vehicle traffic pattern including public transit as well as vehicle circulation.

(2) Landscaping. Intent, quantity, and distribution.

(a) Landscaping can be utilized to aid in the circulation of vehicles and pedestrians, to identify entrances and to improve the appearance of the center.

(b) A minimum of 10% of the net site area shall be landscaped. In its review of the shopping center's compliance with the landscaping requirements of this Chapter, the Commission shall consider a combination of such features as grassed areas, planting areas for trees and shrubbery, natural areas, and other Commission-approved elements; landscaping in parking areas should be designed so as not to unreasonably interfere with snow removal.

(3) Sight screening. Screening shall be used as a means to separate the shopping center from adjacent land uses when deemed necessary by the Commission. The degree and type of screening necessary to separate adjacent real estate will be based on the intensity and nature of surrounding land uses. In its review of a sight screening proposal, the Commission will consider the following:

(a) Setback from adjacent right-of-way or real estate.

(b) Surrounding zoning and land use.

(c) Compatibility of proposed parking with surrounding area.

(d) Sight lines from surrounding area.

(e) Extent and effectiveness of landscaping with the parking area.

(f) If the Commission determines that earth berming is the most appropriate means of screening adjacent real estate, the Commission may consider the berming as meeting a portion of the landscaping requirements set forth in (E) (2). In determining the amount of earth berming to be considered as landscaping, the Commission will use as a guide the degree and type of berming proposed, as well as its effectiveness in meeting the landscaping intent.

(4) Traffic. A proposed shopping center development plan must provide facilities to minimize conflicts between the traffic generation resulting from the shopping center and traffic on existing or proposed streets and highways. Methods to improve traffic flow which may be required include, but are not limited to, the following:

(a) Road or street widening.

(b) Acceleration and deceleration lanes.

(c) Traffic-control devices and lanes.

(d) Curbed ingress and egress lanes extending from the right-of-way into the site with the length of such lanes being in proportion to the proposed traffic generation but not less than 50 feet.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.100 C-4 ROADSIDE COMMERCIAL DISTRICT

(A) Purpose. The Roadside Commercial District is established to accommodate those retail outlets, commercial-amusement enterprises, and service-oriented uses which serve the needs of motorists or must, by necessity, be located adjacent to the streets and highways of the City.

(B) Permitted uses.

(1) Drive-in establishments, including but not limited to the following:

(a) Agricultural implement sales, heavy garden equipment sales.

(b) Archery, golf or similar range.

(c) Auction hall.

(d) Restaurant.

(e) Drive-in theater.

(f) Fruit or vegetable stand.

(g) Ice vending station.

(h) Pottery or souvenir stand.

(I) Refreshment stand.

(j) Service station.

(k) Drive-in bank.

(2) Amusement enterprise, including but not limited to the following:

(a) Amusement park, skating rink, swimming pool.

(b) Miniature golf, miniature railroad.

(c) Race track, riding academy, pony ride.

(3) Other sales and services, including but not limited to the following:

(a) Animal hospital and kennel utilizing enclosed or outside animal runs.

(b) Automotive repair garage, auto or mobile home sales, automatic laundry, auto body shop, bicycle or motorcycle shop.

(c) Bottled gas service.

(d) Trailer or mobile home court subject to the provisions of Subsection 151.095 of the New Haven Zoning Code.

(e) Motel or tourist court.

(f) Wholesale florist, greenhouse.

(g) Light equipment rental.

(h) Live bait stand.

(I) Boat sales.

(4) Accessory uses.

(5) Miscellaneous uses, including but not limited to the following:

(a) Business or trade school.

(b) Bus or rail passenger service.

(c) Repair or service, cabinet or carpenter shop.

(d) Exterminating shop.

(e) Glass cutting or glazing, sign painting shop.

(f) Laundry or cleaning plant.

(g) Plumbing, heating, air-conditioning or electrical service shop.

(h) Sheet metal shop, welding shop.

(I) Upholstery shop, window blind sales or repair.

(j) Rescue or revival mission.
(k) Accessory uses.

(l) New building materials sales and light custom assembly thereof.

(m) Bulk storage of petroleum products for local distribution, as distinguished from a petroleum products terminal for extensive storage and regional purposes provided that all storage be underground.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.101 C-P PLANNED BUSINESS DISTRICT

(A) Purpose. The Business Districts C-1A, C-1, and C-4 shall have a corresponding district to be known as a Planned Business District. A Planned Business District shall provide for and encourage the grouping of businesses into centers and complexes incorporating modern concepts of service and design.

(B) Permitted uses and corresponding district.

Regular Business District	**Corresponding Planned Business District**
C-1A	C-1A (P)
C-1	C-1 (P)
C-4	C-4 (P)

All uses permitted in the regular business districts shall be permitted in the corresponding planned business districts; however, within the C-1A (P) zoning district, general office facilities will be permitted in addition to those specifically permitted in the C-1A District.

(C) Submission procedures and requirements.

(1) Prior to the issuance of an Improvement Location Permit in a planned business district, the Plan Commission shall have approved a preliminary and final development plan for the total site. The submissions and procedures required to obtain the development plan approval are set forth in §§151.115 and 151.116.

(2) The Commission, during its review process, will consider the following items:

(a) Jointly used parking facilities will be encouraged by the Commission, thereby reducing the number of individual entrances and exits to thoroughfares.

(b) The applicant shall submit a set of sign standards to be reviewed by the Commission. The standards will be approved as part of the final development plan, and joint use of signs will be encouraged where deemed necessary by the Commission.

(D) Design standards. In determining the action to be taken on a proposed development plan, the Commission shall be guided by the design standards and policies established in §151.117 and supplemented below.

(1) The height and bulk of buildings, parking and loading requirements, and yard requirements shall be equal to those in the regular districts unless specifically waived by the Commission at the time of development plan approval. In the event the Commission waives any of the aforementioned requirements, it must find that the general intent, spirit, and purpose of the requirements are met.

(2) The Commission shall require 10% of the net site area to be landscaped. Landscaping elements include but are not limited to planting beds, islands, embankments, and other aesthetic areas.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.102 I-1 LIGHT INDUSTRIAL DISTRICT

(A) Purpose. The Light Industrial District is intended to provide areas for light industrial and manufacturing uses without creating unacceptable adverse effects on the surrounding land uses.

(B) Permitted uses.

(1) All uses permitted in the C-1 and C-4 Districts.

(2) Offices, professional and general.

(3) A dwelling as a caretaker's quarters.

(4) Other commercial and light industrial uses including but not limited to the following:

(a) Bottling works, but excluding breweries and distilleries.

(b) Building material sales yard, excluding concrete mixing.

(c) Chick hatchery.

(d) Road or building contractor's equipment storage building or yard.
(e) Sales and rentals of road or building contractor's equipment.

(f) Public utility service yard.

(g) Electrical switching or transforming station.

(h) Draying, freighting, or trucking yard or terminal.

(I) Feed or grain storage, liquid fertilizer storage.

(j) Fuel yard, including bulk storage or petroleum products for local distribution, as distinguished from a petroleum products terminal for extensive storage and regional distribution purposes.

(k) Ice manufacture or cold storage.

(l) Experimental or testing laboratory.

(m) Printing plant.

(n) Poultry dressing.

(o) Warehousing, wholesale, merchandise.

(p) Storage, excluding auto wrecking, junk, or scrap materials.

(q) Wholesale food market.

(r) Spur railroad tracks.

(C) Any use permitted in the I-2 District, provided that the use, including all accessory and incidental use, does not occupy an area in excess of 25,000 square feet gross floor area, and also provided that the emission of smoke, particulate matter, or noxious or toxic gases shall conform to the standards and regulations of State and federal agencies.

(D) Accessory use.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.103 I-2 GENERAL INDUSTRIAL DISTRICT

The General Industrial District is established to provide areas in which fabricating, manufacturing, and processing industries are the principal uses of the land. Moderate performance standards are established to prevent incompatibility and unacceptable conflict with adjacent land uses. Permitted uses are as follows:

(A) All uses permitted in the I-1 District.

(B) Fabricating, manufacturing, and processing industries, provided the same conform to the following requirements:

(1) Enclosed buildings. All operations are conducted within enclosed buildings and all materials and products are stored within enclosed buildings or effectively screened by a wall or screen not less than six feet high.

(2) Minimum distance. The minimum distance between any boundary line of an A or R District and:

(a) A building or structure is 50 feet.

(b) A parking area used by passenger vehicles is 15 feet.

(c) A driveway, parking area, or loading dock used by trucks, tractors, semi-trailers, or trailers is 150 feet.

(3) The emission of smoke, particulate matter, or noxious or toxic gases shall conform to the standards and regulations of State and federal agencies, as well as other requirements imposed by law.

(4) All walks, driveways, and parking areas are dustproofed.

(5) No dust of any kind produced by the industrial operations is permitted to escape beyond the confines of the building in which it is produced.

(6) No noxious odor of any kind is permitted to extend beyond the lot lines. Tanneries, abattoirs, glue factories, oil refineries, soap factories, artificial gas manufacture, rubber manufacture, fertilizer manufacture, and similar industries shall present detailed plans for elimination of noxious odors before a permit will be granted.

(7) No glare may be seen from any street or any A, RS, or C District.

(C) Research and development activities outside of enclosed buildings.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.104 I-3 HEAVY INDUSTRIAL DISTRICT

(A) Purpose. The Heavy Industrial District is intended to provide suitable areas for intense industrial operations, including open land operations.

(B) Permitted uses.

(1) All uses permitted in the I-2 District excepting general and professional office unless utilized as an incidental use to those permitted uses within the District.

(2) Fabricating, manufacturing, processing, extraction, heavy repair, and dismantling industries; and storage, including open land operations, provided that the emission of smoke, particulate matter, or noxious or toxic gases shall conform to the standards and regulations of State and federal agencies. Under no circumstances is a sanitary landfill, building demolition disposal site, incinerator, or transfer disposal station a permitted use in an I-3 District unless authorized as a special exception.

(3) Motor vehicle salvage yard and unlicensed vehicle storage yard if operated in compliance with the following provisions:

(a) There shall be no measurable vibration beyond the property line of the tract of real estate on which the operation of a motor vehicle salvage yard is conducted.

(b) Motor vehicle salvage yards and unlicensed vehicle storage yards must be confined to a clearly defined area which shall have a site screening fence or fence and plantings, with the fence not less than seven feet in height along all public highways and roads, and being set back 25 feet more than the I-3 front yard requirements as defined in §151.002 and set forth in §§151.130 through 151.136.

(c) It shall be unlawful for an owner, manager, or employee of a motor vehicle salvage yard to set fire to, or cause to be burned, any pile or accumulation of materials whatsoever, which, because of the highly combustible nature of the materials, or because of the size or quality of the pile of accumulation, or because of the location of the pile or accumulation in the yard, endangers the life or property of any other person.

(d) Each motor vehicle salvage yard shall maintain in good working order such fire extinguishers as required by public authority together with at least one fire extinguisher of a type designed for extinguishing fires fed by petroleum products within 200 feet of any point where motor vehicles or parts thereof are being burned.

(e) All roadways in and about motor vehicle salvage yards or unlicensed motor vehicle storage yards upon which move, or are moved, motor vehicles or parts thereof, or equipment used in salvage operations shall be so treated or surfaced that excessive quantities of dust injurious to the health or physical comfort of neighboring property owners are not created.

(f) An owner, manager, or employee of a motor vehicle salvage yard or an unlicensed motor vehicle storage yard shall not place motor vehicles or parts thereof within ten feet of an adjoining property, nor closer to the front yard requirement than ten feet from the interior side of the site screening fence or fence and plantings.

(g) It shall be unlawful for any owner, manager, or employee of a motor vehicle salvage yard to cause to be carried on any wrecking, dismantling, cutting, burning, or breaking of motor vehicles or parts thereof closer to the front yard requirements that ten feet from the interior side of the site screening fence or fence and plantings.

(h) It shall be unlawful for any owner, manager, or employee of a motor vehicle salvage yard to cause to be carried on any wrecking, dismantling, cutting, burning, or breaking of motor vehicles or parts thereof within 150 feet of residential buildings on adjoining lands, including, but not limited to, homes, farmhouses, apartment houses, hotels and motels being used. However, this provision shall not apply with respect to any person who begins such a use within 150 feet of a motor vehicle salvage yard which is then in existence.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.105 I-P PLANNED INDUSTRIAL DISTRICTS

(A) Purpose. Each of the following industrial districts (I-1, I-2, I-3) shall have a separate and corresponding district known as a planned industrial district. The intent of this

district is to provide a means for industrial land uses, regardless of overall size or acreage, to develop in accordance with a set plan and in consideration of the surroundings, especially within transitional areas.

(B) (1) Permitted uses and corresponding districts.

Planned District	**Corresponding District**
I-1 (P)	I-1
I-2 (P)	I-2
I-3 (P)	I-3

(2) The uses permitted in each planned district shall be the same as those permitted within the corresponding districts.

(C) Submission requirements and procedures.

(1) Prior to the issuance of an Improvement Location Permit in a planned industrial district, the Plan Commission shall have approved a preliminary and final development plan for the total site. The submissions and procedures required to obtain the development plan approval are set forth in §§151.115 and 151.116.

(2) The Commission, during its review process, will consider the following items.

(a) Jointly used parking facilities will be encouraged by the Commission, thereby reducing the number of individual entrances and exits to thoroughfares.

(b) The applicant shall submit a set of sign standards to be reviewed by the Commission. The standards will be approved as part of the final development plan and joint use of signs will be encouraged where deemed necessary by the Commission.

(D) Design standards. In determining the action to be taken on a proposed development plan, the Commission shall be guided by the design standards and policies established in §151.117 and supplemented by the following. The height and bulk of buildings, parking and loading requirements, and yard requirements will be equal to those in the regular districts unless specifically waived by the Commission at the time of development plan approval. In the event the Commission waives any of the aforementioned requirements, they must find that the general intent, spirit, and purpose of the requirements are met.

(E) Performance standards. In determining the action to be taken on a proposed development plan, the Commission may set standards relating to smoke, dust, noise, vibrations, toxic or noxious matters, odorous matters, fire and explosive hazards, and heat and glare for industrial uses within the I-P approved development plan.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

DEVELOPMENT PLANS

§151.115 PROCEDURES

(A) Prior to the issuance of an Improvement Location Permit for any use in a district wherein a development plan is required, the Plan Commission shall have approved a development plan in accordance with this Chapter and the Comprehensive Plan. A preliminary and final development plan may be scheduled for the same public hearing. However, all submission requirements for each respective plan must be met. A petition for rezoning of a parcel of real estate and a preliminary development plan for the same real estate may be reviewed at the same public hearing; however, a final development plan requires a separate public hearing.

(B) Application.

(1) The application, submitted on Plan Commission forms, shall be for preliminary approval of an entire tract or a final approval for all or a portion of a site previously approved in preliminary form.

(2) The application shall be accompanied by the following:

(a) A tracing or reproducible copy of the development plan.

(b) Fifteen copies of the development plan and legal description.

(c) Other detailed data required in §151.116.

(C) Establishment of hearing data. On timely receipt of all items necessary for application for development plan approval, the Commission, whenever possible, shall schedule same for the next regularly scheduled monthly public hearing for which the applicant has met the predetermined filing deadline.

(D) Notification of public hearing.

(1) Legal notice of the public hearing on the development plan shall conform to IC 36-7-4-507.

(2) The Commission may also notify, in writing, the applicant and persons having probable interest of the date, time, and place of the public hearing on the development plan.

(3) Notice of the date, place, and time of the public hearing, as well as a copy of the development plan, shall be sent to public agencies having probable interest in the plan. It is the intent that these agencies' comments be received, in writing, by the Commission at least five days prior to the public hearing.

(E) Public hearing and Commission action.

(1) The Commission will conduct a public hearing on the development plan and, within a reasonable period of time thereafter, take action as follows:

(a) If it shall find that the plan meets the requirements of this Chapter, it may approve same as the preliminary or final development plan.

(b) If it shall find that, on the plan being amended, altered, and changed as specified by the Plan Commission it will meet the requirements of this Chapter, it shall so notify the applicant. Thereupon, the applicant shall prepare and file with the Commission a revised development plan or supporting data incorporating the specifications within 90 days of the notification. When extenuating circumstances prevail, the applicant may request an additional 90 days.

(c) If it shall find that the plan does not comply with the requirements of this Chapter and is not susceptible to alteration, change, or amendment to meet the requirements, or if the applicant fails to file a revised development plan in compliance with the specifications as set forth within 90 days of Commission notification, the Commission shall disapprove the development plan.

(2) A preliminary development plan is valid for one year from the date of the Commission approval.

(3) In the event a final development plan for any portion of the subject real estate is not submitted for final approval within one year of preliminary development plan approval, the preliminary development plan shall be considered null and void.

(F) Notification of Commission action.

(1) After the Commission takes final action on a development plan, it shall notify the applicant, attorneys of record, and the remonstrators of record who have filed in writing their names and mailing addresses with the Commission, of the action of the Commission.

(2) In the event a petition of remonstrance is filed with the Commission on a development plan, the Commission need notify only the first three names appearing thereon.

(G) Issuance of permits.

(1) Only after a final development plan has been approved as set forth hereby, shall an Improvement Location Permit for construction be issued by the Zoning Administrator.

(2) Prior to the issuance of an Improvement Location Permit, the applicant shall have duly recorded in the office of the Allen County Recorder utility easements, rights-of-way, plats, deed restrictions, or any other legal instruments required by the Commission and in the form approved by the Commission.

(H) Amendments to approved development plan. In the event a developer desires to change an approved development plan and when, in the opinion of the Plan Commission or its designated representative, the change is substantial, the change may be made only after approval by the Plan Commission and after a public hearing thereon. The Commission may waive any procedural or submission requirements it deems necessary when reviewing a change to an approved development plan.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.116 SUBMISSION REQUIREMENTS

Preliminary or final development plans shall be submitted, and be accompanied by an application on a form prescribed by the Plan Commission, complete with the signatures of 100% of the owners of record of the tract involved and shall have been prepared in accordance with the provisions of this Chapter as well as the recommendations of the preapplication discussion. After approval of the preliminary development plan is granted by the Commission, any amendments thereto made prior to the final development plan approval by the Commission shall be shown on a form prescribed by the Commission and shall contain the signatures of the original developers (or successors to the original developers) and need not contain signatures of all real property owners within the development. After final development plan approval is granted by the Commission, then any further amendments thereto shall be shown on a form prescribed by the Commission and shall contain the signatures of all owners of record (as shown in the office of the Recorder of Allen County, Indiana) of the real estate contained in the development.

(A) Supporting data required for preliminary development plan submissions.

(1) A development schedule indicating the approximate date when the construction of the development, or stages of the development, can be expected to begin and be completed.

(2) Quantitative data for the following:

(a) Number and type of structures, parcel size, proposed lot coverage of buildings and structures.

(b) Gross residential densities, types of dwelling units, and net density per type of dwelling unit when mixed use, where applicable.

(3) Statements identifying the intended means of assuring permanency, continuance and maintenance of all open-recreation spaces to be dedicated for use by residents of the development or the general public, where applicable.

(4) Proposed restrictive covenants.

(B) Site plan and supporting maps required for preliminary development plan submissions.

(1) Date, scale, (graphic and written), north point, name and address of designer and engineer, name and address of the developer, and proposed name of the development.

(2) A generalized legal description of the total site as well as dimensions of the boundaries of the tract, including generalized bearings and distances, measured from a section corner.

(3) The existing site conditions including contours (at a predetermined interval), water courses and drainage ways, flood plain elevations, wooded areas, soil types (including interpretations of character), and other unique natural features.

(4) The location, minimum size, and configuration of areas to be conveyed, dedicated, or otherwise reserved as common open spaces, parks, recreational areas, school sites, and similar public and semi-public uses, where applicable.

(5) The existing and proposed vehicular circulation system, including right-of-way widths and driving surface widths of streets, off-street parking areas, service areas, loading areas, street names, intersection radii, street dedications, and points of access to public rights-of-ways, where applicable.

(6) The existing and proposed pedestrian circulation system, including links with the public transit system and nearby land uses where applicable.

(7) Proposed lot or tract lines, lot numbers, lot dimensions, easements, and building lines. Those areas to be subdivided pursuant to the terms of Chapter 150 shall conform to same and be clearly delineated on the development plan.

(8) The proposed treatment of the perimeter of the site, including materials and techniques to be used such as screens, fences, walls, and landscaping.

(C) The above information must be submitted for all of the site included in the application. Applications can be reviewed only for those areas for which all required submission data has been presented.

(D) Supporting data required for final development plan submission.

(1) Legal description.

(2) Restrictive covenants including provision for open space maintenance, when applicable.

(3) Traverse closure.

(4) Construction performance schedule and accompanying development plan indicating delineations of specific areas. Those areas required to have open space shall include the time of the development of recreational or other facilities within the open space. The development plan shall also indicate the location of any construction access roads and their relationship to the staging of development.

(5) Letters of comment from the following:

(a) Allen County Surveyor's Office.

(b) City Engineer and the Allen County Highway Department, if the project is beyond the corporate limits.

(c) The City or other public agencies having approval over the waste water disposal system and fresh water supply system.

(6) Letters from the utilities serving the area with the waste water disposal or fresh water supplies, setting forth their ability to serve the development.

(7) Additional information as required by the Commission.

(E) Site plans and supporting maps required for final development plan submission. The final development plan shall be submitted to the Commission in the form of an original mylar or similar material drawn in ink and shall be a complete and accurate layout of the project and shall contain all additions, corrections, and deletions required by the Commission, as well as the following information:

(1) Date, scale (graphic and written), north point, name and address of the designer and engineer, name, and address of the developer of the tract, name of development.

(2) Dimensions of the boundaries of the tract including bearings and distances and the exact location of all existing and recorded streets intersecting the boundary of the tract.

(3) Section or reserve lines or other legal points of reference and distance to same.

(4) Building lines, lot lines, easement locations and dimensions.

(5) Lot numbers and individual addresses for each lot.

(6) Streets - plans, profiles, cross-sections and names, location, and geometrics for entrance onto public rights-of-way, including acceleration, deceleration and passing lanes, dedication documents when applicable.

(7) Pedestrian walkways - plans and cross-sections.

(8) Easements such as pedestrian, utility, drainage, and the like.

(9) Sanitary, storm sewer and water lines - plans and profiles, water line plans, storm drainage plans.

(10) Parking area - plans, cross-sections, and landscaping details.

(11) The length of all arcs and radii, central angles, internal angles, points of curvature and tangency, the length of all tangents, intersection radii and rights-of-way widths.

(12) Lighting plan including areas to be lighted, the type of fixtures to be used, and the lighting intensity level for all areas to be lighted, when required.

(13) Landscape plans including the location of all landscape materials and elements. This requirement is waived in those areas used for single-family residential purposes.

(14) Other data which may be required by the Plan Commission.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.117 DESIGN STANDARDS

The following minimum design standards shall apply to all size improvements on real estate for which a development plan is required. Individual zoning districts may also supplement the following standards with more detailed standards pertinent to individual districts.

(A) Environmental design.

(1) It is the intention of the Plan Commission to encourage preservation of natural site amenities and to minimize disturbance to the natural environment.

(2) Existing trees and other natural features shall be preserved whenever possible. The location of these features must be considered when planning common open space, location of buildings, underground services, walks, paved areas, and finished

grade levels. The Commission may inquire into the means whereby natural features will be protected during construction.

(B) Building separation. In reviewing the location of all structures within the development plan boundaries, the Commission shall determine that the structures are located to allow adequate light, air, ease of entry, and access by emergency vehicles. For those districts without specified yard requirements, the Commission shall be guided by the following:

(1) That the open areas provided around the building be sufficient to provide the occupants of the structure with adequate light and air from all outside walls which contain windows or doors.

(2) That sufficient space is provided for access and entry to buildings from all streets, parking lots, and other buildings.

(3) That in the event lots for one-family or two-family dwellings are to be sold prior to construction and the applicant cannot indicate structures on the development plan, the structures shall be subject to the yard provisions of §151.131 for the RS-1 District or other Commission-approved minimums, unless specifically waived.

(C) Vehicular circulation facilities.

(1) In determining the number of driveway entrances, widths of pavement and driveways, and the width and length of acceleration, deceleration and passing lanes, the Commission will consult standards as set forth in the "Access Standards Manual for Fort Wayne, New Haven and Allen County."

(2) All right-of-way widths and street improvements must meet the requirements of Chapter 150 as now or hereafter amended. However, those requirements may be waived on approval of the City Engineer and the Commission. All streets shall be surfaced to meet City street specifications governed by street classification.

(D) Pedestrian circulation facilities. Pedestrian walkways shall be constructed in a location and to specifications approved by the Commission. The walkways shall provide for pedestrian circulation throughout the development and shall be separated from vehicular traffic. Where distance separation cannot be achieved, physical separation may be required in cases in which the Commission deems necessary. All required pedestrian facilities shall be designed and installed to comply with the Americans with Disabilities Act, and with all rules and regulations promulgated thereunder, including but not limited to the Public Right of Way Accessibility Guidelines, in effect at the time of the design and installation, as may be amended from time to time.

(E) Sanitary sewage disposal and water supply systems. All water supply and sanitary sewage disposal systems, from private to public in nature, shall be subject to compliance with local, and where appropriate, State Board of Health requirements. Plans must be submitted to and approved by the responsible agencies.

(F) Recreation space.

(1) The specific requirements for the amount and type of recreation space are contained in those parts of this Chapter dealing with specific zoning district requirements. The following standards are to be utilized in the evaluation of all required recreation space in a Commission-approved development plan:

(a) Commission-approved recreation space shall be provided in all RS-P, RS-3, and MH districts. The purpose of providing the space shall be to meet the immediate and future recreational needs of the development's residents in a neighborhood setting. Recreation space may be provided in a centrally located site, in distinctly separated sites, as connecting links between separated activity areas, or adjacent to other existing or proposed recreation spaces. The Commission shall determine if the proposed recreation space is suitable for the intended use. This requirement may be waived when, in the opinion of the Commission, the applicant has satisfactorily demonstrated that he has provided alternative methods for meeting the recreational needs of his development's residents or the resulting open space is less than 10,000 square feet.

(b) All developments with recreation space must contain acceptable covenants which, in the opinion of the Commission, insure adequate maintenance of those recreation spaces, when applicable. If the developer proposes to convey the ownership of the recreation space to the Park and Recreation Board, the Commission must be in receipt of written documentation from the Park and Recreation Board, acknowledging its agreement to accept ownership and maintenance of same.

(2) The term recreation space shall be interpreted to mean void of non-recreational structures, street rights-of-way, open parking areas and driveways for dwellings.

(3) Space intended for limited recreational or other uses, such as a golf course, to which all residents of the development may not be permitted free access because of the payment of a fee or a charge, shall have a maximum of three-fourths of the space utilized in meeting the recreation space requirements of the total development.

(G) Paving. All access drives and off-street parking facilities shall either be paved with concrete or with other approved surfacing material to adequately provide a durable and dust-free surface.

(H) Parking standards.

(1) Parking areas may be required to be arranged so as to prevent through traffic to other parking areas.

(2) Parking areas shall be screened from adjacent non-related structures, roads, and traffic arteries with plantings, earth berms, walls, or changes in grade, when deemed necessary by the Commission.

(3) All parking areas shall be marked so as to provide for orderly and safe parking, storage, and movement.

(4) When it is in the interest of safety and better vehicle and pedestrian circulation, the Plan Commission may require the use of landscape elements to provide physical separation of use areas.

(5) All parking areas shall be adequately lighted. All such lighting shall be so arranged as to direct light away from adjoining residential real estate.

(6) All parking areas and off-street loading areas shall be graded and drained to remove all surface water without erosion and flooding.

(I) Street lighting. Street lighting shall be provided in all residential developments. Alternative street lighting proposals will be considered by the Commission if found to be appropriate in scale and intensity. Where pedestrian facilities are separated from streets to the extent that they are not adequately lighted from the street light facilities, separate lighting facilities shall be provided on the pedestrian facilities.

(J) Flood plain management. In addition to flood plain management provisions found elsewhere in this Chapter, the Plan Commission shall review each development plan to insure that:

(1) All such proposed developments are consistent with the need to minimize flood damage.

(2) Adequate drainage is provided so as to reduce exposure to flood hazard.

(3) Adequate drainage is provided so as not to increase the exposure of flood hazard to adjacent lands.

(4) All public utilities and facilities are located and constructed so as to minimize and eliminate flood damage. These facilities and utilities include, but are not limited to, sewer, gas, electric and water systems.

[Ord. 698, passed 7-11-62; Ord. G-30-80, passed 12-9-80; Ord. G-13-83, passed 7-12-83; Ord. Z-13-16, passed 11-12-13]

§151.118 ACCESS ROADS

This Section provides a plan to require private construction and maintenance of access roads at certain locations, based upon the following requirements:

(A) The purpose of the access road plan is to achieve a reduction in traffic conflicts and congestion and enhance traffic safety by limiting the number of access points onto major streets from adjacent real estate.

(B) On real estate located adjacent to the streets, roads and highways described in paragraph (F), there shall be constructed access roads, appropriate permanent accesses to access roads from public rights-of-way, and necessary right-of-way improvements, in order to achieve the purpose stated in paragraph (A).

(C) An owner of real estate shall construct, at the owner's expense, such access roads, permanent accesses, and right-of-way improvements as may be required by the New Haven Plan Commission.

(D) The access roads and permanent accesses to them shall be privately maintained by the owner of the property on which an access road or access is located, except for such portion of a permanent access which the City of New Haven agrees to maintain.

(E) The New Haven Plan Commission shall be authorized to do the following:

(1) Adopt written plans describing the specific areas where access roads will be located, and the manner and timing of their construction.

(2) Designate documentation necessary to implement the access road plan.

(3) Designate the specifications for construction of access roads, permanent accesses and right-of-way improvements.

(4) Adopt such rules as it may deem necessary to implement the access road plan as stated in the Comprehensive Plan.

(5) Impose construction of an access road, permanent access, or right-of-way improvements as a condition of the issuance of an Improvement Location Permit or a Certificate of Occupancy, unless the New Haven Plan Commission permits the owner to make a written commitment for such installation at a later time.

(6) Require an access to a public right-of-way from real estate upon which an access road is located to remain only temporarily, and to be removed or closed at such time as connection to a permanent access is possible.

(7) Enforce a violation or breach of an obligation to construct or maintain an access road or permanent access, construct right-of-way improvements, or remove a temporary access, which might be required under this Comprehensive Plan, an access road plan, a rule of the New Haven Plan Commission, or any other related commitment or document. The remedies available for such enforcement shall include any legal or

equitable remedies available, including injunctive relief and recovery of attorney fees, costs and expenses incurred in connection with such proceedings.

(F) The New Haven Plan Commission shall be authorized to require access roads to be constructed along the following streets and highways:

(1) All present and future arterials as defined by the New Haven Comprehensive Plan.

(2) Expressways, other limited access highways and their interchanges.

(3) Any other street or highway which the New Haven Plan Commission reasonably deems necessary or desirable in the development of real estate to achieve the purpose stated in paragraph (A).

(G) In designating areas for the location of access roads, the New Haven Plan Commission shall be guided by recommendations of the Urban Transportation Advisory Board, or its successor.

[Ord. Z-92-2, passed 3-25-92]

HEIGHT AND AREA REQUIREMENTS

§151.125 HEIGHT LIMITS

(A) Except as herein provided, no building or structure shall be erected, altered, enlarged or reconstructed to exceed the height limit established for the district wherein the building or structure is located, as follows:

District	Maximum Height
A-1, A-2, A-3, A-E, C-1A, C-1, C-2, C-4	35 feet
RS-1, RS-2	35 feet
RS-3, MH	50 feet
I-1, I-2, I-3, I-4	75 feet
C-P, I-P	Maximum height as shown on the Commission-approved development plan.

B. Exceptions to Height Limitations.

(1) In the districts limiting height not to exceed 25 feet, any permitted structure may be increased in height not to exceed 35 feet, provided the required side yards are increased an additional foot for each three feet the structure exceeds 25 feet.

(2) On through lots 150 feet or less in depth, the height of a building may be measured from the adjoining curb level on either street.

(3) On through lots more than 150 feet in depth, the height regulations and basis of height measurements for the street permitting the greater height, shall apply to a depth of not more than 150 feet from the street.

(4) Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building; fire or parapet walls; skylights; electrical transmission poles and towers; theater screens; steeples; roof signs; flagpoles; chimneys; smokestacks; water tanks; grain elevators; silos; gas containers; industrial installations requiring a vertical production procedure such as flour mills, steel mills and refineries; or similar structures may be erected above the height limits herein prescribed, but no such structures or any place above the height limit shall be allowed for the purpose of providing additional floor space for residential, business, or industrial use.

[Ord. G-38-80, passed 12.-9-80; Ord. Z-95-4, passed 5-9-95]

§151.126 LOT AREA REQUIREMENTS

(A) Except as hereinafter provided, no residential building or structure shall be erected unless the building or structure conforms, and no building or structure shall be altered, enlarged, or reconstructed unless the alteration, enlargement, or construction conforms with the area requirements of the district in which it is located as follows:

Required Lot Area for Each Dwelling

Dwelling	Minimum Width at Front Bldg. Line	Minimum Net Lot Area (Sq. Ft.)	No. of Dwellings And Sq. Ft. Per Each Dwelling
A-1 if served by a private well and disposal system, or any combination of one private system with one approved public facility.	120 feet	20,000	1 dwelling-20,000 2 dwellings-15,000
A-1 if served by approved public sewer and water systems.	75 feet	12,000	1 dwelling-12,000 2 dwellings-9,000
RS-1 and RS-2 if served by private well and disposal system, or approved public water and private disposal system.	100 feet	20,000	1 dwelling-20,000 2 dwellings-15,000
RS-1 and RS-2 if served by approved public water and sewer systems, or private well and approved public sewer.	75 feet	12,000	1 dwelling-12,000 2 dwellings-9,000
RS-1 and RS-2 if served by approved public water and sewer systems, in	60 feet	7,500	1 dwelling-7,500 2 dwellings-5,000

Dwelling	Minimum Width at Front Bldg. Line	Minimum Net Lot Area (Sq. Ft.)	No. of Dwellings And Sq. Ft. Per Each Dwelling
addition to meeting requirements set forth in §150.50.			
RS-3 if served by private well and disposal systems, or approved public water and private disposal systems.	100 feet	20,000	1 dwelling-20,000 2 dwellings-15,000 3 dwellings-12,000 4 dwellings-10,000 5 or more dwelling units in one development shall comply with the requirements set forth in §151.096 (D).
RS-3 if served by approved public water and sewer systems.	75 feet	12,000	1 dwelling-12,000 2 dwellings-9,000 3 dwellings-7,000 4 dwellings-6,000 5 or more dwelling units in one development shall comply with the requirements set forth in §151.096 (D).
RS-3 if served by approved public water and sewer systems in addition to meeting the requirements set forth in §150.50.	60 feet	7,500	1 dwelling-7,500 2 dwellings-5,000 3 dwellings-4,000 4 dwellings-3,500

Dwelling	
C-1A, C-1, MH	For single-family and two-family dwellings, the specifications are the same as those of the nearest A-1,

	RS-1, RS-2 and RS-3 district as determined by measuring from the center of the parcel to be developed.
RS-P, C-P, I-P	The Commission establishes minimum lot requirements at the time of the approval of the RS-P development plan.

(B) Lots established by a legally recorded plat or deed prior to the 7-11-62 which have less than the minimum area or width requirements established by this subchapter, may nevertheless be used for any use permitted within the district in which the lot is located. In addition, lots established by a recorded plat or deed subsequent to §150.50 and which met the requirements of that Section, but as a result of amendments thereto can no longer meet the minimum area or width requirements, may nevertheless be used for any use permitted within the district in which the lot is located.

(C) In areas unserved by public or other approved community water or sewage facilities, the minimum lot areas required by these regulations shall be increased to include any additional area deemed necessary by the State or County Boards of Health to insure safe water supply or adequate sewage disposal.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.127 NUMBER OF DWELLINGS ON A LOT

Every dwelling hereinafter erected shall be located on a lot as herein defined, and there shall be not more than one main building on one lot. Exceptions to the aforementioned requirement include the following:

(A) Multiple-family dwellings in an RS-3 or RS-P District.

(B) One mobile home on a parcel of land together with a conventional dwelling unit, provided that the mobile home is permitted by the zoning classification or by special exception and all other requirements of this Chapter are met.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.128 FRONT YARDS

Except as hereinafter provided, no building or structure shall be erected unless the building or structure conforms, and no building or structure shall be altered, enlarged, or reconstructed unless the alteration, enlargement, or reconstruction conforms with the yard regulations of the district in which it is located, as provided in §§151.130 through 151.134. Each lot shall have a front yard with a minimum depth measured from, and parallel to, the front right-of-way line, existing or proposed, whichever is greater, as established in the master plan.

(A) The minimum front yard depth shall be as follows.

District	Depth in Feet
A-1 if served by individual well from the proposed facility.	75-feet minimum front yard depth shall be required and septic system or one community existing right-of-way of all streets and highways designated as arterial or collector on the master plan, as well as those roads which follow section and half-section lines. A 40-foot minimum front yard shall be permitted on all other streets and Commission-approved easements.
A-1 if served by public or other approved community sewer water system, RS-1, RS-2, RS-3, and MH.	Equal to one-half the width of the street right-of-way as defined above. Provided, that the required of depth of these front yards shall not be less than 30 feet and need not be more than 60 feet.
RS-1 and RS-2 if recreation space is provided according to §151.50.	30 foot minimum front yard depth unless the front yard adjoins the circular portion of a cul-de-sac street in which case a 25-foot front yard depth is permitted.
C-1A, C-1, C-4, I-1, I-2 for residential uses.	35 feet
C-1, C-1A, I-1, I-2 other than residential uses.	25 feet
C-2, I-3.	75 feet

(B) At each end of a through lot there shall be a front yard that conforms to the front yard requirements of this Section. One such front yard may serve as a required rear yard to permit accessory structures.

(C) Where a lot is situated between two lots, each of which has an existing main building thereon, the front yards of which are less than the minimum required front yards established herein, the front yard requirement of the lot shall be the average of the front yards of the existing buildings.

(D) Where a lot abuts only one lot having an existing main building thereon, the front yard of which is less than the minimum required front yard established herein, the front yard requirement of the lot shall be the average of the front yard of the existing building and the required front yard.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.129 SIDE YARDS

(A) There shall be two side yards for each lot, the minimum width of each of which and the aggregate width of both of which shall be as follows:

District	Minimum Width of One Side Yard	Aggregate Width of Both Yards
A-1 if served by individual septic system and well or one public facility	15 feet	35 feet
A-1 if served by public or other approved community sewer and water system, RS-1, RS-2, and RS-3 (without community recreation space), MH, the C-1, C-1A, C-4, I-1, I-2, when used for residential purposes on the first floor.	10% of the lot width or 15 feet whichever is less.	25% of the lot width or 35 feet whichever is less.
RS-1 and RS-2 if recreation space is provided according to §150.50.	7 feet	14 feet
C-1, C-1A, C-2, C-4, C-5, I-1, I-2, I-3, when the yard abuts an A, RS, or MH district.	25 feet or 10% of the lot width whichever is less.	Twice the "one side yard" requirements where applicable.
C-1, C-1A, C-2, C-4, I-1, I-2, I-3, when the yard does not abut an A, RS, or MH district.	No requirement.	No requirement.

(B) For the purpose of side yard regulations, dwellings with common party walls shall be considered as one building occupying one lot.

(C) In the case of a corner lot, the side yard width to the side street line shall be equal to at least one-half of the front yard depth requirement for the district in which the lot is located. In no case shall the side yard width to the side street line be less than 20 feet.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.130 REAR YARDS

(A) There shall be a rear yard for each lot as indicated below, and the minimum depth of the yard shall be as follows:

District	Rear Yard Requirement
For residential use in all districts except RS-P, without community recreation space.	25% of lot depth or 25 feet whichever is less.
RS-1 and RS-2 if recreation space is provided according to §150.50.	25% of the lot depth or 25 feet whichever is less unless there is abutting common recreation space which, in the Plan Commission's opinion, is significant - then a 15-foot rear yard depth is permitted.
C-1, C-1A, C-2, C-4, I-1, I-2, I-3 when abutting an A, RS, or MH district, otherwise none required.	20% of lot depth, or 25 feet, whichever is less.

(B) An accessory building, not exceeding 20 feet in height, may occupy not more than 30% of the required rear yard area, provided that no accessory building shall be closer than three feet to the side or rear property line of the required rear yard.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.131 MULTIPLE-FAMILY HOUSING DEVELOPMENTS

The Plan Commission shall review the location of all structures within the development to assure that adequate light, air, and ease of entry is available for all structures.

(A) The Commission shall be governed by the following minimum requirements for buildings of two stories or less:

(1) Minimum distance from front or rear of building to front or rear of adjacent buildings shall be 45 feet.

(2) Minimum distance from side of building to front or rear of adjacent building shall be 35 feet.

(3) Minimum distance from side of building to side of adjacent building shall be 25 feet.

(B) All multiple-family structures within and adjacent to the boundary lines of an RS-3 Multiple-Family Residential District, or less restrictive districts, or adjacent to either an A or RS-1 District, shall meet the minimum requirements of §§151.130 through 151.132 for those sides abutting the boundary, except that the maximum required side yard shall be 25 feet.

(C) All multiple-family structures adjacent to a lot line abutting an RS-3, MH, C or I District shall conform with the following minimum side yard requirements: ten percent of the proposed or actual lot width, 15 foot maximum.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.132 SWIMMING POOLS

A pool wall shall not be located any closer than six feet from a side or rear property line. Under no circumstances shall a private swimming pool be located in the required front yard.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.133 EXCEPTIONS

(A) No required yard or other open space around an existing building, or which is hereafter provided around any building for the purpose of complying with the provisions of this Chapter, shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space or any lot be considered as providing a yard or open space for another lot whereon a building is to be erected.

(B) (1) Nothing contained in this Chapter shall prohibit the construction or maintenance of a fence of any height in connection with any permitted agricultural use.

(2) Fences, walls, and hedges may be permitted in any yard, or along the edge of any yard. The height of fences, walls, and hedges shall not exceed eight feet in any side or rear yard. In all industrial districts a fence may be permitted up to eight feet in height along the side or front of a front yard providing it does not constitute an obstruction for motor vehicles. In all districts, except in industrial districts, no fence, wall, or hedge along the side or front of any front yard, or in front of the side building line of a corner lot shall be over 2-1/2 feet in height. However, fences that do not create a visual or physical barrier (split-rail fence) and whose purpose cannot serve any physical function other than for decoration or aesthetic appeal, may be constructed up to 3-1/2 feet in height within the front and side yards of a front yard. Fences within planned unit development (RS-P) zoning districts may be exempted from the above requirements by the Plan Commission as part of development plan approval.

(3) Trees, shrubs, flowers, or plants shall be permitted in any front, side, or rear yard, provided it does not violate the corner setbacks as set forth in (C) below.

(4) Walls, driveways, curbs, retaining walls, mailboxes, name plates, lamp posts, bird baths, and structures of a like nature, shall be permitted in any front, side, or rear yard.

(5) Private swimming pools shall be completely surrounded by a fence of not less than four feet. Above-ground swimming pools need not be fenced if their side walls are at least four feet in height, or when a fence is secured on top of the side pool walls to a minimum of four feet in height as measured from ground level. All swimming pool fences or walls shall be constructed as to have no openings larger than four inches in dimension, except for doors and gates. All doors and gates shall be self-latching and self-closing.

(C) No fence, wall, hedge, planting, or other obstruction to vision in excess of 2-1/2 feet shall be erected or maintained on that part of the corner lot that is included between the lines of intersection street rights-of-way and a line intersecting them at points of 25 feet distance from the intersection of the street lines.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.134 OTHER PROJECTIONS

(A) A cornice, eave belt course, sill, canopy, or other similar architectural feature (not including bay window or other vertical projection which shall be a part of the main building) may extend or project into a required side yard not more than two inches for each one foot of width of the side yard and may extend or project into a required front or rear yard not more than 30 inches. Chimneys or fireplaces may project into a required front, side, or rear yard not more than two feet, provided the width of the side yard is not reduced to less than three feet.

(B) A fire escape may extend or project into any front, side, or rear yard not more than four feet.

(C) An open, unenclosed stairway or balcony, not covered by a roof or canopy, may extend or project into a required rear yard not more than four feet, and the balcony may extend into a required front yard not more than 30 inches.

(D) An unenclosed platform or landing which does not extend or project into any required front, side, or rear yard not more than six feet, provided that the width of a side yard is not reduced to less than three feet. An overhang, canopy, or portico may be placed over the open porch, but it shall not be enclosed.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.135 MINIMUM RESIDENTIAL BUILDING SIZE

No building or structure shall be erected, enlarged, or reconstructed for residential purposes having a ground floor area, exclusive of unenclosed porches, terraces, breezeways and garages, of less than the minimum established for the district wherein the building or structure is located, as follows:

	Ground Floor Area of Building (Square Feet)	
District	**One Story**	**More Than One Story**
A-1, RS-1, RS-2, MH, RS-3, RS-P, one dwelling unit.	672	480
Two dwelling units (when applicable).	960	480
Three or more units (when applicable).	480/unit	480/unit
C-1, C-1A, C-4, I-1, I-2, I-3.	Same requirement as RS-3 District.	

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

SIGNS

§151.145 PURPOSE

The purpose of this subchapter is to promote the public health, safety, and welfare by regulating existing and proposed signs. It is intended to protect property values and reduce potential hazards while creating a positive economic and business environment. It recognizes the need for sufficient identification, advertising, and communication within the community that is structurally sound, well maintained, and attractive in appearance. To accomplish this purpose, the subchapter is intended to regulate the area, location, height, and other related aspects of signs and sign structures while also:

(A) Preserving the character of residential neighborhoods;

(B) Offering suitable conditions for identifying businesses and services provided in commercial, institutional, and industrial areas;

(C) Reducing traffic hazards by restricting signs and lights which obstruct the view of an approaching road intersection, railroad, school playground or park, pedestrian crosswalk, or any other situation which may endanger the health and welfare of any pedestrian or occupant of any vehicle.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80; Ord. Z-06-05, passed 7-11-06]

§151.146 SIGNS PROHIBITED

The following signs shall be prohibited:

(A) Commercial signs when located upon vacant lots or parcels or when displaying information not related to the conduct of a business or other enterprise located on the same premises as said sign, except as such signs are permitted by state or federal regulations or unless otherwise permitted by this ordinance.

(B) Signs which move or give the appearance of movement. This category includes, but is not limited to, signs which flutter, swing, undulate, rotate, oscillate or otherwise move by natural or artificial means, and signs containing moving or scrolling text, or flashing or running lights giving the illusion of movement. Devices that display stationary digital text shall not be included in this category.

(C) Roof signs, except as hereafter authorized.

(D) Signs placed on parked vehicles, boats or trailers where the apparent purpose is to advertise a product or to direct the public to a business or activity located on or off the same

premises. Motor vehicles engaged in the cartage of goods or the transport of passengers are exempt from this restriction.

(E) Signs which imitate traffic signs, including but not limited to, signs which incorporate the words STOP, DANGER, WARNING, CAUTION, or GO SLOW, unless such language is part of a name of a business. (Signs which are accessory to a parking lot shall not be deemed to fall within this prohibition).

(F) Portable or wheeled signs converted to a sign permanent in nature.

(G) Inflatable images such as balloons, except as specifically authorized in Section 151.150 below.

(H) Miscellaneous advertising devices, other than signs that conform to the provisions of this Section, shall not be allowed.

(I) Obsolete signs; any sign that contains inaccurate or outdated information.

(J) Pennants, streamer, portable signs, and festoon lights, except as specifically authorized in Section 151.150 below.

(K) Signs hung across any street or alley or within a public right-of-way, except as hereafter authorized.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80; Ord. Z-06-05, passed 7-11-06]

§151.147 SIGN PERMITS

No sign, except as provided in Section 151.148 below, shall hereafter be erected, constructed, altered, or relocated without first obtaining a permit from the City of New Haven Zoning Administrator. Applications for a sign permit shall be filed with the Zoning Administrator in accordance with the requirements of this Ordinance.

(A) Improvement Location Permit Applications. All applications shall contain the following information.

(1) Name, address and telephone number of the applicant and person, firm, corporation or association erecting, constructing, altering or relocating the sign.

(2) Location of the building, structure or parcel of property to which, or upon which, the sign is to be attached or erected.

(3) Position of sign in relation to nearby building, structures and street grade.

(4) Two (2) copies of plans and specifications showing the method of construction.

(5) Sketch showing sign faces, exposed surfaces and proposed message thereof accurately represented in scale as to size, proportion and color.

(6) Written consent of the owners of the building, structure or land on or to which the sign is to be erected.

(7) Such other information as the Zoning Administrator may require demonstrating full compliance with this and all other laws and ordinances of the City.

(B) Issuance of the Permit. Upon receipt of a fully complete sign permit application, the Zoning Administrator shall examine the application and all material attached thereto to determine its compliance with this Section, as well as, any other applicable City title, Ordinance, or law. The Zoning Administrator shall take formal action on the application as specified according to policy.

(C) Validity of the Permit. If work authorized under a sign permit has not commenced within sixty (60) days of issuance or work has not been completed within six (6) months of the date of issuance, the sign permit shall then become void.

(D) Appeals. An appeal from the decision of the Zoning Administrator shall be taken to the New Haven Board of Zoning Appeals.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80; Ord. Z-06-05, passed 7-11-06]

§151.148 EXEMPTIONS

(A) Exempt Signs. The following signs shall be exempt from the permit requirements set forth in Section 151.147 above; provided however, they must meet the remaining requirements of this Section, as well as any limitation set forth elsewhere in this Ordinance.

(1) Public Service Signs. Signs used for safety purposes relative to the repair or maintenance of streets, sidewalks, or utilities in a public right-of-way.

(2) Address Signs. Address numbers not exceeding two (2) square feet in area.

(3) Governmental. Signs and public notices erected or required by Governmental bodies, or authorized for a public purpose by any law, statute, or Ordinance, including official traffic signs authorized by the City of New Haven.

(4) Public Information Signs. Signs identifying the telephone, restrooms, and similar facilities, providing no advertising matter accompanies the sign.

(5) Temporary Window Signs. In all commercial districts, two (2) temporary signs per window with the total sign area for both signs not to exceed forty (40) percent of the window surface area, provided no single sign shall remain longer than fourteen (14) days. A series of windows that are separated by frames and supporting material of less than six (6) inches in width shall be considered as a single window for the purposes of area computation.

(6) Memorial Plaques. Memorial plaques and cornerstones when permanently affixed to a building or premises.

(7) Bulletin Boards. Notice and bulletin boards for public, charitable, religious, or similar type institution when not exceeding sixteen (16) square feet and located on the same premises as the institution. Such signs shall not be visible from the public right-of-way.

(8) Historical Identification Signs. Signs for property designated by the Federal, State, or local governments as a historical location, site, or landmark, provided such sign does not exceed twelve (12) square feet.

(9) Miscellaneous Information Matter. Matter appearing on newspaper vending boxes, automatic teller machines, and other vending machines, or matter appearing on or adjacent to entry doors such as “Push”, “Pull”, “Open”, and “Closed”, or matter appearing on display windows or doors denoting hours of operation, credit cards accepted, and similar information.

(10) Private Traffic Direction Signs. Private traffic direction signs directing traffic movement on a premise or within a premise, not exceeding eight (8) square feet in area and four (4) feet in height for each sign.

(11) Service Station Information Signs. Service station informational signs, provided, however, such signs shall comply with the following regulations:

(a) Service station information signs shall be permanently mounted to gasoline pump islands or canopy supports;

(b) A maximum of one (1) sign shall be permitted per gasoline pump-island. No single sign shall exceed two (2) square feet in area and no sign shall exceed a height of twelve (12) feet;

(c) A maximum of two (2) signs, positioned one hundred and eighty (180) degrees apart from one another, shall be permitted per canopy support. No sign shall exceed eight (8) square feet in area, nor shall a sign exceed a height of twelve (12) feet.

(12) Real Estate Signs. Real estate signs in the type and number listed below:

(a) Signs advertising the sale, lease, or rent of residential property:

[1] No sign shall exceed nine (9) square feet in area;

[2] No sign shall be erected more than six (6) feet above grade;

[3] Not more than one (1) sign per street frontage is displayed;

[4] Every sign is located on the same premises as the subject property; and

[5] Every sign is removed seven (7) days after the closing or execution of the lease.

(b) Signs advertising the sale, lease, or rent of unimproved property, provided:

[1] No sign shall exceed sixteen (16) square feet in area for properties less than ten (10) acres; thirty-two (32) square feet in area for properties from eleven (11) acres and above;

[2] Not more than one (1) sign per street frontage is displayed;

[3] Every sign is located on the same premises as the subject property; and

[4] Every sign is removed seven (7) days after the closing or execution of the lease.

(c) Signs advertising the sale, lease, or rent of nonresidential property, provided:

[1] No sign shall exceed the following size limitations:

Property Size	**Maximum size of sign**
Less than 10 acres	16 sq. ft.
10 - 19.99 acres	32 sq. ft.
20 - 39.99 acres	48 sq. ft.
40 acres or greater	64 sq. ft.

[2] Not more than one (1) sign per street frontage is displayed, except in cases of properties forty (40) acres and above which may have two (2);

[3] Every sign is located on the same premises as the subject property; and

[4] Every sign is removed seven (7) days after the closing or execution of the lease.

(d) Signs identifying a real estate **OPEN HOUSE**, provided:

[1] No sign shall exceed nine (9) square feet in area,

[2] Not more than four (4) signs per property shall be displayed. The signs may be located at any intersection within one (1) square mile of the subject property, but only one (1) sign per intersection per property shall be allowed.

[3] The signs shall be displayed only between the hours of 9:00 AM and 6:00 PM.

(13) Construction Signs. Not more than two (2) construction signs each with a sign surface area not to exceed thirty two (32) square feet per sign identifying the architects, engineers, contractors and other individuals or firms involved with the construction and announcing the character of the building enterprise or the purpose for which the building is intended, but not including the advertisement of any product. The signs shall be confined to the site of the construction and shall be removed within fourteen (14) days after the issuance of an occupancy permit. Such signs shall not exceed ten (10) feet in height.

(14) Temporary Signs. Temporary signs as noted in Section 151.150 below.

(15) No Trespassing Signs. No trespassing signs, warning signs (e.g., “Beware of Dog”) and other such signs regulating the use of property when such signs do not exceed two (2) square feet in area.

(16) Political Signs. Political signs are permitted, however, such signs shall comply with the following regulations:

(a) Political signs shall not be posted more than forty-five (45) days prior to the election or referendum to which they pertain and shall be removed within forty-eight (48) hours after close of the polls for the election or referendum to which they pertain;

(b) No sign shall be placed in the public right-of-way, on utility poles, on municipally owned property, unless permitted by the New Haven Board of Public Works, or in any other area prohibited by this Ordinance; and

(c) No sign shall exceed thirty-two (32) square feet in area.

(17) Home Occupation Signs. One (1) sign may be allowed per dwelling unit. Signs shall be limited to twelve (12) square feet in the A-1 district and two (2) square feet in RS and MH districts.

(B) Changing Sign Copy. For the purposes of this Section, the changing of the copy of a sign, bulletin board, display encasement, marquee or maintenance where no structural changes are made or changing of interchangeable letters on signs designed for use of interchangeable letters shall not require a permit.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80; Ord. Z-06-05, passed 7-11-06]

§151.149 GENERAL SIGN STANDARDS

(A) General Limitations on Sign Location

(1) All signs requiring a permit shall be located on the premises they serve. However, a maximum of two (2) directional signs not exceeding two (2) square feet each may be allowed for non-residential properties which do not have frontage on an arterial or collector street. The New Haven Board of Public Works must approve all permanent directional signs.

(2) No sign shall be erected or maintained at the intersection of any streets in such a manner as to obstruct the free and clear vision of a driver of a vehicle or a pedestrian. No part of any sign or sign structure including supports, shall be located within a clear vision area except directional signs which must be less than three (3) feet in height. A sign may project or extend into a clear vision area only if the sign's lowest edge is greater than eight (8) feet above ground level or if the sign is less than three (3) feet in total height. Clear vision area is described as:

(a) An area formed by the intersection of the right-of-way lines of two (2) public roadways and a line connecting points measured twenty-five (25) feet from the intersection of these right-of-way lines; and

(b) A strip five (5) feet wide adjacent and parallel to all proposed or existing public right-of-way lines, whichever is greater.

(3) No sign shall be erected or maintained so as to prevent the free ingress or egress from any door, window, or fire escape, and no signs shall be attached to a standpipe or fire escape.

(4) No sign shall be allowed or maintained if the sign shall, in any way, violate existing state or federal regulations governing such signs. Signs controlled by these provisions shall be in compliance therewith.

(5) No person shall place, paste, print, or affix, in any manner, a handbill, sign, poster, advertisement or notice of any kind in any public right-of-way on any trees, light standards, telephone poles or other supporting structure.

(6) Signs shall be permitted on awnings, canopies and marquees. However, such signs shall not exceed a height of twenty (20) feet above the average surrounding grade. The area of such signs shall be counted against the maximum sign surface area permitted by this Section.

(7) All freestanding or mobile signs shall be separated by a minimum of thirty (30) feet and shall be located no closer than fifteen (15) feet to a side property line.

(B) Illumination.

(1) Location and Design of Light Source. Whenever an external artificial light source is used to illuminate a sign, such source shall be located, shielded and directed so as to not pose a traffic hazard. No sign shall be erected or maintained at any location where, by reason of its illumination, it may obstruct, impair, obscure, or interfere with the view of any traffic-control device.

(2) Level of Illumination. All artificial illumination shall be so designed, located, shielded, and directed as to prevent the casting of direct light upon adjacent property or streets.

(C) Sign Area Computation.

The following principals shall control the computation of sign area.

(1) Computation of Area of Individual Signs. The area of a sign face shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, color, or other display, together with any material or color forming an integral part of the background or the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework or bracing unless such framework or bracing is made part of the message or face of the sign.

(2) Computation of Area of Multiple-Faced Signs. The sign area for a sign with more than one (1) face shall be computed by adding together the area of all sign faces visible from any one (1) point. When two (2) identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than forty-two (42) inches apart, the sign area shall be computed by the measurement of one (1) of the faces.

(D) Construction and Design Standards. All signs shall meet the construction and design standards set forth for signs in the Allen County Building Code.

(E) Maintenance. Painted faces or structural members shall be repainted whenever peeling or fading occurs. Neon tubes, lamps, ballasts and transformers shall be kept in good state of repair and in safe condition. The Zoning Administrator may order the removal of any sign, which becomes a public hazard due to lack of maintenance or repair.

[Ord. Z-06-05, passed 7-11-06]

§151.150 TEMPORARY SIGNS

The following signs shall be allowed in the City. Temporary signs shall, in all respects, comply with the applicable regulations contained in the Section. Signs placed within the right-of-way must comply with the New Haven Board of Public Works regulations.

(A) Temporary Event (Minor) Signs. The following signs shall be exempt from the permit requirements set forth in Section 151.147 above; provided however, they meet the remaining requirements of this Section, as well as any limitation set forth elsewhere in this Ordinance. Minor temporary events include but are not limited to, the following: garage sales, yard sales, auctions, and fundraising events for community, social, religious, or fraternal organizations. Signs for minor temporary events may be permitted as follows:

(1) No type of minor event shall exceed a total of ten (10) days per year and three (3) days per occurrence.

(2) The total square footage in area of all temporary signs shall not exceed sixteen (16) square feet in area. Signs directing traffic to the event may be placed at the nearest intersection(s) to the subject property but may be displayed only during the event and shall not exceed three (3) feet in height.

(B) Temporary Event (Major) Signs. Major temporary events include, but are not limited to, the following: civic events, festivals, carnivals, grand openings, and business liquidation or other special sales or promotions.

(1) No major temporary event sign shall be erected without first obtaining a permit from the City of New Haven Zoning Administrator. No fee will be charged, and the permit will be required only for the purpose of monitoring the usage of such displays.

(2) The total square footage in area of all temporary signs shall not exceed forty-eight (48) square feet in area.

(3) Signs for major temporary events may be displayed for a period not to exceed four (4) weeks per event occurrence.

(4) Signs for civic events may be hung across any street or alley or within a public right-of-way if approved by the Board of Public Works.

[Ord. Z-06-05, passed 7-11-06]

§151.151 REGULATION BY DISTRICT CLASSIFICATION

(A) Residential Districts. Subject to the requirements of Section 151.147 above, the following signs may be permitted in Residential Districts (A-1, RS-1, RS-2, RS-3, MH):

Sign Type	Number, Area, Height, and Other Limitations
Monument or Wall - single family subdivision identification	**Maximum number:** 2 signs per entrance **Size limitations:** Each sign shall consist of no more than 100 square feet in area and may be attached to a supporting structure, including a wall or monument. **Maximum height:** Monument - 6 feet
Monument or Wall - multiple family complex or church facility - for sites less than 10 acres	**Maximum number:** 2 signs **Size limitations:** Each sign shall consist of not more than 32 square feet in area. **Maximum height:** Monument - 6 feet
Monument or Wall - multiple family complex or church facility - for sites 10 acres and more	**Maximum number:** 2 signs **Size limitations:** Each sign shall consist of not more than 64 square feet in area. **Maximum height:** Monument - 6 feet

(B) Commercial Districts. Subject to the requirements of Section 151.147 above, the following signs may be permitted in the Commercial Districts (C-1A, C-1, C-2, C-4). For the purposes of providing sign uniformity, a property is encouraged to incorporate either wall and monument signs or wall and pole signs. Except as provided for in Section 151.152 below, the use of monument signs and pole signs together on the same street frontage is prohibited.

Sign Type		**Number, Area, Height, and Other Limitations**
Wall		Coverage up to 30% of any wall surface
Monument or Pole		
	Individual building sites	**Maximum number:** none **Size limitations:** 2 square feet for each lineal foot of street frontage, the total not to exceed 300 square feet. **Maximum height:** Monument - 6 feet / Pole - 35 feet
	Shopping centers and multiple tenant buildings	**Maximum number:** none **Size limitations:** 2 square feet for each lineal foot of street frontage, the maximum size of any sign not to exceed 300 square feet and the total not to exceed 500 square feet. **Maximum height:** Monument - 6 feet / Pole - 35 feet
	Office Park Entrance	**Maximum number:** 2 signs per entrance **Size limitations:** Total not to exceed 100 square feet. **Maximum height:** Monument - 6 feet / Pole - 35 feet

(C) Industrial Districts. Subject to the requirements of Section 151.147 above, the following signs may be permitted in the Office and Industrial Districts (I-1, I-2, I-3). For the purposes of providing sign uniformity, a property is encouraged to incorporate either wall and monument signs or wall and pole signs. Except as provided for in Section 151.152 below, the use of monument signs and pole signs together on the same street frontage is prohibited.

Sign Type		Number, Area, Height, and Other Limitations
Wall		Coverage up to 30% of any wall surface
Monument or Pole		
	Individual building sites	**Maximum number:** none **Size limitations:** 2 square feet for each lineal foot of street frontage, the total not to exceed 300 square feet. **Maximum height:** Monument - 6 feet / Pole - 75 feet
	Multiple tenant buildings	**Maximum number:** none **Size limitations:** 2 square feet for each lineal foot of street frontage, the maximum size of any sign not to exceed 300 square feet and the total not to exceed 600 square feet. **Maximum height:** Monument - 6 feet / Pole - 75 feet
	Industrial Park Entrance	**Maximum number:** 2 signs per entrance **Size limitations:** 2 square feet for each lineal foot of street frontage, the maximum size of any sign not to exceed 300 square feet and the total not to exceed 600 square feet. **Maximum height:** Monument - 6 feet / Pole - 75 feet

Note: Maximum height of pole signs for commercial uses in industrial districts shall be limited to thirty-five (35) feet.

[Ord. Z-06-05, passed 7-11-06]

§151.152 ENFORCEMENT

(A) Enforcement Authority. The Zoning Administrator is hereby authorized to enforce the provisions of this Ordinance. The Zoning Administrator is authorized to employ assistants and agents to aid him or her in the enforcement and administration of this Ordinance.

(B) Inspection. The Zoning Administrator may inspect, at such times as deemed necessary, each sign or sign structure regulated by this Section for the purpose of ascertaining whether the sign is in compliance with this Section or any other relevant City code, law or Ordinance.

(C) Unsafe and Unlawful Signs.

(1) Duty to Remove or Repair.

(a) Should the Zoning Administrator find any sign regulated by this Section to be unsafe, unlawful, or a menace to the public, or constructed, erected, or maintained in violation of the provisions of this Section, he or she shall cause notice to be given to the holder of the permit, or the property owner in the case of exempt signs, by one of the following methods:

1) Delivery by registered or certified mail to the holder of the permit or to the owner at the address last shown on the City records, of a written notice of violation of the Sign Ordinance; or

2) Posting in a visible place upon the real property a notice of violation of the City Sign Ordinance and sending, by first class mail, to the holder of the permit or to the owner at the address last shown on the City records, a written notice of violation of the City Sign Ordinance.

(b) If the holder of the permit should fail to remove the sign or bring the sign or other advertising structure in compliance, by initiation of appropriate action in the Allen Circuit or Superior Court, the Zoning Administrator may cause, at the holder's or property owner's expense, the sign or other advertising structure to be removed or brought into compliance.

(c) If the holder or owner fails to pay the Court ordered costs and expenses of such repair or removal, then such costs and expenses shall become a lien against the property. In addition, the Zoning Administrator shall refuse to issue a Sign Permit to any holder or owner who refuses to pay the costs and expenses assessed under this provision.

(2) Unlawful signs. Unlawful signs, regardless of type, shall be removed within

twenty-four (24) hours of the time when notice was perfected.

(3) Signs Causing Immediate Peril. The Zoning Administrator may cause any sign or other advertising structure that is in immediate peril to persons or property to be removed summarily without notice.

(D) Signs No Longer In Use.

(1) Removal. Any sign advertising a defunct business, or an unavailable product or service, shall be taken down and removed by the owner, agent, or person having the control of the premises upon which the sign is located.

(2) Notice. The Zoning Administrator shall give notice to the owner or to any person occupying the property that the sign on the premises is in violation.

(3) Failure to Comply. Failure to comply with the notice within the time specified shall cause the Zoning Administrator to authorize removal by initiation of appropriate action in the Allen Circuit or Superior Court. Expenses related to removal shall be the responsibility of the owner of the premises upon which such sign is located.

(4) Lien. The Zoning Administrator shall notify the owner or occupant of the premises of the total costs incurred for such repair or removal of the sign. If the owner or occupant fails to pay the Court ordered costs and expenses of such repair or removal, then such costs and expenses shall become a lien against the property.

(E) Signs Not Conforming to This Section.

(1) Authority to Continue. Any lawful sign located within the City at effective date of this Ordinance or which shall come to be located in the City as a result of annexation after effective date of this Ordinance, which does not conform to the provisions of this Section, may continue provided, the sign remains in conformance with the provisions of this Section.

(2) Conditions of Lawful Status. For the purposes of this Section, legal, nonconforming status shall be conferred only on signs authorized by a sign permit or variance of a preceding Ordinance, title, code, or law; or if no sign permit was required under the applicable preceding Ordinance, code, or law.

(3) Ordinary Maintenance and Repair. Nothing in this Section shall relieve the owner or beneficial user of a legal nonconforming sign, or the owner of the property on which the legal nonconforming sign is located from the provisions of this Section regarding safety, maintenance, and repair. Normal maintenance, including repainting, cleaning, or routine repair of a legal nonconforming sign shall not be deemed to a condition which triggers a loss of lawful status described below, unless such maintenance increases, in fact, the nonconforming aspects of the sign.

(4) Repairs Pursuant to Public Order. Nothing in this Section shall be deemed to prevent the strengthening or restoration to a safe condition of a legal nonconforming sign in accordance with a reasonable order of a public official who is charged with protecting the public safety and who declares such a sign to be unsafe and order its restoration to a safe condition, provided such restoration is not otherwise in violation of the various provisions of this Section prohibiting the repair or restoration of partially damaged or destroyed signs.

(5) Loss of Lawful Status.

(a) Legal nonconforming status shall terminate under the following conditions:

[1] if the use of a sign is discontinued for a period of sixty (60) days, it shall be deemed abandoned and shall not thereafter be reestablished; or

[2] if a sign is structurally altered such that its nonconforming aspects increase; or

[3] if a sign is relocated, replaced, or moved in any way; or the sign is damaged and the cost of repair is fifty (50) percent of its replacement value.

(b) Upon the happening of any of the aforementioned events, the sign shall be immediately brought into compliance with this Section in conjunction with a new sign permit or the sign shall be removed. For the purposes of this Section, the changing of copy shall not be considered the replacement of an existing legal nonconforming sign.

[Ord. Z-06-05, passed 7-11-06; Ord. Z-07-02, passed 3-13-07]

§151.153 DEFINITIONS

Abandoned Sign. A sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product or activity.

Awning. A shelter constructed of non-rigid materials on a supporting frame projecting from and supported by the exterior wall of a building.

Banner. A temporary sign intended to be hung either with or without a frame, possessing characters, letters, illustrations, ornamentation applied to paper, plastic, or fabric of any kind excluding flags, emblems, and insignia of political, professional, religious, educational, or corporate organizations providing that such flags, emblems and insignia are displayed for non-commercial purposes.

Festoons. A string of ribbons, tinsel, small flags, streamers or pinwheels.

Flag. A cloth or similar material with colors, patterns, etc. used as a signal.

Marquee. A permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Painted Graphics. Any advertisement painted directly onto the wall of a building.

Parapet. A low wall or protective railing; often used around a balcony or balconet, or along the edge of a roof.

Sign. A name, identification, description, display, or illustration which is affixed to or painted or represented directly or indirectly upon a building, structure, or piece of land and which directs attention to an object, project, place, activity, person, institution, organization, or business.

Sign, Directional. A sign which is used to direct traffic to a non-residential property which does not have frontage on an arterial or collector street.

Sign, Flashing. Any illuminated sign on which the artificial light is not maintained stationary and/or constant in intensity and color at all times when such sign is in use. For the purpose of this Ordinance, any revolving, illuminated sign shall be considered a “flashing sign”.

Sign, Gross Surface Area of. The entire area within a single continuous perimeter enclosing the extreme limits of a sign and in no case passing through or between any adjacent elements of the same. However, such perimeter shall not include any structural or framing elements lying outside the limits of such sign with two (2) visible surfaces, the gross surface area shall be the sum of all sides of the sign.

Sign, Height. The vertical measurement from the highest part of a sign, including all support structures, to the highest surface of the adjacent public road. Any earth berms and elevated foundation supporting signs, signposts, and sign supports are included in the height of the sign.

Sign, Identification. A sign indicating the name and address of a building, or the name of an occupant thereof, and the practice of a permitted occupation therein.

Sign, Monument. Any sign, other than a pole sign placed upon or supported by the ground independently of any other structure.

Sign, Nonconforming. Any sign which was lawfully erected in compliance with applicable regulations of the City of New Haven and maintained prior to the effective date of this Ordinance, and which fails to conform to all applicable standards and restrictions of this Ordinance.

Sign, Off Premise Advertising. A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the premises where such sign is located or to which it is affixed.

Sign, On Premise. Any sign identifying or advertising a business, person, activity, good, product, or service located on the premises where the sign is installed.

Sign, Pole. A sign erected and maintained on a freestanding mast or pole and not attached to any building, or supported by one or more uprights or braces in or upon the ground, but not including monument signs.

Sign, Political. A sign that advertises a candidate or issue to be voted upon on a definite election day.

Sign, Portable. Any sign designed to be transported or movable, including but not limited to:

(1) Signs with wheels or with wheels removed;

(2) Signs with chassis or support constructed without wheels;

(3) Signs designed to be transported by trailer, wheels or boat;

(4) Signs converted to or constructed as an A- or T- frame sign;

(5) Signs painted, mounted, or affixed on a motor vehicle for advertising purposes, parked on or off public right-of-way, and visible from the public right-of-way, except signs identifying the related business when the motor vehicle is being used in the normal day-to-day operations of that business.

Sign, Projecting. A sign which is suspended from or affixed to any building wall or other structure and extends beyond the building wall or structure or parts thereof more than eighteen (18) inches.

Sign, Public Service. A sign or device displaying only the time, temperature, stock market quotations or civic messages.

Sign, Roof. A sign that is mounted or painted on the roof of a building, or that is wholly dependent upon a building for support and that projects above the roof. (Roof signs are prohibited).

Sign, Vehicular. Signs on parked vehicles visible from the public right-of-way where the primary purpose of the vehicle is to advertise a product or to direct people to a business or activity located on the same or nearby property. For the purpose of this Ordinance, vehicular signs shall not include business logos, identification or advertising on vehicles primarily used for other business purposes.

Sign, Wall. A sign affixed, painted, posted, or placed on a building or structure.

Sign, Window. A sign that is applied or attached to or suspended from the exterior or interior of a window or located within the interior of a structure so that its message can be read from the exterior of the structure.

Sign Structure or Support. Any structure that supports or is capable of supporting a sign, including decorative cover.

Temporary Event (Minor). An event that does not exceed a total of ten (10) days per year and three (3) days per event. Minor temporary events include, but are not limited to, the following: garage sales, yard sales, auctions, and fundraising events for community, social, religious, or fraternal organizations.

Temporary Event (Major). A public or community event which occurs not more than once per year and does not exceed four (4) weeks. Major temporary events include, but are not limited to, the following: festivals, carnivals, parades, grand openings, and business liquidation or other special sales or promotions.

[Ord. Z-06-05, passed 7-11-06]

ADMINISTRATION

§151.155 BOARD OF ZONING APPEALS

(A) Organization.

(1) A Board of Zoning Appeals for the City is established in accordance with IC 36-7-4-100 et seq.

(2) The Board shall meet at the call of the Chairman and at such times as the Board may determine.

(B) Powers of the Board.

(1) The Board of Zoning Appeals shall do the following:

(a) Hear and determine appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator and any other administrative official or board charged with the enforcement of this Chapter or any regulation adopted pursuant hereto.

(b) Permit and authorize contingent uses and special exceptions subject to and within the limitations prescribed by the provisions of this Chapter.

(c) Authorize, on appeal in specific cases, such variance from the terms of this Chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Chapter will result in unnecessary hardship, and so that the spirit of this Chapter shall be observed and substantial justice done. However, no action shall be taken or decision made except after public hearing.

(2) In exercising its powers, the Board may reverse or affirm, wholly, or partly, or may modify the order, requirement, decision, or determination appealed from as in its opinion ought to be done in the premises, and to that end shall have all powers of the officer or board from whom the appeal is taken. It may impose such conditions, regarding the location, character, and other features of the proposed building, structure, or use with which the appeal before it is concerned, as it may deem advisable in the furtherance of the purposes of this Chapter and the protection of the public convenience and welfare.

(3) Variances from Flood Hazard District provisions.

(a) When reviewing variances from the provisions of the FW and FF (Flood Hazard) District, the Board shall give consideration to the guidelines provided by the Federal Emergency Management Agency as published in 44 CFR 60.6.

(b) The Board shall issue a written notice to the recipient of an approved variance from the provisions of the Flood Hazard District that the proposed construction below the regulatory flood profile could result in increased premium rates for flood insurance and that such construction increases the risks to life and property.

(c) The Board shall not approve a variance of the provisions of the FW (Floodway District) prior to receipt of written approval for the request from the Indiana Natural Resources Commission.

(C) Procedure of the Board. The procedure of the Board shall be governed by the provisions of IC 36-7-4-100 et seq.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80; Ord. G-13-80, passed 7-12-83]

§151.156 IMPROVEMENT LOCATION PERMIT

(A) All buildings, structures, and satellite television antennas; or dwellings; except those buildings and structures incidental to agricultural uses; utility lines and supports; accessory buildings of 144 square feet or less; and fences which are no greater than eight feet in height and located behind the front building line or the side building line on the side street of a corner lot, shall not be erected, reconstructed, enlarged, maintained, or moved until an Improvement Location Permit shall have been issued by the Zoning Administrator.

(B) No Improvement Location Permit shall be issued by the Zoning Administrator for the maintenance or proposed erection, reconstruction, enlargement, or moving of a building or structure unless the same conforms with the provisions of this Chapter.

(C) Applicants for Improvement Location Permits shall be made by the owner of the real estate on which the improvement is to be, or has been, located, or the agent thereof, or the superintendent or contractor in charge of the work, on forms prescribed by the Zoning Administrator and shall be accompanied by plans and specifications of sufficient detail to enable the Zoning Administrator to determine whether the improvements, as erected or proposed, will comply with provisions of this Chapter.

(D) The applicant shall post the permit in a prominent place on the premises prior to and during the period of erection, reconstruction, enlargement, or moving.

(E) Every permit may be revoked if active work is not commenced within 60 days after the date of its issue, and continued with due diligence to completion. The Zoning Administrator shall judge if due diligence is being shown and shall notify the owner or agent in case due diligence is not being shown.

(F) If the Zoning Administrator determines that the person to whom a permit has been issued has failed to commence active work within 60 days of the issuance of the permit, or that

work commenced is not being continued with due diligence to completion, or is not proceeding according to the detailed statement, plans, and specifications on which the permit was issued, or is proceeding in violation of law, it shall be his duty to give written notice thereof to the owner or his agent, requiring the same to be rectified within ten days of the written notice if given or within such other reasonable time as may be determined by the Zoning Administrator.

(G) If the owner or his agent neglects to comply with the provisions of the notice within the specified time period, it shall be the further duty of the Zoning Administrator to revoke the permit; and written notice thereof shall be immediately given to the owner, agent, superintendent, or contractor in charge of the work, or posted on the property.

(H) After such revocation of permit, any person performing any work in or about the structure, building, or premises shall be subject to the penalties set forth in §151.999.

(I) (1) Notwithstanding any of the provisions of this Section requiring an application for, and issuance of, an Improvement Location Permit prior to the erection, reconstruction, enlargement, or moving of a building or structure, the owner of the real estate on which any such building or structure is maintained without an Improvement Location Permit having been obtained therefor, shall be in violation of this Chapter. On being advised of the existence of the building or structure, the Zoning Administrator shall immediately give the owner written notice of the violation. The owner shall be required to make application for an Improvement Location Permit, in accordance with (C) above, within ten days after the written notice is given.

(2) If the Zoning Administrator determines that the building or structure so erected or maintained fails to conform with the provisions of this Chapter, the owner shall be granted 30 days to complete, to the satisfaction of the Zoning Administrator, the modifications necessary to cause the building or structure to be in compliance with those provisions.

(J) If the owner fails to timely apply for an Improvement Location Permit as required hereinabove, or if at the end of the 30-day period the building or structure is not in conformity with the provisions of this Chapter, the owner of the real estate on which the building or structure is located shall be subject to the penalties set forth in §151.999.

(K) For purposes of this Chapter, if written notice is required to be given to any person, the requirement shall be considered satisfied as of the date of deposit of same in the United States mail, postage prepaid, addressed to the owner or agent thereof, at his last known address or principal place of business, or by delivery.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80; Ord. G-10-81, passed 6-9-81; Ord. G-86-19, passed 9-9-86]

§151.157 CERTIFICATE OF OCCUPANCY

(A) No occupancy, use, or change of use, except buildings and structures incidental to

agricultural uses and public utility lines and supports, shall take place until a Certificate of Occupancy shall have been applied for and issued by the Zoning Administrator in the following cases:

(1) Occupancy and use of a building or structure hereinafter erected or enlarged.

(2) Change in use of an existing building or structure.

(3) Occupancy in the use of vacant land except for the raising of crops, poultry, or livestock.

(4) Change in the use of land to a use of a different classification except for the raising of crops, poultry, or livestock.

(5) Any change in use of a nonconforming use.

(B) If the proposed use is in conformity with the provisions of this Chapter, the Certificate of Occupancy therefor shall be issued within three days after the application for the same has been made. Provided, however, that no Certificate of Occupancy shall be issued in connection with the construction, alteration, enlargement, or moving of a building or structure until the construction, alteration, enlargement, or moving shall have been completed. Each Certificate of Occupancy shall state that the building or proposed use of a building or land complies with all the provisions of this Chapter.

(C) In the event a dwelling within a Commission-approved recorded plat is occupied prior to the issuance of a Certificate of Occupancy by the Zoning Administrator, and the Certificate of Occupancy could not be issued therefor because improvements serving the dwelling as shown on the approved subdivision plans had not been installed or are not operational, the Zoning Administrator shall not issue any additional Improvement Location Permits within the recorded plat until all subdivision improvements, as approved by the Commission, serving the occupied dwelling are properly installed and operational and the dwelling otherwise qualifies for the Certificate of Occupancy.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.158 ENFORCEMENT

(A) It shall be the duty of the Zoning Administrator to enforce the provisions of this Chapter in the manner and form and with the powers provided by this Chapter.

(B) All departments, officials, and employees of the City which are vested with the duty of authority to issue permits or licenses shall conform to the provisions of this Chapter and shall issue no permit or license for any use, building, or purpose if the same would be in conflict with the provisions of this Chapter. Any permit or license issued in conflict with the provisions of this Chapter shall be null and void.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.159 MORE RESTRICTIVE STANDARDS APPLY

(A) Whenever the provisions of this Chapter are more restrictive or impose higher standards than are required by any statute of the State of Indiana or of any other ordinance of this county or by any restrictions or limitations as to particular property established by deed, plat, or otherwise running with the land, the provisions of this Chapter shall govern.

(B) Whenever the provisions of any statute or any other ordinance of this City or any restrictions or limitations established by plat or deed or otherwise running with the land, are more restrictive or impose higher standards than are required by this Chapter, the provisions of that statute, Chapter, ordinance, plat deed restrictions, or limitations shall govern. Provided, nothing herein shall be construed to prevent the Plan Commission or Board of Zoning Appeals from assuming jurisdiction of a subject matter of a parcel of real estate upon, or concerning, which the Plan Commission or Board of Zoning Appeals has authority to act under the provisions of this Chapter, including, but without in any way being limited to, the holding of public hearings and the rendering decisions thereon. Provided further, nothing contained herein shall be construed to obligate the Zoning Administrator of the City or any other official charged with the enforcement of this Chapter, to enforce the more restrictive statute, ordinance, restriction, or limitation.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80]

§151.160 FILING FEES

Applications and petitions filed pursuant to the provisions of this Chapter shall be accompanied by the filing fees then currently set and published by the Plan Commission.

[Ord. 698, passed 7-11-62; Ord. G-38-80, passed 12-9-80; Ord. Z-96-9, passed 9-22-96; Ord. G-02-11; passed 8-27-02]

§151.998 REMEDIES

(A) The erection, construction, enlargement, conversion, moving, or maintenance of any building or structure and the use of any land or building which is continued, operated, or maintained contrary to any provisions of this Chapter is hereby declared to be a nuisance and in violation of this Chapter and unlawful. The Zoning Administrator may issue an immediate stop work order or may institute a suit for injunction in the Circuit Court or any Superior Court of Allen County to restrain any person or governmental unit from violating any provision of this Chapter and to cause the issuance of a stop work order shall not be a condition precedent to the institution of an injunctive action. Injunctive action may also be instituted by any property owner who may be especially damaged by the violation of any provision of this Chapter.

(B) The remedies provided for in this Ssection shall be cumulative, and not exclusive, and shall be in addition to any other remedies provided by law.

[Ord. G-10-81, passed 6-9-81]

§151.999 PENALTY

(A) Any person, whether a principal, agent, owner, lessee, tenant, contractor, builder, architect, engineer, or otherwise who violates any provision of this Chapter for which another penalty is not provided shall be guilty of a Class C infraction and upon conviction shall be punished by a fine of not more than $500 for each offense. Each day of the existence of any violation of this Chapter shall be a separate offense.

(B) Any person deemed in violation of §151.038(A) shall be fined in an amount not to exceed $250. The City shall have the right to bring injunctive relief requiring anyone found in violation of that paragraph to remove the mobile home from the site of violation. The City shall also have the right to require anyone found in violation of that paragraph to pay reasonable court costs and legal fees in the enforcement of that paragraph.

[Ord. G-10-81, passed 6-9-81; Ord. G-85-9, passed 4-9-85]

CHAPTER 152: ECONOMIC REVITALIZATION AREAS

Section

152.01 Procedure for Designation
152.02 Standards for Designation
152.03 Filing Fees
152.04 Limitations on Designation
152.05 Property Within an Allocation Area
152.06 County Plan Commission to Serve as Administrative Agency

§152.01 PROCEDURE FOR DESIGNATION

Procedure for designating an economic revitalization area pursuant to IC 6-1.1-12.1 is as follows:

(A) Whenever a property owner desires that certain real estate located within the corporate limits of the City be designated as an economic revitalization area, the owner(s) shall initiate the procedure by filing an application for designation in the office of the County Plan Commission. The application shall be signed by the owner(s) of record of the real estate for which the designation is being requested. The application shall be accompanied by the fee as established in §152.03, to be paid upon submission. The Plan Commission staff shall furnish an appropriate form for such application upon request.

(B) The petitioner(s) shall note on the application whether the request is being made for a designation:

(1) Limited to a deduction of assessed value on real property improvements; or

(2) Limited to a deduction of assessed value on new manufacturing equipment as defined in IC 6-1.1-12.1-1; or

(3) To include both types of deductions allowed under IC 6-1.1-12.1.

(C) Upon receipt of an application for designation, the Plan Commission staff shall:

(1) Note the date of filing on the face of the application.

(2) Review the application, and, if it is found to be in complete form and to have been signed by all property owners of record within the area proposed for designation, the matter shall be submitted for consideration before the City Common Council, with no publication of notice being necessary, within 60 days of the date of acceptable submission.

(3) Provide the Council with appropriate maps and plats necessary to identify the area for which the petition requests designation, along with a simplified description of its boundaries.

(D) The Council shall not consider an application for designation of real estate as an economic revitalization area if, prior to the filing of the application with the Plan Commission, any of the following actions have occurred:

(1) An Improvement Location Permit for the subject development for which a deduction is being sought has been issued by the City Zoning Administrator.

(2) A structural permit for the subject rehabilitation for which a deduction is being sought has been issued by the County Building Department.

(3) Manufacturing equipment for which a deduction is being sought has been installed.

(E) The applicant(s) or its representative shall be present at the Council meeting at which the subject request is being considered. After review of information provided in the application by the Plan Commission staff, and by the applicant and other interested persons, the Council may:

(1) Find that the real estate under consideration meets the definition and standards of an economic revitalization area, as set forth in IC 6-1.1-12.1-1(1) and §152.02. In such instances, the Council may adopt a declaratory resolution stating same, and cause the action set forth in paragraph (F) of this Section to occur. This declaratory resolution shall include the reasons upon which the determination is made.

(2) Find that there is insufficient information, and defer action on the matter. The applicant shall be provided written notice of the reasons for deferral within 10 days of that action.

(3) Determine that the real estate should not be designated as an economic revitalization area, and provide the applicant with written notice thereof.

(F) Upon adoption of a declaratory resolution, the Council shall:

(1) Set the date, time, and location for a public hearing at which the Council will receive and hear all comments from interested persons.

(2) Cause notice of the adoption and substance of the declaratory resolution to be published in accordance with IC 6-1.1-12.1-2.5 and IC 5-3-1. The notice shall state that a description of the affected area is available and can be inspected in the offices of the City Clerk, the County Plan Commission, the County Assessor, and the County Auditor. The notice shall also state the time, date, and location of the subsequent public hearing on the matter.

(3) Cause a generalized description of the subject real estate to be attached to the declaratory resolution, and file same with the City Clerk, the County Assessor, and the County Auditor.

(G) Upon considering the evidence presented at the public hearing, the Council shall take final action on the request for designation by either confirming, modifying and confirming, or rescinding the subject declaratory resolution. The applicant(s) or its representative shall be present at the public hearing to provide such information as may be needed.

(H) The determination on the confirmatory resolution made pursuant to paragraph (G) of this Section shall be final, except that an appeal may be taken as provided in IC 6-1.1-12.1-2.5(d) and IC 6-1.1-12.1-2.5(e).

(I) Upon confirming, or modifying and confirming, a declaratory resolution by the procedures set forth in this Section, the City Clerk, the County Auditor, and the County Plan Commission shall keep a permanent record of the designation of the subject economic revitalization area. The Plan Commission staff shall also provide the Auditor with a final designation packet to be utilized in the review of applications for deduction pursuant to IC 6-1.1-12.5 and IC 6-1.1-12.5-5.

[Ord. G-85-28, passed 12-10-85]

§152.02 STANDARDS FOR DESIGNATION

(A) In its deliberations on designating an economic revitalization area, the City Common Council may, pursuant to IC 6-1.1-12.1-2(e), give consideration to the following general standards, to determine if:

(1) The designation will encourage the use of vacant or under-utilized land designated as appropriate for industrial development in the City comprehensive plan, or which is currently zoned for industrial use.

(2) The designation will encourage the improvement of a deteriorated structure or the replacement of an obsolete structure.

(3) The designation will encourage the preservation of an historically or architecturally significant structure.

(4) The designation will assist in the inducement of a project providing substantial employment opportunities relative to the value of the improvements to be made or the new manufacturing equipment to be installed.

(5) The designation will assist in the inducement of a project which would provide long-term benefits to the tax base of the City warranting the granting of the annually decreasing percentage of tax abatement as provided in IC 6-1.1-12.1.

(B) In all instances, the Council shall find that evidence has been provided either in the application or during the public hearing that the real estate proposed for designation is in an area which has become undesirable for, or impossible for normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property.

[Ord. G-85-28, passed 12-10-85]

§152.03 FILING FEES

In order to defray the costs incurred in processing applications for designation of economic revitalization areas, and pursuant to IC 6-1.1-12.1-2(f), the following rules shall apply:

(A) In a case where the subject real estate is an owner-occupied single-family residential project, the applicant shall pay the cost of publication of the required legal notice, as provided in IC 6-1.1-12.1-2.5.

(B) In cases where the subject real estate is utilized for purposes other than as specified in paragraph (A) of this Section, the applicant shall pay a filing fee as set forth in the following schedule:

Value of Proposed Improvements for which a Deduction is Being Sought	**Filing Fee**
$0 to $250,000	$100
$250,000 to $1,000,000	$150
$1,000,000 and over	$250

The filing fee shall be included along with the application at the time of filing with the Plan Commission, and shall be made payable to the County Treasurer. The applicant shall also pay the cost of publication of the required legal notice as provided in IC 6-1.1-12.1-2.5.

[Ord. G-85-28, passed 12-10-85]

§1521.04 LIMITATIONS ON DESIGNATION

As part of its authority to designate economic revitalization areas, the Common Council, pursuant to IC 6-1.1-12.1-2(g), may qualify a designation by:

(A) Limiting the time period of the designation to a certain number of calendar years during which the area shall be so designated.

(B) Limiting the type of deductions that will be allowed within an economic revitalization area to either the deduction allowed under IC 6-1.1-12.1-3 or the deduction allowed under IC 6-1.1-12.1-4.5.

[Ord. G-85-28, passed 12-10-85]

§152.05 PROPERTY WITHIN AN ALLOCATION AREA

Notwithstanding the procedures set forth in §152.01, the City Common Council shall not designate real estate as an economic revitalization area if any portion of the subject property is located within an allocation area as defined in IC 36-7-14-39, unless the County Redevelopment Commission has first adopted a resolution consenting to the subject designation.

[Ord. G-85-28, passed 12-10-85]

§152.06 COUNTY PLAN COMMISSION TO SERVE AS ADMINISTRATIVE AGENCY

(A) The City Common Council designates the County Plan Commission as the administrative agency for processing applications for the designation of economic revitalization areas. The Plan Commission, in conducting its responsibilities under this delegation, may undertake the following actions:

(1) Accept applications for designation and collect the required filing fee to be submitted to the County Treasurer.

(2) Review applications for completeness, and provide the Council with supporting data necessary to properly consider such requests.

(3) Keep permanent records of all properly filed applications and duly designated economic revitalization areas.

(4) Prepare public review files as necessary to comply with IC 6-1.1-12.1-2.5(c).

(5) Act on behalf of the Council in corresponding with the applicants and other interested persons regarding the status of an application for designation.

(6) Prepare and cause to be published legal notice of the Council's consideration of the application as required in IC 6-1.1-12.1-2.5(c).

(7) Prepare, draft declaratory and confirmatory resolutions for the Council's review and consideration.

(8) Prepare and provide the County Auditor with final designation packets which shall include information necessary for the review of applications for deductions pursuant to IC 6-1.1-12.1-5 and IC 6-1.1-12.1-5.5.

(B) The Plan Commission may delegate any or all of these responsibilities to its staff.

[Ord. G-85-28, passed 12-10-85]

CHAPTER 153: BUILDING CODE

Section

153.01 Designation of County Building Department as Building Department of City

153.02 Adoption by Reference of County Building Code

§153.01 DESIGNATION OF COUNTY BUILDING DEPARTMENT AS BUILDING DEPARTMENT OF CITY

(A) Pursuant to IC 36-7-8-7, the Common Council of the City hereby designates the Allen County Building Department to administer and enforce the ordinances adopted pursuant to IC 36-7-8-3 and the standards imposed by IC 36-7-8-5 within the City limits.

(B) The Allen County Building Department shall have all of the powers and duties which may be granted to a building department of the City as fully and as completely as if the City were to establish its own building department.

(C) The City does hereby ratify, confirm, and approve all acts of the Allen County Building Department in regard to the performance of its duties as provided for hereunder.

(D) The City does hereby ratify, confirm, and approve all contracts heretofore or hereafter executed by and between the City and Allen County to provide for and accomplish the aforesaid stated goals, ideals, objectives, and purposes.

(E) The City shall enter into such new contracts with Allen County as may be appropriate to effectuate the purposes hereof.

[Ord. G-88-7, passed 4-12-88]

§153.02 ADOPTION BY REFERENCE OF COUNTY BUILDING CODE

The Common Council of the City does hereby adopt by reference to be effective within the City limits the building, heating, ventilating, air conditioning, electrical, plumbing, and sanitation standards adopted by Allen County for unincorporated areas of the county.

[Ord. G-88-7, passed 4-12-88]

CHAPTER 154: FLOODPLAIN MANAGEMENT CODE

Section

General Provisions

154.01 Cause of Flood Losses
154.02 Definitions
154.03 Permitted Uses in the Floodplain
154.04 Administration
154.05 Standard of Protection
154.06 Damage Prevention and Flood Protection
154.07 Subdivision and Development Plan Requirements
154.08 Variances
154.09 Disclaimer of Liability
154.10 Violations
154.11 Validity and Effective Date
154.12 Abrogation and Greater Restrictions

GENERAL PROVISIONS

§154.01 CAUSE OF FLOOD LOSSES

Flood losses are caused by:

(A) The cumulative effect of practices and obstructions in the floodplain which causes increased flood heights and velocities; and

(B) The occupancy of flood hazard areas by uses vulnerable to flood damages, or by uses which create hazards to surrounding lands as a result of flood discharges caused by more intensive use of upland drainage areas in the form of residential developments, streets, parking lots, commercial building, storm drain construction and other uses and practices which promote increased storm water runoff.

[Ord. Z-92-14, passed 8-12-92; Ord. Z-95-15, passed 11-14-95; Ord. X-03-22, passed 11-25-03]

§154.02 DEFINITIONS

For the purpose of this Chapter only, the following definitions are adopted:

Base Flood Elevation. The elevation of the regulatory flood.

Building. See "structure".

Cumulative Effect. The impact on the environment which results from the incremental impact of an action when added to other past and present actions. A cumulative effect can result from individually minor, but collectively significant, actions taking place over a period of time.

Development. Any change or improvement to land brought about by human activity including but not limited to:

(1) Construction, reconstruction, or placement of a building or any addition to a building;

(2) Installation of 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, where permitted;

(3) Installation of utilities, erection of walls and fences, construction of roads, or similar projects;

(4) Construction of flood control structures such as levees, dikes, channel improvements, etc.;

(5) Mining, dredging, filling, grading, excavation, or drilling operations;

(6) Construction and/or reconstruction of bridges or culverts;

(7) Storage of materials; or

(8) Any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include any authorized activity with respect to a regulated drain as defined in IC 36-9-27-2, as may be amended from time to time. Neither does this definition include activities such as maintenance of existing structures and facilities such as painting, reroofing, resurfacing roads, or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavating, or constructing permanent structures.

Existing Manufactured Home Park or Subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this ordinance.

Expansion to an Existing Manufactured Home Park or Subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FBFM. Flood Boundary and Floodway Map.

FEMA. Federal Emergency Management Agency.

FHBM. Flood Hazard Boundary Map.

Flood. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, unusual and rapid accumulation, or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM). The latest official map as published by FEMA (index map dated November 5, 2003) of a community on which special flood hazard areas (floodplain) and risk premium zones applicable to the community are delineated.

Flood Proof. Any combination of measures taken on a new or existing structure for reducing or eliminating flood damage.

Flood Protection Grade (FPG). The elevation of the regulatory flood plus two feet at any given location in the floodplain.

Floodplain. The channel proper and 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 floodway fringe. For the purposes of this Chapter, the floodplain is only that area covered by a "Regulatory Flood."

Floodplain Fill Retrieval Zone. Shall begin at the 100 year flood elevation of the building site, plus one foot and end at the downstream terminus of the regulated legal drain.

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water-surface elevation more than one-tenth (.10) of a foot.

Floodway Fringe. That area outside of the floodway within the area of the regulatory flood that is inundated from flood flows of varying depths.

Historic Structure. Any structure that is:

(1) Listed individually on the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the United States Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily designated as a registered historic district;

(3) Individually listed on the Register of Indiana Historic Sites and Historic Structures; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior; or

(b) Directly by the Secretary of the Interior in states without approved programs.

Immediate Watershed. The portion of a watershed that lies within the City of New Haven's planning jurisdictional area.

Irreversible. The adverse effect of actions which cannot be restored or mitigated within 60 days for herbaceous plants or 180 days for woody vegetation.

Legal Drain. Any ditch or tributary recognized and regulated by the Allen County Surveyor's Office. For the purposes of this Chapter the Maumee River shall be considered a legal drain.

Letter of Map Amendment (LOMA). An amendment to the currently effective FEMA map that establishes that a property is not located in a Special Flood Hazard Area (SFHA). A LOMA is only issued by FEMA.

Letter of Map Revision (LOMR). An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

Lowest Floor. The lowest of the following:

(1) The top of the lowest floor of a building;

(2) The top of the basement floor;

(3) The top of the garage floor, if the garage is the lowest level of the structure;

(4) The top of the first floor of a building elevated on pilings or constructed on a crawl space with permanent openings; or

(5) The top of the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless:

(a) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) having a total area of (1) square inch for every one (1) square foot of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade.

Manufactured Home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Manufactured Home Park or Subdivision, Existing. 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 this Chapter.

Manufactured Home Park or Subdivision, Expansion. 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).

Manufactured Home Park or Subdivision, New. A new manufactured home park or subdivision for which construction of facilities for servicing lots on which manufactured homes are to be affixed (including at a minimum, installation of utilities, construction of streets, and either final site grading or pouring of concrete pads) is completed on or after the effective date of these floodplain management regulations.

Market Value. The most probable price for which the appraised property (in this case just the structure in question) will sell in a competitive market under all conditions necessary to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest and assuming that neither is under duress.

New Construction. For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of the initial Flood Insurance Rate Maps including any subsequent improvements to such structure. For floodplain management purposes, "new construction" means structure for which the "start of construction" commenced on or after the effective date of these floodplain management regulations, including any subsequent improvements to such structures.

Recreational Vehicle. A vehicle which is built on a single chassis designed to be self-propelled or permanently towable by a light duty truck, and not designed primarily for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use.

Regulatory Flood. A flood having a one percent probability of being equaled or exceeded in any given year, as calculated by a method and procedure approved by the Indiana Natural Resources Commission. A regulatory flood is also known by the terms "base flood" and "100-year flood".

Significant. Any action which would increase the height of a regulatory flood by a measurable amount.

Special Flood Hazard Area (SFHA). Those lands within the New Haven Plan Commission jurisdictional area that are subject to inundation by the regulatory flood. The SFHAs of the City are generally identified as such on the Flood Insurance Rate Map as amended from time to time.

Start of Construction. The date a building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 60 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 slab or footings, the installation of pilings, the construction of columns, or any work beyond excavation or filling; or placement of a manufactured home on a foundation. For a substantial improvement, the actual

start of construction means the first alteration of any wall, ceiling, floor, or other actual part of a building, whether or not that alteration affects the external dimensions of the building.

Structure. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground, of 144 square feet or more. For the purposes of this Chapter, the term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles and travel trailers to be installed on a site for more than 180 days where allowable by this Chapter.

Substantial Damage. Damage of any origin sustained by a structure whereby the costs 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.

Substantial Improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value or, the before-damaged market value, if substantially damaged, before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include:

(1) Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

Watershed. An area which drains to a single point. In a natural basin, this is the area contributing flow to a given place or stream.

Zone A. Shaded areas on the Flood Insurance Rate Map where base flood elevations have not been determined.

Zone AE. Shaded areas on the Flood Insurance Rate Map where base flood elevations have been determined.

Zone AH. Shaded areas on the Flood Insurance Rate Map depicting flood depths of one to three feet (usually areas of ponding) and where base flood elevations have been determined.

Zone AO. Shaded areas on the Flood Insurance Rate Map depicting flood depths of one to three feet (usually sheet flow on sloping terrain) where average depths have been determined. For areas of alluvial fan flooding, velocities have also been determined.

Zoning Administrator. The person appointed by the New Haven Plan Commission to enforce and administer the provisions of this Zoning Code.

Zoning District. Portions of the territory within the jurisdiction of the New Haven Plan Commission shown on the zoning maps for New Haven to which a uniform set of regulations apply. These regulations may prohibit and permit certain land uses per district, while also prescribing certain yard, height, and other dimensional requirements.

[Ord. Z-95-15, passed 11-14-95; Ord. X-03-22, passed 11-25-03]

§154.03 PERMITTED USES IN THE FLOODPLAIN

A. Floodway. The purpose of this Section is to guide development away from areas identified as floodway. The floodway, as identified, is not to be considered a zoning district. The floodway is identified as such by Federal Emergency Management Agency on the most current edition of the Allen County and Incorporated Areas Flood Insurance Study, dated November 5, 2003, and Flood Insurance Rate Maps. These maps, and any subsequent revisions thereto, are adopted by reference and declared to be part of this Section:

(1) Permitted Uses. The following uses shall be permitted by right (exclusive of enclosed structures) if permitted by the zoning district in which the property is located;

(a) Agricultural uses.

(b) Wildlife areas, nature preserves, forests, and wetlands.

(c) Parks and recreational uses, such as golf courses, driving ranges, and play areas, provided no structures or fill will be located within the floodway.

(d) Public utilities.

(e) Public transportation facilities such as roads, streets and bridges, which are located on public rights-of-way.

(f) Public works projects for flood control improvements such as levees, flood walls, and dams.

(2) Prohibited Uses. All encroachments, including structures and fill, except the fill needed for public transportation facilities and public works projects for flood control improvements.

(B) Floodway Fringe. The purpose of this Section is to control and minimize development in areas subject to potential flooding, but outside an identified floodway. The floodway fringe, as identified, is not to be considered a zoning district. The floodway fringe is that area identified by the Federal Emergency Management Agency on the most current edition of the Allen County and Incorporated Areas Flood Insurance Study and Flood Insurance Rate Maps as outside the floodway, but subject to inundation by the regulatory flood. These maps

and any subsequent revisions thereto are adopted by reference and declared to be part of this Section.

(1) Permitted Uses.

(a) All uses permitted in the floodway.

(b) All structures permitted within the applicable zoning district, meeting all damage protection and building protection standards of this Chapter.

(c) Accessory uses permitted within the applicable zoning district, meeting all damage prevention and building protection standards of this Chapter.

(2) Prohibited Uses. Fill placed for any reason other than for public and transportation facilities, utilities, flood control improvements, or approved structures as permitted in §154.03(B)(1).

(C) Non-conforming Uses. Any building, structure, or use that does not conform to this Chapter as of the date of adoption is a non-conforming use. Any new construction, provided that it is not in a floodway, must conform to the flood proofing provisions and lowest floor elevations required by this Chapter.

[Ord. Z-95-15, passed 11-14-95; Ord. X-03-22, passed 11-25-03]

§154.04 ADMINISTRATION

(A) Duties of the Zoning Administrator. The Zoning Administrator shall implement this Code and shall review all development and subdivision proposals to insure compliance with this Code, including but not limited to the following duties:

(1) Obtain the "as built" elevation (in relation to mean sea level) of the lowest floor of all new or substantially improved structures in the floodplain, including allowed fill and required excavation.

(2) Obtain, for all structures that have been flood-proofed (whether or not such structures include a basement), the elevation (in relation to mean sea level) to which the structure was flood-proofed.

(3) Maintain a record of all such information.

(4) Ensure that all new development proposals requiring review under the terms of this Chapter are reviewed by persons with the necessary technical expertise to correctly apply the requirements of this Chapter.

(5) Require any reports or technical data that are necessary to ensure compliance.

(6) Place conditions on any Improvement Location Permit to ensure compliance with the intent, purpose, and regulations of this Chapter, or any similar regulation set forth by a State or federal agency.

(7) Maintain for public inspection and furnish upon request regulatory flood data, SFHA maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of DNR permits and letters of recommendation, federal permit documents, and "as built" elevation and flood proofing data for all buildings constructed subject to this Chapter.

(8) Notify any affected adjacent communities and the State coordinating office prior to any City initiated substantial alteration or relocation of a watercourse which lies within an SFHA, and submit copies of such notifications to FEMA.

(B) Improvement Location Permit. No construction or development which requires an Improvement Location Permit according to the terms of this Chapter shall commence within a floodplain without first obtaining an Improvement Location Permit. The Zoning Administrator shall not issue an Improvement Location Permit if the proposed use, structure, or development does not meet the requirements of this Chapter.

(1) The application for an Improvement Location Permit shall be accompanied by the following:

(a) A description of the proposed development.

(b) Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams.

(c) A legal description of the property site.

(d) A site development plan showing existing and proposed development locations and existing and proposed land grades.

(e) Elevation of the top of the lowest floor (including basement) of all proposed development. Elevation should be in National Geodetic Vertical Datum of 1929 (NGVD) or North American Vertical Datum (NAVD). In either case the conversion formula should be included.

(2) Upon receipt of an application for an Improvement Location Permit, the Zoning Administrator shall determine if the site is located within an identified floodway, floodway fringe, or within the floodplain where the limits of the floodway have not yet been determined.

(a) If the site is within an identified floodway, the Zoning Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources and apply for a permit for construction in a floodway. Any use in the floodway allowed by this Chapter, but not requiring an Improvement Location Permit, must comply with the provision of IC 14-38-1.

(b) Under the provisions of IC 14-28-1, a permit from the Natural Resources Commission 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 building.

(c) No action shall be taken by the Zoning Administrator until a permit has been issued by the Natural Resources Commission granting approval for construction in the floodway. Once a permit has been issued by the Natural Resources Commission, the Building Official may issue the local Improvement Location Permit, provided the provisions contained in §154.06 of this Chapter have been met. The Improvement Location Permit cannot be any less restrictive than the permit issued by the Natural Resources Commission.

(3) If the site is located in an identified floodway fringe, the Zoning Administrator may issue an Improvement Location Permit provided there is compliance with §154.06 of this Chapter and provided that the top of the lowest floor of any new or substantially improved structure must be at or above the Flood Protection Grade (FPG).

(a) If the site is in an identified floodplain where the limit of the floodway and floodway fringe have not been determined (shown as Zone A on the Flood Insurance Rate Map) or are not otherwise clear, and the drainage area upstream of the site is greater than one square mile, the Zoning Administrator shall require the applicant to forward plans and specifications to the Indiana Department of Natural Resources, requesting a letter of recommendation.

(b) No action shall be taken by the Zoning Administrator until either a permit for construction in the floodway or a letter of recommendation citing the 100 year flood elevation and the recommended Flood Protection Grade has been received from the Department of Natural Resources.

(c) Once the Zoning Administrator has received the proper permit or letter of recommendation approving the proposed development, an Improvement Location Permit may be issued provided the conditions of the Improvement Location Permit are not less restrictive than the conditions received from the Department of Natural Resources and the provisions contained in §154.06 of this Chapter have been met.

(d) If the site falls within an area designated as Zone A on the Flood Insurance Rate Map and the upstream drainage area is less than one square mile, an engineering study of the site shall be completed by the applicant and submitted to the Zoning Administrator. A determination shall then be made by the Zoning Administrator, with the advice from the Allen County Surveyor's office, as to whether the site is in the floodway or floodway fringe. A permit may not be issued by the Zoning Administrator if the site is determined to be within the floodway. If the site is within the floodway fringe, the Improvement Location Permit may be issued in accordance with §154.06 of this Chapter.

(4) In addition to complying with the requirements of this Chapter, an application for an Improvement Location Permit proposing construction or improvements within a floodway fringe shall further include all the following:

(a) A plan showing the location of existing and proposed structures, and existing and proposed land grades, on the site;

(b) The elevation (in relation to mean sea level) of the lowest floor (including basement) of all proposed structures;

(c) A plan showing the location of existing and proposed structures in relation to any stream, drain, ditch or waterway; and

(d) Any additional information which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this Chapter.

(C) Certificate of Occupancy. No Certificate of Occupancy shall be issued by the Zoning Administrator unless it has been confirmed the structure has been built in compliance with the terms of this Chapter. The Zoning Administrator may require the applicant to submit any information which may be needed to ensure compliance.

[Ord. Z-95-15, passed 11-14-95; Ord. X-03-22, passed 11-25-03]

§154.05 STANDARD OF PROTECTION

(A) Regulatory Flood Elevation. This Chapter's protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available date, the party submitting a detailed engineering study needs to replace existing data with better data and submit it to the Indiana Department of Natural Resources for review and approval.

(1) The regulatory flood elevation and floodway limits for the SFHAs of all water courses shall be as delineated on the 100 year floor profiles in the Flood Insurance

Study of Allen County, Indiana and incorporated areas and the latest corresponding FBFM/FIRM prepared by the Federal Emergency Management Agency.

(2) The regulatory flood elevation for each floodplain delineated as an "AH Zone" or "AO Zone" shall be in elevation (or depth) delineated on the Flood Insurance Rate Map for Allen County and Incorporated Areas.

(3) The regulatory flood elevation for each floodplain delineated as an "A Zone" on the Flood Insurance Rate Map for Allen County and Incorporated Areas shall be determined according to the best data available as provided by the Department of Natural Resources.

(4) If the floodplain is delineated as "AH Zone" or "AO Zone", the elevation (or depth) will be delineated as "Zone A" on the Allen County and Incorporated Areas Flood Insurance Rate Map. If the floodplain is delineated as "Zone A" on the Flood Insurance Rate Map, the regulatory flood elevation shall be according to the best data available as provided by the Indiana Department of Natural Resources.

[Ord. Z-95-15, passed 11-14-95; Ord. X-03-22, passed 11-25-03]

§154.06 DAMAGE PREVENTION AND FLOOD PROTECTION

(A) Preventing Increased Damages. No development shall be allowed in the floodplain which has a significant and irreversible effect, nor shall it create a damaging or potentially damaging increase in flood heights or velocity, or threat to public health and safety.

(1) Within the floodway identified on the Flood Boundary and Floodway Map, the Flood Insurance Rate Map, or engineering analysis as provided in §154.05(A)(4), the following standards shall apply:

(a) No development shall be allowed which, acting alone or in combination with existing or future similar works, will cause any increase in the elevation of the regulatory flood; and

(b) For all projects involving channel modifications or fill (including levees), the applicant shall submit a request to the Federal Emergency Management Agency to revise the regulatory flood data.

(2) Within the floodway fringe identified in the Flood Insurance Rate Map, the following standards shall apply:

(a) Structures shall be constructed as far from the floodway as possible, assuring all applicable building setback and separation requirements are maintained, unless it is demonstrated that an alternative location would have less of an impact on the floodplain due to a decreased need for fill and/or excavation;

(b) The total cumulative effect of the proposed development, when combined with all other existing development, shall not increase the regulatory flood elevation nor increase real or potential flood damages;

(c) Fill material taken from within the floodplain shall offset the fill needed for an approved building project so the water storage capacity of the floodplain is not diminished; excavation of the fill shall take place in the floodplain fill retrieval zone; and excavated area within the floodplain shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by floodwater; the fill shall not obstruct a drainage way leading to the floodplain;

(d) Fill material taken from outside of, but adjacent to, the floodplain shall be excavated so the finished elevation of the excavation site is below the elevation of the regulatory flood; the capacity of an area excavated in such a manner shall offset the fill needed for an approved building project so the water storage capacity of the floodplain is not diminished; excavation of the fill shall take place in the same immediate watershed in which the building site is located; the fill shall not obstruct a drainage way leading to the floodplain; the excavated area shall not be refilled;

(e) Fill shall be of a material deemed stable enough to remain firm and in place during periods of flooding; runoff and drainage protection shall be provided to adjacent property owners; and

(f) Plans depicting the areas to be excavated and filled according to (c) and/or (d) above shall be submitted by the applicant prior to the actual start of construction; once site work is complete, but prior to the actual start of construction, the applicant shall provide to the Zoning Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this Chapter.

(3) Within the floodplain as identified on the Flood Insurance Rate Maps, the following public health standards shall apply to protect the community from nuisances and hazards:

(a) No development in the floodplain shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the flood protection grade, unless such materials are stored in a storage tank or flood-proofed building constructed according to the requirements of §154.06(C)(5); and

(b) New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted providing all manholes or other above ground openings located below the flood protection grade are watertight.

(4) Within all SFHAs identified as A Zones (no 100 year flood elevation and/or floodway fringe delineation has been provided), the following standard shall apply:

(a) The total cumulative effect of the proposed development, when combined with all other development, will not increase the regulatory flood elevation and will not increase flood damages or potential flood damages.

(B) Structures Affected by Building Protection Standards. In addition to damage prevention requirements of §154.06, all buildings to be located in the floodplain shall be protected from flood damage below the flood protection grade. These building protection standards apply to the following situations:

(1) Construction or placement of any new structure;

(2) Structural alterations made to an existing building;

(3) Reconstruction or repairs made to a building that experienced substantial damage. Any structure receiving substantial damage immediately becomes subject to substantial improvement and must comply with all applicable requirements of this Chapter;

(4) Installing a manufactured home on a new site or a new manufactured home on an existing site. This does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage; and,

(5) Installing a recreational vehicle on a site for more than 180 days, where allowed by this Chapter.

(C) Building Protection Methods. Building protection may be accomplished by one of the following methods. The Zoning Administrator shall maintain a record of compliance with these building protection standards as required in §154.04(A).

(1) A structure may be constructed on a site within the floodway fringe which is specifically and permanently filled for the structure only, provided the fill was not placed in a floodway, in accordance with the following:

(a) The fill shall be placed in layers no greater than one foot deep before compacting to 95 percent of the maximum density obtainable with the Standard Proctor Test method;

(b) The fill shall extend at least ten feet beyond the foundation of the building before sloping below the flood protection grade;

(c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, bulkheading, or other acceptable method. If

vegetative cover is used, the slopes shall be no steeper than 3 to 1 (horizontal to vertical);

(d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties or receiving waterways; and

(e) The lowest floor shall be at or above the flood protection grade.

(2) A structure may be elevated in accordance with the following:

(a) The building or improvements shall be elevated on posts, piers, columns, extended walls or other types of similar foundation provided:

(i) Walls of any enclosure below the elevated door shall be designed to automatically equalize hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters by providing a minimum of two openings (in addition to doorways and windows) having a total area of one square foot for every two square feet of enclosed floor area subject to flooding. The bottom of all such openings shall be no higher than one foot above grade; and

(ii) Any enclosure below the elevated floor is not used for additional occupied floor space by the permitted use, excluding building access.

(b) The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structure so as to minimize exposure to known natural forces such as current, waves, ice, and floating debris.

(c) All areas below the flood protection grade shall be constructed of materials resistant to flood damage. The lowest floor and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the flood protection grade. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the flood protection grade.

(3) 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 anchoring requirements:

(a) The manufactured home shall be elevated on a permanent foundation such that the top of the lowest floor shall be at or above the flood protection grade and securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site;

(i) Outside a manufactured home park or subdivision;

(ii) In a new manufactured home park or subdivision;

(iii) In an expansion to an existing manufactured home park or subdivision; or

(iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood.

(b) The manufactured home shall be elevated so that the lowest floor of the home's chassis is supported by reinforced piers or other foundation elements, as specified in §154.06(C)(2), that are no less than 36 inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies 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.

(4) Recreational vehicles placed on a site shall either:

(a) Be on the site for less than 180 consecutive days;

(b) Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

(c) Meet the requirements for manufactured homes in §154.06(C)(3).

(5) A nonresidential building may be flood-proofed to the flood protection grade (in lieu of elevation) if done in accordance with the following:

(a) A registered professional engineer shall certify that the portions of the structure and attendant utility facilities located below the flood protection grade have been designed to be watertight and capable of resisting the effect of the regulatory flood. The building design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impact from debris or ice.

(b) Flood proofing measures shall be operable without human intervention and without an outside source of electricity.

[Ord. Z-95-15, passed 11-14-95; Ord. X-03-22, passed 11-25-03]

§154.07 SUBDIVISION AND DEVELOPMENT PLAN REQUIREMENTS

(A) Developing in Floodplain Areas. The Plan Commission shall review all proposed subdivision and development plans to determine whether any or all of the proposed development lies in a floodplain. If the Plan Commission finds the subdivision or development plan, or portion thereof, to be located in an "A Zone" without regulatory flood elevations determined, the developer shall forward plans and materials to the Indiana Department of Natural Resources for review and comment. If the site is shown to contain areas within floodway, those portions within the floodway will be subject to the permitted use requirements of this Chapter. The Plan Commission shall require appropriate changes and modifications to be made to the plat, development plan, and subsequent development, in order to assure that:

(1) No structure or fill is to be located in the floodway;

(2) Development activities are consistent with the need to reduce flood damages;

(3) Adequate drainage is provided so as to reduce exposure to flood hazards;

(4) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;

(5) On-site waste disposal systems, if provided, will be so located and designed as to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.

(B) Flood Elevations. Developers shall show the regulatory flood elevation on all development plans and subdivision plats prior to submitting the drawings for approval by the Plan Commission.

(C) Manufactured Housing Developments. All owners of manufactured home parks or subdivision located within a floodplain identified as "Zone A" on the Flood Insurance Rate Map must develop an evacuation plan for those lots which are located in "Zone A." The plan must be approved by, and filed with, the Allen County Office of Emergency Preparedness. A copy of the plan shall also be filed with the Plan Commission.

[Ord. Z-95-15, passed 11-14-95; Ord. X-03-22, passed 11-25-03]

§154.08 VARIANCES

(A) Board of Zoning Appeals. The Board of Zoning Appeals may issue a variance from the technical provision of this Chapter (as opposed to the permitted use provisions) provided the applicant demonstrates that:

(1) There exists a good and sufficient cause for the requested variance; and

(2) The strict application of the terms of this Chapter will constitute an exceptional hardship to the applicant; and

(3) The granting of the requested variance will not create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

(B) Grant of Variance. The Board of Zoning Appeals may issue a variance from the technical provisions of this Chapter subject to the following standards and conditions:

(1) All variance requests are subject to a public hearing upon complying with the notification requirements of IC 5-3-1.

(2) A variance shall not be granted for a use of a structure in the floodway unless otherwise permitted.

(3) Prior to the granting of a variance from any part of this Chapter the applicant shall obtain a letter of comment from the Maumee River Basin Commission and submit that letter to the Zoning Administrator.

(4) A variance may be granted for the reconstruction or restoration of any structure listed individually on the National Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects.

(5) All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction.

(6) Other than as provided in this Section, variances will only be granted in accordance with provisions as set out in the New Haven Zoning Code. In the event of a conflict, the provisions of this Section will control.

(7) The Board of Zoning Appeals shall issue a written notice to the recipient of a variance or exception that the proposed construction will be subject to increased risks to life and property and could require payment of increased flood insurance premiums.

[Ord. Z-95-15, passed 11-14-95; Ord. X-03-22, passed 11-25-03]

§154.09 DISCLAIMER OF LIABILITY

Disclaimer of Liability. The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this Chapter does not create any liability on the part of the community, the Indiana Department of Natural Resources, the State of Indiana, the Allen County Surveyor's Office, the New Haven Plan Commission and Board of Zoning Appeals, the New Haven Zoning

Administrator, or the New Haven Common Council for any flood damage that results from reliance on this Chapter or any administrative decision made lawfully thereunder.

[Ord. Z-95-15, passed 11-14-95; Ord. X-03-22, passed 11-25-03]

§154.10 VIOLATIONS

Failure to obtain and Improvement Location Permit in the SFHA or failure to comply with the requirements of a permit or conditions of a variance shall be deemed to be a violation of this Chapter. Any violation shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the City of New Haven. Any violation shall be punishable by a fine not exceeding $500.00.

(A) A separate offense shall be deemed to have occurred for each day the violation continued to exist.

(B) The New Haven Plan Commission 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 or denied.

(C) Nothing herein shall prevent the City of New Haven from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

[Ord. Z-95-15, passed 11-14-95; Ord. X-03-22, passed 11-25-03]

§154.11 VALIDITY AND EFFECTIVE DATE

(A) Validity. If any section, clause or portion of this Chapter is judged to be invalid or unconstitutional, such judgment shall not affect the validity or constitutionality of the Chapter or Code as a whole, or any other part thereof.

(B) Effective Date. This Chapter shall be in full force and effect upon final passage by the New Haven Common Council and execution by the Mayor.

[Ord. Z-92-14, passed 8-12-92; Ord. Z-95-15, passed 11-14-95; Ord. X-03-22, passed 11-25-03]

§154.12 ABROGATION AND GREATER RESTRICTIONS

This Ordinance repeals and replaces other ordinances adopted by the City Council to fulfill the requirements of the National Flood Insurance Program. However, this Ordinance

does not repeal the original resolution or ordinance adopted to achieve eligibility in the Program, nor does this Ordinance repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this Ordinance and other ordinances, easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall take precedence.

[Ord. Z-95-15, passed 11-14-95; Ord. X-03-22, passed 11-25-03]

CHAPTER 155: UNSAFE BUILDING LAW

Section

General Provisions

155.01 State Law Adopted
155.02 Enforcement

GENERAL PROVISIONS

§155.01 STATE LAW ADOPTED

The provisions of the Indiana Unsafe Building Law is adopted by the City of New Haven as provided by Indiana Code §36-7-9-3.

[Ord. G-07-05, passed 6-26-07]

§155.02 ENFORCEMENT

(A) **Hearing Authority.** The City of New Haven Board of Zoning Appeals shall act as the hearing authority of the Unsafe Building Law and shall conduct such hearings and hold such powers as are provided by the State Unsafe Building Law.

(B) **Enforcement Authority.** Specific responsibility for enforcement of the provisions of the State Unsafe Building Law shall rest with the City's Code Enforcement Officer.

[Ord. G-07-05, passed 6-26-07]