TOWN OF CUMBERLAND, INDIANA

CODE OF ORDINANCES

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This Supplement contains:
Local legislation current through
April 1, 2019

TOWN OFFICIALS

Joe Siefker, Council President

Anna Pea, Council Vice President

Brian Gritter, Council Member

Nicole Bell, Council Member

Aaron Cutshaw, Council Member

Erica Salmon, Clerk-Treasurer

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§ 00-01-10-01 TITLE OF CODE.

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

§ 00-01-10-02 INTERPRETATION.

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

§ 00-01-10-03 APPLICATION TO FUTURE ORDINANCES.

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

§ 00-01-10-04 CONSTRUCTION OF CODE.

(A) (1) This code is a codification of previously existing laws, amendments thereto, and newly enacted laws.

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existing law or amendment thereto reenacted by this code shall continue in operation and effect, as if it had not been repealed by this code. All rules and regulations adopted under laws reenacted in this code shall remain in full force and effect, unless repealed or amended subsequent to the enactment of this code.

(B) Any appropriation repealed and reenacted by this code is continued only for the period designated in the original enactment of that appropriation.

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

(D) Any irreconcilable conflict between sections shall be resolved by reference to the dates that the sections were originally enacted.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

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

(F) (1) (a) The numerical designations and descriptive headings assigned to the various titles, chapters, subchapters, or sections of this code, as originally enacted, or as added by amendment, are not law, and may be altered b the compilers of this or any subsequent codification, in any official publication, to more clearly indicate its content.

(b) These descriptive headings are for organizational purposes only, and do not affect the meaning, application, or construction of the law they precede.

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

(G) All references to any section of this code refer to all subsequent amendments to that section, unless otherwise provided.
(I.C. 1-1-1-5)

§ 00-01-10-05 RULES OF INTERPRETATION; DEFINITIONS.

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

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

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

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

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

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

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

COUNCIL. The Town Council.

COUNTY. Marion County and/or Hancock County.

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

MONTH. One calendar month.

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

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

TOWN HALL. The Cumberland Municipal Building.

TOWN MANAGER. The individual appointed by the Town Council to be the chief administrative officer of the town government.

TOWN MARSHAL, POLICE CHIEF and ***CHIEF OF POLICE.*** These are interchangeable titles for the person appointed by the Town Council under the authority of I.C. 36-5-7 to be the chief police officer of the won and head of the police department.

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

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

YEAR. One calendar year, unless otherwise expressly provided.

(I.C. 1-1-4-5)
(Ord. 2001-7, passed 4-4-2001)

§ 00-01-10-06 SEVERABILITY.

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

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

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

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

(C) This section applies to every section of this code, regardless of whether a section was enacted before or after the passage of this code.
(I.C. 1-1-1-8)

§ 00-01-10-07 REFERENCE TO OTHER SECTIONS.

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

§ 00-01-10-08 REFERENCE TO OFFICES; NAME DESIGNATIONS.

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

(B) *Name designations*. Whenever any ordinance or resolution of the Council refers to any board bureau, commission, division, department, officer, agency, authority, or instrumentality of any government, and that name designation is incorrectly stated, or, at the time of the effective date of that ordinance or subsequent thereto, the rights, powers, duties, or liabilities placed with that entity are or were transferred to a different entity, then the named board, bureau, commission, department, division, officer, agency, authority, or instrumentality, whether correctly named in the ordinance at its effective date or not, means that correctly named entity, or the entity to which the duties, liabilities, powers, and rights were transferred.
(I.C. 1-1-6-1)

§ 00-01-10-09 ERRORS AND OMISSIONS.

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

§ 00-01-10-10 REASONABLE TIME.

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

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last.

§ 00-01-10-11 REPEAL OR MODIFICATION OF CODE SECTION.

When a section of this code is repealed which repealed a former section or law adopted prior to the enactment of this code, the former section or law is not revived, unless it so expressly provides The repeal of any section shall not extinguish or release any penalty, forfeiture, or liability incurred under the section, unless the repealing section so expressly provides. The section shall be treated as still remaining in force for the purposes of sustaining any proper action or prosecution for the enforcement of the penalty, forfeiture, or liability. (I.C. 1-1-5-1)

§ 00-01-10-12 LIMITATION PERIODS.

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

Statutory reference:

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

§ 00-01-10-13 ORDINANCES UNAFFECTED.

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

§ 00-01-10-14 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

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

§ 00-01010-15 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and any amending ordinances, are listed following the text of the code section. Example: (Ord. 10, passed 5-13-1960; Am. Ord. 15, passed 1-1-1970; Am. Ord. 20, passed 1-1-1980; Am. Ord. 25, passed 1-1-1985)

(B) (1) If a statutory cite is include in the history, this indicates that the text of the section reads substantially the same as the statues. Example: (I.C. 36-5-2-2) (Ord. 10, passed 1-17-1980; Am. Ord. 20, passed -11-1985)

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

§ 00-03-39-02 PUBLIC RECORDS AVAILABLE.

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

Statutory reference:

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

§ 00-01-10-16 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES.

(A) All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws.

(B) This code does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this code. The liabilities, proceedings, and rights are continued; punishments, penalties, or forfeitures shall be enforced and imposed as if this code had not been enacted.

(C) In particular, any agreement granting permission to utilize highway right-of-ways, contacts entered into or franchises granted, the acceptance, establishment or vacation of ay

highway, and the election of corporate officers shall remain valid in all respect, as if this coded had not been enacted.

§ 00-01-10-17 DISTRIBUTION OF THE CODE.

(A) When this code is published, printed copies of it shall be delivered to the Clerk-Treasurer, who shall deliver one copy to each of the following:

(1) Each member of the Town Council;

(2) The head of each department of the town;

(3) The Town Attorney;

(4) Any library in the town serving a significant number of town residents; and

(5) Any court in which town ordinances are regularly prosecuted.

(B) The Council, in its discretion, may provide copies of this code, without charge, to any other public officials or employees or governmental agencies that it determines should have a copy of its code.

(C) Any additional copies of this code shall be kept by the Clerk-Treasurer and shall be sold by him or her to anyone, upon request, at a price determined by the Council.
(Ord. 2001-7, passed 4-4-2001)

§ 00-01-10-99 GENERAL PENALTY.

Any person, firm or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding $2,500. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.
Statutory reference:
Power to prescribe fines up to $2,500 granted, see I.C. 36-1-3-8(a)(10)

TITLE III: ADMINISTRATION

Chapter

30. TOWN COUNCIL

31. TOWN OFFICIALS

32. TOWN POLICIES

33. POLICE DEPARTMENT

34. BOARDS AND COMMISSION

35. FUNDS

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CHAPTER 30: TOWN COUNCIL

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00-03-30-04 President and Vice President
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00-03-30-24 Rules of procedure

Town Seal

00-03-30-35 Town seal

GENERAL PROVISIONS

§ 00-03-30-01 TERMS.

The elected officials for the town shall be the Town Council, who shall be elected to office for a four-year term, and the Clerk-Treasurer, who shall be elected for a four-year term, in the method provided by statute.
(1995 Code, § 00-03-30-01)

§ 00-03-30-02 DUTIES; COMPENSATION; OATH.

(A) Town Council members shall perform the duties and have the powers designated by statute and shall receive compensation as may, from time to time, be established by regulation ordinance of the Council.

(B) Town Council members shall be administered the oath of office as provided by statue.
(1995 Code, § 0003-30-02)

§ 00-03-30-03 BOND.

Elected and appointed officials of the town shall give surety bonds to ensure the town of the proper performance of their respective duties. The bonds shall be in the amounts required by statue.
(1995 Code, § 00-03-30-03)

§ 00-03-30-04 PRESIDENT AND VICE PRESIDENT.

(A) A Council President and Vice President shall be elected by the Council from among its members at the first regular meeting of the Council in January each year. If the Council chooses, it may elect a First Vice President and Second Vice President. If a First and a Second Vice President have been elected, any reference in this code simply to the Council Vice President shall generally be considered as a reference to either or both the First and Second Vice Presidents, except the First Vice President shall be the first of the two to assume the responsibilities of the President, as President Pro Tempore, during the President's absence or disability.

(B) The Council President and Vice President shall be elected to one-year terms.

(C) A Council member serving as either President or Vice President may be removed and replaced by another Council member in the position by a majority vote of the Council.

(D) The President shall be the presiding officer at all Council meetings, unless he or she is absent or otherwise unable to serve as presiding officer. If the President is unable to preside at a Council meeting, the Vice President shall be the presiding officer. If neither the President nor Vice President are able to serve as presiding officer at a Council meeting, the remaining Council member shall choose who shall be presiding officer for the meeting.

(E) The President shall be responsible for the preparation of the agendas for Council meetings.

(F) When the Council is not meeting, the President shall serve as the primary Council contact for the Town Manager and the Town Attorney and for any outside entities, including representatives of the media, who seek information from or business with the Town Council.

(G) The President and Vice President may have any other additional powers delegated to them by the Council, by its written rules or by specific directive of the Council.

(H) The President shall have any and all powers provided to this position by state statutes.

(I) The President may, with notice given to other Council members, delegate his or her authority with respect to a specific matter to the Vice President or other member of the Town Council.
(Ord. 2001-7, passed 4-4-2001)

§ 00-03-30-05 APPOINTMENTS.

The Town council may appoint officials and employees as necessary to perform the service needed by the Town.
(1995 Code, § 00-03-30-05)

§ 00-03-30-06 AUTHORITY TO REVOKE LICENSES.

The President of the Town Council may revoke or suspend any license issued by the town, if the person holding the license has violated the terms and conditions of the license or of the law under which it was issued, pursuant to I.C. 36-5-4-11.
(1995 Code, § 00-03-30-06)

§ 00-03-30-07 TOWN COUNCIL DISTRICTS.

(A) The town is hereby divided into five Town Council districts as identified on Exhibit A (this is a map of the town on file in the office of the Clerk-Treasurer and described as follows:

(1) District One shall consist of the area of the town in Marion County that is bounded by the centerlines of East Washington Street (U.S. 40), North German Church Road, East 10th Street and North Woodlark Drive.

(2) District Two shall consist of the area of the Town in Marion County that is bounded by the centerlines of East Washington Street (U.S. 40), North Woodlark Drive, East 10th Street and North Muessing Street; and the area of the Town in Marion County that is bounded by the centerlines of East Washington Street (U.S. 40), North Muessing Street, East Welland Street and North Starter Street; and the area of the town in Marion County described by the following boundary description: beginning at the intersection of the centerlines of East 10th Street and North Muessing Street (point of beginning),then south along the centerline of North Muessing Street to the centerline of East 9th Street, then east along the centerline of East 9th Street to the centerline of Cumberland Creek, then north along the centerline of Cumberland Creek approximately 120.0 feet, then northeasterly to the southwest corner of Lot Number 118 of the Hartman Farms subdivision (also known as 944 Washington Cove Lane), then north along the west property line of the Lot Number 118 to the centerline of East 10th Street, then west along the centerline of East 10th Street to the point of beginning.

(3) District Three shall consist of the area of the town in Hancock County that is north of the centerline of East Washington Street (West U.S. 40) and east of the centerline of North Buck Creek Road.

(4) District Four shall consist of the area of the town in Marion County that is bounded by the centerlines of East Washington Street, South German Church Road, South Carroll Road and the south corporate boundary lines of the town; and the area of the town in Marion County described by the following boundary description: Beginning at the intersection of the centerline of East Washington Street (U.S. 40) and the Hancock – Marion County Line (point of beginning), then west along the centerline of East Washington Street (U.S. 40) to the centerline of North Starter Street, then north along the centerline of North Starter Street to the

centerline of East Welland Street, then west along the centerline of East Welland Street to the centerline of North Muessing Street, then north along the centerline of North Muessing Street to the centerline of East 9th Street, then east along the centerline of East 9th Street to the centerline of Cumberland Creek, then north along the centerline of Cumberland Creek approximately 120.0 feet, then northeasterly to the southwest corner of Lot Number 118 of the Hartman Farms subdivision (also known as 944 Washington Cove Lane), then north along the west property line of the Lot Number 118 to the centerline of East 10th Street, then east along the centerline of East 10th Street to the centerline of Washington Cove Lane, then south along the centerline of Washington Cove Lane to the north property lines of Lot Numbers 143 through 150 of the Hartman Farms subdivision, then east along the north property lines to the Hancock – Marion County Line, then south along the Hancock – Marion County Line to the Point of Beginning; and the area of the town in Hancock County that is bounded by the centerlines of East Washington Street (U.S. 40) and North Buck Creek Road, the north boundary line of the Harvest Glen subdivision, and the Hancock – Marion County Line.

(5) District Five shall consist of the area of the town in Hancock County that is north of the north boundary line of the Harvest Glen subdivision and west of the centerline of North Buck Creek Road.

(B) The voters of each district shall elect a resident of that district to be the Town Council member representing that district.
(Ord. 2002-21, passed 10-16-2002; Am. Ord. 2003-4, passed 9-22-2—3; Am. Ord. 2004-05, passed 6-2-2004)

MEETINGS

§ 00-03-30-20 DATE, TIME AND PLACE OF REGULAR MEETINGS.

(A) Unless the Town Council votes to change its meeting schedule, regular Council meetings shall be held on the first and third Wednesday of each month; no notice of these meetings shall be required. The meeting place shall be the Cumberland Municipal Building.

(B) (1) A majority of all the elected members of the Town Council constitutes a quorum.
(I.C. 36-5-2-9.2)

(2) A majority vote of the Town Council is required to pass an ordinance, unless a greater vote is required by statute.
(I.C. 36-5-2-9.6)

(3) A two-thirds vote, with unanimous consent of the members present, is required to pass an ordinance of the Town Council on the same day or at the same meeting at which it is introduced.
(I.C. 36-5-1-9.8)
(1995 Code, § 00-03-30-20)

§ 00-03-30-21 ALL MEETINGS OPEN TO PUBLIC; EXCEPTION.

All public agency meetings shall comply with the requirements of the Indiana Open Door Law, I.C. 5-14-1l.5-1 *et seq*. All meetings of the town boards and commissions shall be open to the public, except for executive sessions, as defined in I.C. 5-14-1.5-6.
(1995 Code, § 00-03-30-21)

§ 00-03-30-22 SPECIAL MEETINGS.

(A) Special meetings or executive sessions of any town board or commission may be called by the presiding officer or by written request of any two members, submitted to the Secretary or presiding officer of the body.

(B) Special meetings of the Town Council may be called by the Council, by the President pro tempore in the President's absence, or by a majority of all the members of the Council upon written request to the presiding officer.

(C) Forty-eight hours advance notice of any special meeting must be provided to all members of the board or commission. This requirement does not apply to a reconvened meeting when announcement of the date, time, and place of it is made at the original meeting and there is no change in the agenda.

(D) Public notice in compliance with I.C. 5-14-1.5 shall be posted on the bulletin board of the Town Hall and, if the meeting is to be held elsewhere, at the building where the meeting is to be held. Written notice shall be mailed to all members of the news media which file a written request for it by January 1 each year.
(1995 Code, § 00-03-30-22)

§ 00-03-30-23 EMERGENCY MEETINGS.

(A) No time requirements apply to notice for an emergency meeting if it is called to deal with actual or threatened injury to person or property or disruption of any governmental activity.

(B) Members of the news media who have requested notice shall be given the same notice as is given to members of the public body calling the meeting.

(C) Public notice shall be posted on the bulletin board in the Town Hall and, if the meeting is to be held elsewhere, at the building where the meeting is to be held.
(1995 Code, § 00-03-30-23)

§ 00-03-30-24 RULES OF PROCEDURE.

The Town Council may adopt written rules for carrying out its responsibilities, including procedural rules that may govern how the Town Council handles mattes in the course of its meetings or in other circumstances. To the extent that the Town Council has not adopted its own specific rules to govern its deliberations, the most recent version of *Robert's Rules of Order* shall serve as the rules of procedure for Town Council meetings, and for the meetings of other board of the town, except when in conflict with this code or state law Any rule of meeting procedure,

other than those required by statute, may be suspended at any time by the consent of all the members of the Town Council, or of another board, present at any of its meetings.
(Ord. 2001-7, passed 4-4-2001)

TOWN SEAL

§ 00-03-30-35 TOWN SEAL.

The town seal of the Town of Cumberland is described as follows: The seal shall be circular in shape, the outer circle inscribed with the words, "Town of Cumberland, State of Indiana," the inner circle shall contain the word "Seal."
(1996 Code, § 00-01-11-01)

CHAPTER 31: TOWN OFFICIALS

Section

Officials

00-03-31-01 Clerk-Treasurer
00-03-31-02 Town Manager
00-03-31-03 Town Marshal
00-03-31-04 Town Attorney

OFFICIALS

§ 00-03-31-01 CLERK-TREASURER.

(A) The Clerk-Treasurer is an elected official who serves as both the Clerk of the town and the town's fiscal officer. The powers of the Clerk-Treasurer include:

(1) Receiving and caring for all town monies and paying them out upon order of the Town Council

(2) Keeping accounts of all town monies:

(3) Managing the finances and accounts of the town and making investments of town monies;

(4) Maintaining the records of the Council;

(5) Attending the meetings of the Council and recording its proceedings;

(6) Administering oaths; and

(7) Performing all other duties prescribed by state law.

(B) The Clerk-Treasurer may appoint deputies and employees needed for the effective operation of the Office of the Clerk-Treasurer, but limited to the number of the positions authorized by the Council. The Clerk-Treasurer's deputies and employees serve at the pleasure of the Clerk-Treasurer.

§ 00-03-31-02 TOWN MANAGER.

(A) (1) The Town Manager is the chief administrative officer of the town. The Town Council delegates to the Town Manager all authority needed for the Town Manger to effectively exercise the duties assigned to the Town Manager by this doe and any ordinance, contract, or other of the Town Council.

(2) The person the Town Council appoints this position shall become a town employee and shall be subject to those town policies applicable to other town employees not inconsistent with this code or any ordinance or contract provision specifically applicable to the Town Manager. Subject to any requirements for notice in advance of termination contained in a written contract between the Town Council and the Town Manager, the Town Manager serves at the pleasure of the Town Council.

(B) (1) Unless the Town Council, subsequent to the adoption of this section, adopts an ordinance or a written order that provides otherwise, the Town Manager shall:

(a) Attend the meetings of the Town council and other boards of the town, including the Plan Commission, Board of Zoning Appeals, and Parks Board, and recommend actions that he or she considers advisable; keep the Town Council informed on town activities, projects, and issues which the Town Manager is involved; and see that Town Council facilitators are kept informed of all important matters relating to their areas of responsibility.

(b) Hire town employees, other than those in the town Police Department and Clerk-Treasurer's office, according to the pay schedules and standards fixed by the Town Council or by statute;

(c) Discipline, suspend, discharge, remove, or transfer town employees, other than those in the town Police Department and Clerk-Treasurer's office, pursuant to the policies and procedure of the town;

(d) Administer and enforce all ordinances, orders, and resolutions of the Town Council;

(e) See that all statutes that are required to be administered by the Town Council, or a town employee subject to the control of the Town Council, are faithfully administered;

(f) Prepare budget estimates and develop multi-year capital improvement plans in cooperation with the town's Clerk-Treasurer, the town's financial consultant, and the town's boards and department heads and submit them to the Town Council when required;

(g) Execute contracts on behalf of the town for materials, supplies, services, or improvements after receiving any required approval from the Town Council and the completion of any applicable appropriation, notice, or competitive bidding process required by statute:

(h) Formulate and administer policies regarding the areas for which he or she is responsible;

(i) Serve as the town's primary contact person with the news media, except for issues involving the town's Police Department;

(j) Work with neighborhood associations, local civic groups, and other community organizations to help address their concerns relations to the town;

(k) Oversee the management and maintenance of all town property;

(l) To the extent that the performance of his or her administrative duties may affect matters that are the responsibilities of the town Clerk-Treasurer or the Town Marshal, he or she shall coordinate and cooperate with those other town officials so as to not infringe on their statutory authority or otherwise interfere with their performance of their responsibilities; and

(m) Perform such other duties as may be required by the Town Council that could reasonably be considered to be responsibilities of the administrative head of a governmental entity, provided that such other duties are not inconsistent with any law, ordinance, town policy or contract.

(2) Unless the Town Council, subsequent to the adoption of this section, adopts an ordinance or written order that provides otherwise, the Town Manager may:

(a) Delegate any of his or her powers to employees responsible to him or her;

(b) Receive service of summons on behalf of the town;

(c) Approve expenditures and additional funding requests from department heads to the extent authorized by the written rules of the Town Council; and/or

(d) Participate in organizations to advance his or her professional development to the extent that such activities do not interfere with his or her duties as Town Manager.

(C) The Town Manager shall be paid a salary as determined by the Town Council in conformance with the town's salary ordinance. Any other compensation and benefits shall be specified in the Town Mangers' contract with the Town Council or shall be as provided by the town's employee policies.

(D) The Town Manager shall, in the manner prescribed by I.C. 5-4-1, execute a bond for the faithful performance of his or her duties. The cost of this bond shall be paid by the Town. (Ord. 2001-7, passed 4-4-2001)

§ 00-03-31-03 POLICE CHIEF.

(A) The Chief of the Town of Cumberland Police Department is the executive head of the police department. All members of the police department shall serve subject to the orders of the Police Chief.

(B) The Police Chief shall have the powers and duties prescribed by statute and town ordinance, including statutory disciplinary powers.

(C) The Police Chief shall keep records and make reports concerning the activity of the police department as may be required by the Town Council or by statute."

(Ord. 2015-18, passed 12-2-15)

§ 00-03-31-04 TOWN ATTORNEY.

The Town Council shall appoint a Town Attorney whose terms of service and compensation shall be prescribed by a contract between the attorney and the Town Council. The Town Attorney serves at the pleasure of the Town Council.
(Ord. 2001-7, passed 4-4-2001)

CHAPTER 32: TOWN POLICIES

Section

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EMPLOYEE POLICIES

§ 00-03-32-01 EMPLOYEE HANDBOOK.

(A) The Town of Cumberland Employee Handbook shall serve as the town's primary rules for the town's employees. A copy of the Handbook is contained in Appendix A to Ordinance 2015-20 and is adopted by reference as if fully set forth herein.

(B) All salaries, wages, and other compensation paid to the elected and appointed officials and employees of the town, and all other benefits provided, shall conform with the provisions of the town's salary ordinance and with the town's Employee Handbook.
(Ord. 2001-7, passed 4-4-2001; Am. Ord. 2007-05, passed 9-5-2007; Am. Ord. 2010-1, passed 2-3-2010; Am. Ord. 2015-20, passed 12-__-2015; Am Ord. 2016-2, 3 passed 4-6-2016; Am Ord. 2017-7, adopted 6-7-2017)
(The Town of Cumberland Employee Handbook is set forth in Appendix)

§ 00-03-32-02 NEPOTISM POLICY

(A) **Definitions:** The following definitions apply to the Town's Nepotism Policy:

(1) **Direct Line of Supervision:** The phrase "direct line of supervision" means an elected officer or employee who is in a position to affect the terms and conditions of another individuals' employment, including making decision about work assignments, compensation, grievance, advancement, or performance evaluation. The phrase does not include the responsibilities of the Town Council to make decision regarding salary ordinances, budgets or personnel policies of the Town;

(2) **Employed:** The term "employed" means an individual who is employed by the Town on a full-time, part-time, temporary, intermittent, or hourly basis. The term does not include an individual who holds only an elected office. The term includes an individual who is party to an employment contract with the Town;

(3) **Relative:** The term "relative" means any of the following:

(a) a spouse;

(b) a parent or stepparent; and,

(c) a child, an adopted child or stepchild;

(d) a brother, sister stepbrother, stepsister, or a brother or sister by the half blood;

(e) a niece or nephew;

(f) an aunt or uncle; and,

(g) a daughter-in-law or son-in-law.

(B) **Nepotism Prohibited:** The Town may not employ individuals who are relatives, as defined in § 00-03-32-02(A)(3), in a position that results in one relative being in the direct line of supervision of the other relative.

(C) **Application of Policy to Relatives of Elected Officials:** Unless a specific exemption applies, this policy applies to an individual who is employed by the Town on the date the individual's relative begins serving a term of an elected officer of the Town. When the elected official begins serving a term of elected office, the relative employed by the Town m ay remain employed by the Town and maintain his or her position or rank. However, the relative of the elected official may not be promoted to a position that results in one relative being in the direct line of supervision of the other relative. For an individual who is a member of a merit police department, the individual may not be promoted to a position that is not within the merit ranks if the promotion would result in the individual being in the direct line of supervision of the other relative. This policy does not abrogate or affect an employment contract with the Town that an individual is a party to and is in effect on the date the individual's relative begins serving a term of an elected office of the Town.

(D) **Exceptions:** The following exceptions apply to the Town's Nepotism Policy:

(1) **Employees on July 1, 2012:** an individual who is employed by the Town on or before July 1, 2012 is not subject to the nepotism prohibition unless after July 1, 2012 the

individual has a break in employment with the Town. The following are not considered to be a break in employment with the Town:

(a) the individual is absent from the workplace while on paid or unpaid leave, including vacation, sick, or family medical leave or worker's compensation;

(b) the individual's employment with the Town is terminated followed by the immediate reemployment with the Town, without loss of payroll time;

(2) **Precinct Election Officers:** the performance of duties of a precinct election officer as defined by Indiana Code § 3-5-2-40.1, that are imposed by Title 3 is not considered employment by the Town;

(3) **Volunteer Firefighters:** the performance of duties of a volunteer firefighter is not considered employment by the Town;

(E) **Annual Reports:** Each year, the following officials must file the following annual reports:

(1) The President of the Town council will file with the annual report filed by the Town with the State Board of Accounts under Indiana Code § 5-11-13-1 a statement that the Town has implemented a Nepotism Policy under Indiana Code § 36-1-20.2 and § 36-1-21.

(2) Each elected official of the Town will annual certify in writing, subject to the penalties of perjury, that the officer has not violated Indiana Code § 36-1-20.2. This certification will be submitted to the President of the Town Council not later than December 31 of each year;

(3) Each Town Council member shall annually certify in writing, subject to the penalties for perjury, that the officer has not violated Indiana Code § 36-1-21. This certification shall be submitted to the President of the Won Council not later than December 31 of each year.

(F) **Contracting With the Town:** The Town may enter into a contract or renew a contract for the procurement of goods and services or a contract for public works with an individual who is a relative of a Town Council member or a business entity that is wholly or partially owned by a relative of a Town Council member only if the requirements of the Town's policy are satisfied and the Town Council member does not violate the Indiana Conflicts of Interest rules are contained in Indiana Code § 35-44-1-3.

(1) **Disclosure:** The Town may enter into a contract or renew a contract with an individual or business described in Section 00-32-32-02(F) if:

(a) The Town Council member files with the Clerk-Treasurer at a public meeting of the Town Council prior to final action on the contract or purchase a full disclosure which must:

(i) be in writing;

(ii) describe the contract or purchase to be made by the Town;

(iii) describe the relationship that the Town Council Member has to the individual or business entity that contracts or purchases:

(iv) be affirmed under the penalty for perjury;

(v) be filed, not later than fifteen (15) days after final action on the contract or purchase, with the State Board of Accounts and the Clerk of the Circuit Court of the County;

(b) The appropriate Town agency makes a certified statement that the contract amount or purchase price was the lowest amount or price bid or offered or makes a certified statement of the reason why the vendor or contractor was selected;

(c) The Town Council accepts in a public meeting the disclosure prior to final action on the contract or purchase;

(d) The Town satisfies any other requirements under the public purchasing an bidding laws contained in Indiana Code § 5-22 or § 36-1-12;

(e) The Town Council member must also comply with the disclosure laws of Indiana Code § 35-44-1-3, if applicable.

(2) **Existing Contracts:** These rules do not affect the initial term of a contract in existence at the term of office of the Town Council Members begins.

(Ord. 2012-15, passed 6-20-2012)

§00-03-32-03 BOND POLICY

(A) Authorization: The Town may purchase individual bonds, blanket bonds, or crime insurance policies endorsed to cover the faithful performance of all employees, commission members, and persons acting on behalf of the local government unit, including Town judges and clerk-treasurers and those employees required by law or directed to file an individual bond.

(B) Clerk-Treasurer Bond: The Town of Cumberland's fixes the amount of a bond for the Clerk-Treasurer at $30,000 for each $1,000,000 of receipts of the officer's office during the last complete fiscal year before the purchase of a blanket bond, provided that this amount may not be less than $30,000 nor more than $300,000. The Town Council must approve the bond if sufficient.

(C) Other Officials, Appointees and Employees: Every elected or appointed officer, official, deputy, employee, or contractor of the Town of Cumberland who is required to file a bond for the faithful performance of their duty, must file the bond in the office of the Clerk-Treasurer and the County Recorder. Bonds must be filed with the Recorder within 10 days of their issuance.

(D) Filing With State Board of Accounts: The Clerk-Treasurer must file a copy of the

bonds with the state board of accounts contemporaneously with the filing of the Town's annual financial report and electrically in the manner prescribed by I.C. § 5-14-3.8-7.

(E) Time of Bonding: An officer required to give a bond must give the bond before the commencement of his or her term of office. The officer may not take office until the policy is given.

(F) Payee: All bonds must be payable to the state of Indiana. Every such bond shall be obligatory to such state, upon the principal and sureties, for the faithful discharge of all duties required of such officer by any law, then or subsequently in force, for the use of any person injured by any breach of the condition thereof.

(G) Validity of Bonds: No policy shall be void on a first recovery, but suits may be instituted thereon, from time to time, until the penalty thereof is exhausted. No bond shall be void because of defects in form or substance or in the approval and filing thereof, but, upon the suggestions of such defects, such policy shall be obligatory as is property executed, filed and approved.

(H) Forms: The commissioner of insurance shall prescribe the form of the bonds as required by I.C. § 5-4-1-18, in consultation with the Indiana archives and records administration under I.C. § 5-15-5.1-6.

(I) Effectiveness: Unless the bond is canceled, the bond must continue in force for the terms of office of the individual who files the bond or policy. The aggregate liability of the surety or insurer is the amount specified in the bond.

(J) Intent to Comply: It is the policy of the Town of Cumberland to comply with all provisions of the Indiana Code. If a policy of the Town and a provision of the Indiana Code regarding bonds under I.C. § 5-4-1 conflict, the Indiana Code will be deemed to be the policy of the Town and will be enforceable as if specifically written in this policy.

(Ord. 2015-22, passed 12-2-2015)

§00-03-32-04 TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 POLICY

(A) Policy Against Discrimination: It is the policy of the Town of Cumberland that no person shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance;

(B) Intention to Comply with Title VI of the Civil Rights Act of 1964: It is the policy of the Town of Cumberland to comply with Title VI of the Civil Rights Act of 1964. If a policy of the Town and a provision of Title VI of the Civil Rights Act of 1964 conflict, the Title VI provision will be deemed to be the policy of the Town and will be enforceable as if specifically written in this policy;

(C) Importance of Equal Treatment: The Town of Cumberland recognizes that it is important to expel all racial discrimination and to ensure that public funds are not spent in a way which encourages, subsidizes, or results in racial discrimination;

(D) Notice of Rights: The Town of Cumberland has and will continue to disseminate sufficient information to applicants, participants, beneficiaries, and other interested persons to inform them of their rights and protections afforded by Title VI of the Civil Rights Act of 1964;

(E) Grievance Procedure: The Town of Cumberland has adopted and implemented a grievance procedure for complaints under this section, and this procedure is attached as Exhibit A. The grievance procedure was established to meet the requirements of Title VI of the Civil Rights Act of 1964. It may be used by anyone who wishes to file a complaint alleging the Town of Cumberland discriminated on the basis of race, color, or national origin regarding the exclusion from participation in, being denied the benefits of, or being subjected to discrimination under any program or activity receiving Federal financial assistance.

(Ord. 2015-16, passed 12-2-2015)

§ 00-03-32-05 AMERICANS WITH DISABILITIES ACT POLICY

(A) Policy Against Discrimination: It is the policy of the Town of Cumberland that it will not discriminate against persons with disabilities in access to jobs, public accommodations, and government programs, public transportation and telecommunications;

(B) Intention To Comply with ADA: It is the policy of the Town of Cumberland to comply with the Americans With Disabilities Act of 1990 (ADA). If a policy of the Town and a provision of the ADA conflict, the ADA provision will be deemed to be the policy of the Town and will be enforceable as if specifically written in this policy;

(C) Importance of Accessibility: the Town of Cumberland recognizes that it is important for its facilities, programs and services to be available to all of its citizens and to the general public;

(D) Transition Plan: the Town of Cumberland understands that some of its facilities, programs and services comply with the ADA and that some may not now, or may not in the future, comply with the ADA because the standards of compliance have or will be revised, changed or added. In order to comply with the ADA, the Town Council has already developed an ADA Transition Plan which now guides future planning and implementation of accessibility improvements. The Town of Cumberland is committed to implementing the Transition Plan as soon as possible, administratively, physically and financially. The Town of Cumberland will, as it works toward reducing accessibility barriers within Town-owned facilities, infrastructure, programming and services, be guided by public and/or employee requests and its initial or revised prioritization of the Transition Plan items. The Town of Cumberland will strive to include annual budget appropriations to remove accessibility barriers such that its facilities, programs and services will be accessible as is reasonably possible.

(E) Alternate Access: To the extent the Town of Cumberland cannot provide access to its facilities, programs and services, it will provide alternate means for the same opportunities to persons with disabilities;

(F) Notice of Rights: The Town of Cumberland has and will continue to disseminate sufficient information to applicants, participants, beneficiaries, and other interested persons to inform them of their rights and protections afforded by the ADA and the regulations promulgated thereunder;

(G) ADA Coordinator: the Town of Cumberland has designated Christine Owens as the ADA Coordinator, and she is responsible for the development and implementation of the ADA Transition Plan and for overall compliance with the ADA;

(H) Accommodation Requests and Grievance Procedures: The Town of Cumberland has established procedures for requests for accommodation, issued annual reports regarding implementation of the Transition Plan, requests for reasonable accommodation and grievances, and adopted and implemented a grievance procedure, all as required by the ADA. The grievance procedure was established to meet the requirements of the Americans with Disabilities Act of 1990. It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs or benefits by the Town of Cumberland.

(1) The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date and description of the problem. Alternative complaints, such as personal interviews, or tape recordings of the complaint, will be made available for persons with disabilities upon request

(2) The complaint should be submitted by the grievant or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to:

Christine Owens
ADA Grievance Coordinator
Town of Cumberland, Town Hall
11501 E. Washington St.
Cumberland, IN 46229

(317) 894 - 6203
planner@town-cumberland.com

(3) Within 15 calendar days after receipt of the complaint, Christine Owens or her designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, Christine Owens or her designee will respond in writing and where appropriate in a format accessible to the complainant. The response will explain the position of the Town of Cumberland and offer options for substantive resolution of the complaint.

(4) If the response of Christine Owens or her designee does not satisfactory resolve the issue, the complainant or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the Cumberland Town Council.

(5) Within 15 calendar days after receipt of the appeal, the Cumberland Town Council will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after that meeting, the Cumberland Town Council will respond in writing and where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

(6) All written complaints received by Christine Owens or her designee, appeals to the Cumberland Town Council and responses from these two offices will be retained by the Town of Cumberland for at least three years.

(I) Other Power-Driven Mobility Devices: It is the policy of the Town of Cumberland that Other Power-Driven Mobility Devices (OPDMD) are allowed on Town Roads and in Town-Owned Facilities to the same extent as members of the public are allowed.

(1) Definition of OPDMD: Other Power-Driven Mobility Device is any mobility device powered by battery, fuel or other engines that is used by an individual with a disability for the purpose of locomotion, including but not limited to golf cars, electric scooters, electronic personal assistance mobility devices, such as Segway ®, or any mobility device designed to operate in areas without defined pedestrian routes.

(2) OPDMDs Authorized: OPDMDs are allowed in all areas where members of the public are allowed, unless a particular OPDMD cannot be accommodated because of legitimate safety requirements.

(3) Alternate Accommodation: If OPDMDs. are not allowed in certain areas because of legitimate safety requirements, the Town of Cumberland will provide alternative service if possible.

(4) No Exclusion From Town Roads: OPDMDs will not be excluded from Town Roads because of legitimate safety requirements or any other reason. Section 00-07-70-37, Section 00-07-70-46, and other applicable provisions of the Town Code will not be construed to exclude OPDMDs from Town roads.

(Ord. 2015-17, passed 12-2-2015)

§00-03-32-06 INTERNAL CONTROLS STANDARDS

(A) **Policy for Internal Controls.** The Town of Cumberland adopts as policy the internal control standard as set forth by the Indiana State Board of Accounts Uniform Internal Control Standards for Indiana Political Subdivisions manual as expressly written and published by the Indiana State Board of Accounts in September 2015, as amended from time to time.

(B) **Oversight Committee.** In order to implement these standards, there is established an Internal Control Standards Oversight Committee. This Committee will consist of a Town Council member selected by the Town Council, the Clerk-Treasurer, Town Manager, Police Chief, Public Works Director, Director of Planning and Development, and Town Attorney. This Committee will develop policies and procedures to implement the Internal Control Standards and train employees regarding these standards.

(C) **Compliance Required.** All officers, elected officials and employees are required to comply with the policy. Employees who fail to comply with this policy are subject to discipline, including but not limited to termination of their employment.
(Ord. 2016-01, passed 4-6-16)

§00-03-32-07 MATERIALITY POLICY

The following is the Towns policy regarding account variances, losses, shortages, or thefts of cash or other assets:

(A) **Reporting to Clerk-Treasurer**: Any irregular variances, loses, shortages, or thefts of cash or other assets shall be immediately reported to the Clerk-Treasurer.

(B) **Procedure:** Upon receipt of a report of an irregular variance, loss, shortage, or theft, the Clerk-Treasurer must:

a. Log all reports into a spreadsheet that is permanently maintained by the Town of Cumberland;

b. Confirm the dollar amount of the variance, loss, shortage, or theft;

c. Evaluate the report against the established dollar thresholds. Upon receipt of a report of a variance, loss, shortage, or theft of cash which exceeds $0.00, the Clerk-Treasurer must report the incident to the State Board of Accounts. Upon receipt of a report of a variance, loss, shortage, or theft of any other (non-cash) asset which exceeds $0.00, the Clerk-Treasurer must report the incident to the State Board of Accounts.

d. Investigate the cause of any variance, loss, shortage, or theft and document all findings;

e. Document and implement corrective actions or internal control procedures to correct the causes of the variance, loss, shortage, or theft; and

f. Maintain copies of all relevant documentation, resolution of incidents, and any report to the State Board of Accounts in a centralized folder.

(C) **Public Officials:** All public officials who have actual knowledge of, or reasonable cause to believe, there has been a misappropriation of public funds must immediately send written notice of the misappropriation to the State Board of Accounts and the prosecuting attorney pursuant to Indiana Code § 5-11-1-27(I).

(Ord. 2016-04, passed 4-6-16).

§ 00-03-32-08 GENERAL RETENTION SCHEDULE

RECORD SERIES	TITLE/DESCRIPTION	RETENTION PERIOD
ADMINISTRATIVE		

GEN 10-1	MINUTES Official minutes of any county/local agency, board, commission, or of any division. THIS IS A CRITICAL RECORD. [IC 5-15-6-2.5]; [IC 5-15-5.1-12]	PERMANENT. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives pursuant to IC 5-15-6-6 at such time as record no longer has official value but has historical value.
GEN 10-2	LOCAL AGENCY, BOARD OR COMMISSION MEETING RECORDINGS For offices, boards or commissions that record their meetings and used the recordings to complete the minutes of the meetings.	ERASE or DESTROY after official minutes derived from them are approved.
GEN 10-3	POLICY FILES – OFFICE HOLDERS, DEPUTIES, AND DIVISION DIRECTORS. These office files document substantive actions of the county or local government unit and constitute the official record of the unit's performance of its functions and the formation of policy and program initiatives. This series may include various types of records such as correspondence, memos, and reports concerning policy and procedures, organization, program development and reviews. THIS IS A CRITICAL RECORD. Disclosure of these records may be affected by the discretion of a public agency, IC 5-14-3-4(b) (6).	PERMANENT. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the County Archives pursuant to IC 5-15-6-6 at such time as record no longer has official value but has historical value.

	[IC 5-15-6-2.5]; [IC 5-15-5.1-12]	
GEN 10-4	GENERAL FILES Office records that are not related to policy implementation. This series includes correspondence, memos, and routine staff files.	DESTROY after three (3) calendar years.
GEN 10-5	LEGAL FILES (Also called Litigation Files) All records pertaining to litigation with the county/local government and all supporting documentation. This includes the Notice of Tort Claim for Property Damage and/or Personal Injury, SF 54668, if a claim is brought against the political subdivision. (See GEN 14-1 if no claim is brought.) Disclosure of these records may be affected by IC 5-14-3-4(a) (1), (3), and (8), and also by the discretion of a public agency, IC 5-143-4(b) (6). Retention consistent with IC 34-11-2-6, IC 35-41-4-2(a), and IC 34-11-2-4	RETAIN in office five (5) calendar years after adjudication of litigation. Evaluate and transfer to Indiana State Archives, pursuant to IC 5-15-6-6, only those files that have been determined to have historical significance.

GEN 10-6	ORDINANCES AND RESOLUTIONS Includes records created by a county/local agency related to the legislature's review of proposed laws or adoption of administrative rule(s). THIS IS A CRITICAL RECORD. Disclosure of these records may be affected by the discretion of a public agency, IC 5-14-3-4(b)(6).	PERMANENT. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the Indiana State Archives pursuant to IC 5-15-6-6 at such time as record no longer has official value but has historical value
GEN 10-8	DISASTER RECOVERY AND CONTINUITY PLANS The copy of all Disaster Recovery/Continuity Plans, including those for electronic systems, as well as supporting documentation used in the development of the plans. Disclosure of these records may be affected by the discretion of a public agency, IC 5-14-3-4(b)(19).	TRANSFER one copy of each plan to the STATE ARCHIVES DIVISION for permanent archival retention, upon its approval by the county/local agency. DESTROY remaining copies when outdated or replaced. DESTROY supporting documentation three (3) years after current plan is outdated or replaced.
GEN 10-9	NOTICES & CERTIFICATES Excludes Form 100R – Certified Report of Names, Addresses, Duties and Compensation of Employees [PERMANENT]	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
GEN 14-1	NOTICE OF TORT CLAIM FOR PROPERTY DAMAGE AND/OR PERSONAL INJURY, SF 54668	DESTROY after three (3) calendar years if a claim is not brought against the political subdivision

	This form is included in GEN 10-5, Legal Files, if a claim is brought against the political subdivision. Retention based on IC 34-11-2-4	within the statute of limitations.
Gen 14-2	CONFLICT OF INTEREST DISCLOSURES Includes records related to the disclosure of potential conflict of interest. May be referred to as and/or include Uniform Conflict of Interest Ethics Disclosure Statement, economic statement of interest, or similar records.	TRANSFER to the Indiana State Archives for evaluation, sampling, or weeding pursuant to archival principles ten (10) years after the year of filing with the political subdivision.
ACCOUNTING & FINANCE		
GEN 10-10	RECEIPTS/QUIETUS/RECEIPT REGISTER/QUIETUS REGISTER Retention based on IC 34-11-2-6	DESTROY after six (6) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
GEN 10-11	VOUCHERS/CLAIMS & PURCHASE ORDERS Includes all claims and requisitions submitted by all county offices and departments, including all supporting documentation. Supporting documentation may include all documentation that provided the basis for payment of the claim, including but not limited to: invoices, bank or credit card statements, and any additional documentation that is attached to the claim when submitted for payment. Retention based on IC 34-11-1-2	DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
GEN 10-12	POOR RELIEF VOUCHERS/CLAIMS Retention based on IC 34-11-1-2	DESTROY after ten (10) calendar years and after receipt of STATE BOARD

		OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
GEN 10-13	REGISTER OF POOR RELIEF CLAIMS	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
GEN 10-14	CANCELLED CHECKS/WARRANTS Retention based on IC 34-11-1-2	DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges. -OR- DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges if GEN 10-19, Bank Statements, includes scanned copies of checks and bank retains physical check copies for ten (10) or more calendar years.
GEN 10-15	CHECK REGISTER/WARRANT REGISTER Retention based on IC 34-11-1-2	DESTROY after ten (10) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit

		Report and satisfaction of unsettled charges.
GEN 10-16	PAYROLL RECORDS Applies to Forms 99A, 99B and 99C	PERMANENT. MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the Indiana State Archives pursuant to IC 5-15-6-6 at such time as original record no longer has official value but has historical value. If microfilmed, original may be destroyed upon receipt of written approval from the county commissioner of public record and Indiana Archives and Record Administration.
GEN 10-17	TIME CARDS Includes Weekly Earning Record, work period. Retention based on IC 34-11-2-1	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
GEN 10-18	BANK RECONCILIATION RECORDS AND REPORTS	DESTROY after six (6) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit

		Report and satisfaction of unsettled charges.
GEN 10-19	BANK STATEMENTS, DEPOSIT TICKETS, RECORD OF DEPOSITORY BALANCES	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges
GEN 10-20	FEE BOOK	DESTROY after six (6) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
GEN 10-21	ACCOUNTS PAYABLE JOURNAL	DESTROY after six (6) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
GEN 10-22	ACCOUNTS PAYABLE VOUCHER REGISTER	DESTROY after three (3) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
GEN 10-23	TRANSMITTALS Retention based on IC 34-11-2-6	DESTROY after six (6) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.

GEN 10-24	INVESTMENTS/INSURANCE REGISTER Form 350 – Register of Investments Form 351 – Register of Insurance	PERMANENT. May MICROFILM according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the Indian State Archives pursuant to IC 5-15-6-6 at such time as original record no longer has official value but has historical value. If microfilmed, original may be destroyed upon receipt of written approval from the COUNTY COMMISSION of public records and Indiana Archives and Records Administration.
GEN 10-25	BONDS, BIDS, CONTRACTS AND LEASES All contracts with vendors or other units of government to provide goods or services. Files also include working papers and similar attachments used by the agency in this process. This record series also applies to an administrative entity receiving revenue through a contract or lease. Retention based on IC 34-13-1-1	DESTROY ten (10) years after expiration of the contract and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
GEN 10-26	AS-SUBMITTED BUDGETS	DESTROY after five (5) calendar years.

	Includes new programs requested, justifications, breakdown of money requested, estimates, reports, and public notice	
GEN 12-1	PAPER CHECKS & REMOTE-CAPTURE CHECKS Checks deposited with a bank by a governmental entity through the regular deposit process or the digital remote-capture process. Disclosure of these records may be affected by IC 5-14-3-4(a)(5) and IC 5-14-3-4(a)(12) Retention based on IC 34-11-2-6	DESTROY paper upon receipt of deposit report from bank acknowledging the bank's acceptance. RETAIN digital image locally or through bank-provided access for six (6) years and until receipt of STATE BOARD OF ACCOUNTS audit report and satisfaction of unsettled charges.
GEN 15-2	INTERNAL REVENUE SERVICE FORMS Includes the governmental entity's original copy of forms filed with the Internal Revenue Service.	RETAIN for period required by federal law, but for not less than six (6) years. DESTROY upon fulfillment of this retention period.
PERSONNEL		
GEN 10-27	PERSONNEL FILES Personnel records containing documentation of the employee's working career and application for employment with the county/local government unit. Employment application shall include examination records. Personnel files shall be created and maintained for full-time, part-time, and temporary employees, as well as paid and unpaid interns.	DESTROY 75 years after employee is no longer employed by the county/local government unit.

	Disclosure of these records may be affected by the discretion of a public agency, IC 5-14-3-4(b)(2)(3)(4) and (6), and IC 5-14-3-4(b)(8).	
GEN 10-28	EMPLOYEE MEDICAL RECORDS Typical record series could include Employer's Report of Injury, Report of Attending Physician, other medical information used to document work-related illnesses or injuries, and drug test results. Pursuant to United States Equal Opportunity Commission rules, this information "...shall be collected and maintained...in separate medical files..." Disclosure of these records may be affected by IC 5-14-3-4(a)(9) and the discretion of a public agency per IC 5-14-3-4(b)(8) and 29 CFR 1630.14(b)(1).	DESTROY seven (7) years after the employee leaves county/local government.
GEN 10-29	INMATE MEDICAL RECORDS Disclosure of these records may be affected by IC 5-14-3-4(a)(9) and the discretion of a public agency per IC 5-14-3-4(b)(8) and 29 CFR 1630.14(b)(1).	DESTROY seven (7) years after the inmate is released from the jail facility.
GEN 10-30	FAMILY AND MEDICAL LEAVE ACT OF 1993 RECORDS Records may contain applications for Family and Medical Leave (State Form 48370 or its equivalent), and any information related to use the Family and Medical Leave Act (FMLA). Disclosure of these records may be affected by 29 CFR 825.500(g). Retention based on 29 CFR 825.400(b).	DESTROY records after three (3) calendar years if no other Record Series with a longer retention period applies to them. If records are part of another Record Series with a longer retention, follow the retention instruction for that Record Series.

GEN 10-31	EMPLOYMENT APPLICATIONS-NOT HIRED Series includes applications from persons seeking employment who are not hired. Series also contains vacancy notices, job information bulletins, unsolicited resumes, rejection correspondence, examination material, drug test results, and other related materials. Disclosure of these records may be affected by the discretion of a public agency per IC 5-14-3-4 (b)(8)(b). Retention based on IC 4-15-2-15 (b)(4).	DESTROY three (3) calendar years after the decision not to hire.
GEN 10-32	EMPLOYEE HAZARDOUS EXPOSURE RECORDS Typical records could include employee exposure records and/or analyses using exposure or medical records. Disclosure of these records may be affected by IC 5-14-3-4(a) (9).	DESTROY Thirty-five (35) calendar years after employee termination.
GEN 10-33	LOG OF WORK-RELATED INJURIES AND ILLNESSES, OSHA FORM 300 (REVISED 01/2004) In accordance with 29 CFR 1904.0, et seq., every private and public employer with more than ten (10) employees must confidentially record every work-related death and work-related injury and illness meeting specific recording criteria in this federal rule. Electronic (computer) maintenance and retention is permitted. Any medical information attached or included with the OSHA form and record is also confidential and must be retained with the OSHA form and record for the same time period. Disclosure of these records may be affected by 29	DESTROY five (5) years after the end of the calendar year that the records cover.

	CFR 1904.29 and IC 5-14-3-4(a)(3). Retention based on 29 CFR 1904.33 SUMMARY OF WORK-RELATED INJURIES AND ILLNESSES, OSHA FORM 300A (REVISED 01/2004) All establishments covered by 29 CFR 1904.33. INJURY AND ILLNESS INCIDENT REPORT, OSHA FORM 301 This Injury and Illness Incident Report is completed when a recordable work-related injury or illness has occurred. Electronic, computer, maintenance and retention is permitted. Any medical information attached or included with the OSHA form and recorded for the same time period. Disclosure of these records may be affect by 29 CFR 1904.29 and IC 5-14-3-4(a)(3). Retention based on 29 CFR 1904.33	
	Publications & Reports	
GEN 10-34	OVERSIGHT COMMITTEE ON PUBLIC RECORDS APPROVED RECORDS RETENTION AND DISPOSITION SCHEDULES Contains a description of all record maintained by a county/local office, and specifies when and how they may dispose of their records.	DESTROY after replaced by revised schedule.

GEN 10-35	STATUTE AND ADMINISTRATIVE RULE RECORDS Documents created by a county/local government entity related to the State Legislature's review of proposed laws, amendments to existing statutes, or adoption of administrative rules.	DESTROY two (2) calendar years after amendments, adoptions, or proposal of final administrative rule was published in the Indiana Registrar.
GEN 10-36	MATERIAL SAFETY DATA SHEETS (MSDS) These reports and data sheets are supplied by the manufacturer of hazardous chemicals and submitted to businesses and other organizations receiving and using the substances. One (1) report or MSDS is submitted for each chemical in accordance with federal OSHA requirements. General information, ingredients, physical data, fire and explosion hazard data and other precautions are listed to inform and protect individuals who use or are exposed to these substances and chemicals. Disclosure of these records may be affected by 29 CFR 1910.1020(f)(1) and (f)(2), and IC 5-14-3-4(a)(4). Retention is based on 29 CFR 1910.1020(d)(1)(ii)(B).	DESTROY thirty (30) years after the year of conclusion of the worker's employment.
GEN 10-37	STATE BOARD OF ACCOUNTS AUDIT REPORTS	PERMANENT. May microfilm according to 60 IAC 2 STANDARDS. Original may be retained in office, transferred to the Indian State Archives pursuant to IC 5-15-6-6 at such time as original record no longer has official value but has historical value. If microfilmed, original may be destroyed upon receipt of written approval from the COUNTY COMMISSION of public

		records and Indiana Archives and Records Administration.
GEN 10-38	REPORTS Excludes Form 100R – Certified Report of Names, Addresses, Duties and Compensation of Employees (PERMANENT)	DESTROY after six (6) calendar years and after receipt of STATE BOARD OF ACCOUNTS Audit Report and satisfaction of unsettled charges.
GEN 10-39	INDIANA PUBLIC RETIREMENT SYSTEM (INPRS) QUARTERLY REPORT	PERMANENT. May microfilm according to 60 IAC 2 standards. Original may be retained in office or transferred to the Indiana State Archives pursuant to IC 5-15-6-6 at such time as original record no longer has official value but has historical value. If microfilmed, original may be destroyed upon receipt of written approval from the county commission of public records and Indiana Archives and Records Administration.
GEN 15-1	Ambulance Run Reports	Retention based on 836 IAC 1-1-5(c). DESTROY after seven (7) years.

	AUDIO, VIDEO & GENERAL MEDIA	
GEN 10-40	MICROFILM DOCUMENTATION FILE A written documentation list created and maintained for the microfilm based on the approved retention schedule (60 IAC 2-2- 3). See 60 IAC 2 for required contents of the file.	PERMANENT. Transfer copy to the Indiana State Archives.
GEN 10-41	PHOTOGRAPHS, VIDEO RECORDINGS, FILMS Typically consists of photographs of special events and activities of the office, general circulation or special purpose periodicals, intraoffice news, or other still photographs.	TRANSFER to the Indiana State Archives for evaluation, sampling, or weeding pursuant to archival principles one (1) calendar year after the date of the event or activity.
GEN 10-43	ROUTINE SURVEILLANCE RECORDINGS Disclosure of these records may be affected by IC 5-14-3-4(a) and the discretion of a public agency per IC 5-14-3-4(b) (1) & (6).	DESTROY after 30 days without the necessity of filing a Notice of Destruction unless one of the following conditions occurs before that time period elapses: (1) If the agency receives notice, actual or constructive, that evidence of illegal activity was captured, TRANSFER records to Record Series GEN 16-1 and follow the appropriate listed retention. (2) If the agency receives notice, actual or constructive, that evidence was captured resulting in

		a timely notice of tort claim under IC 34-13-3-8, DESTROY three (3) calendar years after action accrues. (3) If litigation occurs for which the record is admitted into evidence, the record becomes the responsibility of the court and is subject to Indiana Rules of Court, Administrative Rule 7.
GEN 16-1	LAW ENFORCEMENT RECORDINGS Includes vehicle dash camera and body camera footage from law enforcement agencies or divisions, as well as footage from any agency that is found to depict illegal activity.	DESTROY after 190 days unless one of the following conditions occurs before that time period elapses: (1) If an eligible party under IC 5.1(a) has requested a longer retention, or a complaint regarding a law enforcement activity depicted in the footage has been made, DESTROY after two (2) years. (2) If the agency receives notice, actual or constructive, that evidence was captured resulting in a timely notice of tort claim under IC 34-13-3-8, DESTROY three (3) calendar years after action accrues. (3) If litigation occurs for which the record is admitted into evidence, the record becomes the responsibility of the court and is subject to Indiana Rules of Court, Administrative Rule 7.

GEN 10-46	PROTECTED CRITICAL INFRASTRUCTURE INFORMATION Information received by the County and/or local Emergency Management Agency and/or partner agencies including public safety, health, fire and emergency medical services, from the Indiana Department of Homeland Security and/or the US Department of Homeland Security pursuant to 6 USC 131-135 and 6 CFR 29 regarding the security of critical infrastructure and protected systems, analysis, warning, interdependency study, recovery, reconstitution, and related purposes. Records include correspondence, reports, assessments, strategies, grant applications, drawings, specifications, plans, and risk planning documents in paper or electronic form. Disclosure of these records is affected by 6 USC 133(a)(1)(A)-(E) and 6 CFR 29.8. Retention period is based on high security-level of information and its duplicate existence at the Federal level.	DESTROY when outdated or replaced by subsequent records received from the Indiana Department of Homeland Security and/or the US Department of Homeland Security.
GEN 10-47	CRITICAL INFRASTRUCTURE INFORMATION Homeland security and counterterrorism records which may be intra-agency or interagency advisory or deliberative material (including material developed by a private contractor under a contract with a public agency). These may be expressions of opinion or of a speculative nature, and include: 1) administrative or technical information that would jeopardize a record keeping or security system, 2) computer programs, codes, filing systems, and other software, 3) portions of electronic maps entrusted to a public agency by a utility, and 4) school safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5. Records may include	DESTROY when outdated or replaced.

	correspondence, reports, assessments, strategies, grant applications, drawings, specifications, plans, and risk planning documents in paper or electronic form, as further described in IC 5-14-3-4(b)(6), (10), (11), (18) and 19. Disclosure of these records may be affected by the previously listed statutes. Retention is based on a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack should records be improperly disclosed.	
	Obsolete Records	
GEN 10-44	PERMANENT OBSOLETE RECORDS Chattel Mortgage Record [to 6/30/1935] Index to Chattel Mortgage Record [to 6/30/1935] Sire Lien Record [1889-1984] Stock Mark Record Apprentice Indenture Record County Newspapers [1 RS 1852, ch. 75; repealed Acts 1980, ch. 211, sec. 5] PR-6 (Township Trustee ONLY) – Register of Poor Relief Claims Twp. PR-7 – Poor Relief Statistical Report Twp. Form 369 – General Fixed Asset Account Group SD Form 309A/B – Cash Journal, Municipal Sewage Utility (short & long forms) SD Form 329A/B – Sewage Utility Voucher Register (short & long forms) County Clerk's copy of Coroner's Inquest Verdict and Written Report of Death (copy sent to County Clerk prior to 7/1/1994)	PERMANENT. DO NOT LAMINATE. May microfilm according to 60 IAC 2 standards. Original may be retained in office or transferred to the Indiana State Archives pursuant to IC 5-15-6-6 at such time as original record no longer has official value but has historical value. If microfilmed, original may be destroyed upon receipt of written approval from the county commission of public records and Indiana Archives and Records Administration.

GEN 10-45	NON-PERMANENT OBSOLETE RECORDS Chattel Mortgage Minute Book [1 July 1935 – 30June 1964] Index to Chattel Mortgage Receipts [1 July 1935 – 30 June 1964] Chattel Mortgage Receipts [1 July 1935 – 30 June 1964] Entry Book of Old-Age Pensions [1936-1945] Inheritance Tax Record [1913-1931] Fee Docket Premarital Examination Certificate [Confidential and NOT open to public inspection] Hunting and Fishing Report Twp. PR-1 – Application for Township Assistance Twp. PR-1A – Notice of Poor Relief Action Twp. PR-1B – Application for Additional or Continuing Township Assistance Twp. PR-2 – Purchase Order for Medical Relief Twp. PR-3 – General Purchase Order for Poor Relief Twp. PR-4 – Report of Medical Aid Rendered Twp. PR-7M – Mileage Claim for Poor Relief Investigation Twp. Form 7 – Estimate of Poor Relief Requirements Twp. PR-8 – Quarterly Poor Relief Report of Actual and Estimated Receipts	DESTROY.

(Ord. 2016-21, passed 9-21-16)

§ 00-03-32-10 Contractor's Employee Drug Testing Program

(A) *Applicability*. This section applies to all public work projects estimated, by the Town, to cost at least $150,000.00.

(B) *Contractor Employee Drug Testing Program*. Each contractor that submits a proposal bid for a public works project in the amount of $150,000 or more is required to submit, with that bid, a written plan for a program to test the contractor's employees for drugs. The plan shall be incompliance with Indiana Code § 4-13-18. The plan must be submitted to the Director of Public Works by email or a physical copy may be mailed to the Public Works Department. This plan must be submitted by the time set for receipt of proposal bids.

(C) If the contractor fails to comply with the requirements of section (B) or if the Town determines that the contractor's employee drug testing program has not been in effect or has not been applied at the time the contractor submitted the bid, then the contractor shall not be eligible to be awarded the public works contract under this section.

(Ord. 2018-27, passed 11-7-18)

TOWN FEES

§ 00-03-32-15 PUBLIC RECORDS GENERAL COPY FEES

(A) Fees reflecting the actual cost of photocopying, or reproducing public records through other means, shall be charged to all persons requesting copies of public records, except for:

(1) Town officials and employees seeking copies of records in the course of performing the responsibilities of their public office or municipal employment; and

(2) Requests for only one or two photocopied sides on 8.5 inch by 11 inch sheets of paper, as long as the person making the request did not make a prior non-chargeable copy request within the previous 24 hours.

(B) Except for public record described in division (D) below, fees which reflect the actual cost of photocopying public records that shall be charged are as follows:

(1) Each photocopied side on an 8.5 inch by 11 inch sheet of paper: $.10.

(2) Each photocopied side on an 8.5 inch by 14 inch sheet of paper: $.12.

(C) Except for public records described in division (D) below, fees which reflect the actual cost of printing records maintained on the town's computer system that shall be charged are as follows: Each sheet of computer paper (as determined by perforations in continuous feed paper, generally 15 inch by 11 inch) that is used to produce the information requested: $.12.

(D) Any public record for which a state statute prescribes a specific charge for document reproduction or photocopying shall be provided for the fee prescribed by the statute. Any

documents published by the town in a bound manual or binder, produced in quantities sufficient for and intended to be offered for public purchase, shall be provided for the fee the town has determined as reflecting the cost of publication.

(E) Since the town does not have the means for creating duplicates of cassette tapes used to copy recordings of the meetings of the Town Council and other boards and commissions in a format compatible with conventional tape players, fees in the amount of the actual cost to the town of having an outside business make copies of cassette tapes of the town shall be charged. (Ord. 2002-7, passed 4-4-2002)

§ 00-03-32-16 VEHICLE ACCIDENT REPORTS.

A fee of $10 shall be charged for furnishing duplicates of a motor vehicle accident report prepared by the Police Department. This fee shall be deposited into the Local Law Enforcement Continuing Education Fund and used for education and training of law enforcement officers as provided for by Indiana law.
(Am. Ord. 2005-06, passed 8-3-2005; Am. Ord. 2007-03, passed 6-20-2007; Am. Ord. 2011-15, passed 12-7-2011)

§ 00-03-32-17 CRIMINAL HISTORY REPORTS.

(A) The town Police Department is hereby authorized to obtain for a fee of $7, payable in cash or the equivalent thereof, an individual's personal criminal history, and to provide a true and accurate copy thereof to the individual requesting his or her own personal criminal history.

(B) The Chief of Police/Town Marshal shall establish procedures to accurately determine the proper identity of the person requesting his or her criminal history, and the Chief is further authorized and empowered to create or obtain an authorization form to be signed by any person requesting his or her personal criminal history prior to the furnishing of a history to the person so requesting same, and an authorization form shall include a disclaimer and release of liability in favor of the town and its agents, servants, employees, and police officers from any and all claims which might arise from the furnishing of the criminal history.
(1996 Code, § 00-03-33-09) (Ord. 1995-8, passed 5-3-1995)

Editor's Note:

There are numerous other fees charged for town services, including, but not limited to: public works fees, set forth in Title V of this code; business regulation fees, set forth in Title XI of this code; land use regulation fees, set forth in the town's land usage ordinances which are separate from this code; fees established by state statutes, e.g., the handgun license application fee of $10 established by I.C. 35-7; and fees for the use of municipal facilities. A schedule of these fees is available at the Clerk-Treasurer's office.

§ 00-03-32-18 PARK FACILITIES FEES.

(A) Park facilities fees.

Cumberland Park Facilities	Rental Fee Charged Residents	Rental Fee Charged Non-Residents

Whole park grounds	$150 per day	$150 per day
Small shelter facility	$25 per day	$50 per day
Large shelter facility	$50 per day	$75 per day
Baseball field	$30 per event	$30 per event
Volleyball court	$30 per event	$30 per event
Tennis court	$15 per event	$15 per event
Basketball court	$15 per event	$15 per event

(B) In addition to the above applicable rental fee, applicable state sales tax shall be charged and a damage deposit equal to the amount of the rental fee shall be provided. If the facility rented is found to be damaged or in need of clean-up as a result of the rental use, all or part of the damage deposit will be forfeited to pay for the cost of the needed repairs or clean-up. (Ord. 2006-03, passed 7-19-2007; Am. Ord 2017-06, passed 6-7-2017)

§ 00-03-32-19 POLICE DEPARTMENT COPY FEES

(A) The following fees are authorized to be charged by the Police Department for copy fees, unless Indiana law provides otherwise:

ITEM	FEE
Photographs	$0.31 per photograph
Video tape, other than Law Enforcement Recordings as defined by Ind. Code § 5-14-3-2	$5.00 per video tape
Law Enforcement Recordings	$150.00 per copy
Audio tape	$5.00 per audio tape
Incident Report	$0.10 per page
Accident Reproof	$10.00 per report
Reports over 50 pages	$0.04 per page
Finger prints*	$5.00 per card
Vehicle Identification Check	$5.00

Criminal History Check	$7.00
Notary Service	$2.00
Other copying	$0.10 per page

*There shall be no fee for finger prints of children less than 18 years old Requested by a parent or guardian for purposes of child safety and identification.

(B) These fees shall be deposited as follows:

(1) Policy Copy Fee Funds: All fees charged for photographs, video tapes, audio tape, incident reports, reports over 50 pages, fingerprints, criminal history check, notary services, and other copying shall be deposited into the Police Copy Fee Fund. These funds shall be used to pay or supplies, charges, services, and equipment used to provide these services.

(2) Local Law Enforcement Continuing Education Fund. All fees charged for accident reports and vehicle identification checks shall be deposited into the Local Law Enforcement Continuing Education Fund. These funds shall be used for education and training of law enforcement officers as provided by Indiana law.

(3) Law Enforcement Recordings Fee Fund. All fees charged for copying Law Enforcement Recordings shall be deposited into the Law Enforcement Recordings Fee Fund. These funds shall be used to purchase cameras and other equipment for use in connection with the Chief of Police's law enforcement recording program, for training on law enforcement recordings, and to defray the expenses of storing, producing, and copying law enforcement recordings.

(Ord. 2008-02, passed 2-20-2008; Am. Ord. 2011-15, passed12/7/2011; Am. Ord. 2013-16, passed 1/8/2014; Amd. Ord 2016-19, passed 9-21-16)

§ 00-03-32-20 FIREARMS TRAINING FUND

(A) Handgun Registration Fees: The following fees are authorized for handgun registration:

4-year license	$10.00
Lifetime License	$50.00
Lifetime with valid license	$40.00

(B) Firearms Training Fund. All fees charged for handgun registration shall be deposited into the Firearms Training Fund. These funds shall be used for the purchase of firearms, ammunition, training supplies and body armor.

(Ord. 2011-15, passed 12/7/2011)

§00-03-32-21 CASH TRANSACTIONS FOR TOWN FEES

(A) The Town of Cumberland will not accept cash as an acceptable method of payment for any transaction totaling an amount greater than $5.00. For transactions totaling an amount greater than $5.00, the Town of Cumberland will only accept money order, credit/debit card, and personal checks and other cash equivalents.

(B) For transactions $5.00 or less, the Town of Cumberland may accept cash. All Town employees shall follow the cash handling procedure designated in the Employee Handbook for every transaction involving cash.

(C) This policy excludes all Town sponsored events where the Town sells items such as merchandise, novelties, food, beverage, etc.

(Ord. 2016-5, adopted 4-20-2016; Am. Ord 2018-32, passed 11-20-18)

§00-03-32-22 CUMULATIVE CAPITAL DEVELOPMENT FUND

(A) Cumulative Capital Development Fund Establishment. The Cumberland Town Council hereby establishes the Cumulative Capital Development (CCD) Fund pursuant to Indiana Code § 6-1.1-41, to be used for the purposes allowed and set forth in Indiana Code § 36-9-15.5, and now establishes the rate to be $0.0167 per $100 assessed valuation on all taxable real property in Cumberland, Indiana.

(B) Tax Rate. The Cumberland Town Council now levies a property tax to provide funds to the CCD Fund. The property tax will not exceed $0.0167 per $100 of assessed valuation. This tax rate will be levied beginning with taxes for 2017 and payable in 2018.

(C) DLGF Approval. The Cumberland Town Council directs the Town of Cumberland Clerk-Treasurer to submit, to the Indiana Department of Local Government Finance, all proofs of publication of the notices to affected taxpayers and the Council's public hearing held on February 10, 2017 and a certified copy of this ordinance, as provided by Indiana Code § 6-1.1-41-4, as the Town's proposal for establishing the CCD Fund and imposing a tax levy by the Town to be approved by the Department of Local Government Finance. This proposal must be submitted to the Indiana Department of Local Government Finance by August 1, 2017, in accordance with Indiana Code § 6-1.1-41-5.

(D) Publication of Notice of Adoption. The Clerk-Treasurer shall publish notice of adoption of this ordinance within 30 days of the adoption of this ordinance.

(E) Advertisement. The Clerk-Treasurer shall annually advertise this tax levy in the same manner as other tax levies are advertised.

(F) Repeal of Conflicting Ordinances. The provisions of all other Town ordinances in conflict with the provisions hereof, if any, are of no further force or effect and are hereby repealed.

(G) Duration and Effective Date. The provisions of this Ordinance shall become effective immediately and remain in full force and effect until repealed by ordinance.

(Ord. 2016-12, passed 7-20-16. Amd. Ord 2017-01, passed 3-1-2017)

§ 00-03-32-23 IMPOSITION OF TOWN WHEEL TAX

(A) *Imposition of Rate of Wheel Tax.* A Wheel Tax of twenty dollars ($20.00) shall be imposed on the following classes of vehicles registered in the Town of Cumberland:

(1) Buses;

(2) Recreational Vehicles;

(3) Semitrailer;

(4) Tractors;

(5) Trailers: and,

(6) Trucks;

(B) *Exempted Vehicles.* A vehicle is exempt from the imposed Wheel Tax if the vehicle is:

(1) Owned by the State;

(2) Owned by a state agency of the State;

(3) Owned by a political subdivision of the State;

(4) Subject to the annual license excise surtax imposed under Ind. Code § 6-3.5-10;

(5) A bus owned and operated by a religious or nonprofit youth organization and used to transport persons to religious services or for the benefit of its members;

(6) A school bus; or,

(7) A motor vehicle that is funeral equipment and that is used in the operation of funeral services.

(C) *Motor Vehicles subject to Wheel Tax.* A vehicle is subject to the Wheel Tax if the vehicle is registered in the Town of Cumberland after December 31, 2018 pursuant to Ind. Code § 6-3.5-11-5. However, in the first year the tax is effective, the tax does not apply to the registration of a motor vehicle for the registration year that commenced in the calendar year preceding the year the tax is first effective.

The Town Council shall send a copy of the ordinance imposing the Wheel Tax and a copy of a letter from the Department of Transportation approving the Town's transportation asset management plan to the BMV and the Department of State Revenue on or before September 1st following the adoption of the ordinance.

(D) *Rescission of Wheel Tax and Annual License Excise Surtax.* After January 1 but on or before September 1 of any year, the Cumberland Town Council may adopt an ordinance to rescind the Wheel Tax. If the Town Council adopts an ordinance to rescind the Wheel Tax, the Wheel Tax does not apply to a vehicle registered after December 31 of the year the ordinance is adopted.

The Town Council may not adopt an ordinance to rescind the Wheel Tax unless the Town Council concurrently adopts an ordinance under Ind. Code § 6-3.5-10 to rescind the annual license excise surtax.

Town Council shall send a copy of an ordinance rescinding the Wheel Tax and a copy of a letter from the Department of Transportation approving the Town's transportation asset management plan to the BMV and the Department of State Revenue on or before September 1 following the adoption of the ordinance.

(E) *Increase or Decrease of Wheel Tax*. The Town Council may adopt an ordinance to increase or decrease the Wheel Tax rates. New rates adopted after December 31 but on or before September 1 apply to vehicles registered after December 31 of the year the ordinance to change the rates is adopted. New rates adopted after September 1 but before January 1 apply to vehicles registered after December 31 of the year following the year in which the ordinance is adopted.

If the Town Council adopts an ordinance to increase or decrease the Wheel Tax, the Town Council shall send a copy of the ordinance and a copy of a letter from the Department of Transportation approving the Town's transportation asset management plan to the BMV and the Department of State Revenue on or before September 1 following the adoption of the ordinance.

(F) *Credit of Wheel Tax upon Sale of Vehicle*; *Refund of Unused Credit*. Every owner of a vehicle for which the Wheel Tax has been paid for the owner's registration year is entitled to a credit if, during the registration year, the owner sells the vehicle. The amount of credit equals the Wheel Tax paid by the owner for the vehicle that was sold. The credit may be applied by the owner only against the Wheel Tax owed for a vehicle that is purchased during the same registration year. An owner is not entitled to a refund or any part of a credit that is not used under this section.

(G) *Payment of Wheel Tax*. A person may not register a vehicle subject to the Wheel Tax in the Town of Cumberland unless the person pays the Wheel Tax due. Payments must be made to the BMV. The BMV shall collect the Wheel Tax due, if any, at the time the motor vehicle is registered.

(H) *Apportioned Tax for Certain Commercial Vehicles*; *Payment Voucher*. An owner of one or more commercial vehicles paying an apportioned registration to the state under the International Registration Plan that is required to pay a Wheel Tax shall pay an apportioned Wheel Tax calculated by dividing in-state actual miles by total fleet miles generated during the preceding year. If in-state miles are estimated for purposes of proportional registration, these miles are divided by total actual and estimated fleet miles. The apportioned wheel tax under this section shall be paid at the same time and in the same manner as the commercial vehicle excise tax under Indiana Code § 6-6-5.5.

A voucher from the department showing payment of the wheel tax may be accepted by the BMV instead of the payment required under section (G) of this ordinance.

(I) *Remittance of Collected Tax; Wheel Tax Collection Report*. On or before the tenth day of each month, the BMV must remit the Wheel Tax to the Town of Cumberland

Clerk-Treasurer. Concurrently with the remittance, the BMV shall file a Wheel Tax collections report prepared on forms prescribed by the State Board of Accounts with the Cumberland Clerk-Treasurer.

If the wheel tax is collected directly by the BMV instead of at a branch office, the commissioner of the BMV will remit the Wheel Tax to, and file a wheel tax collections report with, the Cumberland Clerk-Treasurer in the same manner and at the same time that a branch office manager is required to remit and report under (H) of this ordinance.

If the wheel tax for a commercial vehicle is collected directly by the department, the commissioner of the department shall remit the Wheel Tax to, and file a wheel tax collections report with, the Cumberland Clerk-Treasurer in the same manner and at the same time that a branch office manager is required to remit and report under (H) of this ordinance.

(J) *Town of Cumberland Wheel Tax Fund; Use*. The Clerk-Treasurer will deposit the Wheel Tax revenues in a fund to be known as the "Town of Cumberland Wheel Tax Fund". The Town may use the wheel tax revenues only:

(1) to construct, reconstruct, repair, or maintain streets and roads under its jurisdiction;

(2) as a contribution to an authority established under Indiana Code 36-7-23; or,

(3) for the Town's contribution to obtain a grant from the local road and bridge matching grant fund under Indiana Code 8-23-30.

(K) *Estimate of Wheel Tax Revenues*. On or before August 1 of each year, the Clerk-Treasurer will provide the Town Council with an estimate of the Wheel Tax revenues to be received by the Town during the next calendar year. The Town will include the estimated Wheel Tax revenues in the Town's budget estimate for the calendar year.

(L) *Violations*. The owner of a vehicle who knowingly registers the vehicle without paying the wheel tax imposed under this chapter with respect to that registration commits a Class B misdemeanor

(Ord. 2017-18, passed 12-6-17)

§ 00-03-32-24 IMPOSITION OF MOTOR VEHICLE LICENSE EXCISE SURTAX.

(A) *Imposition of Rate of Motor Vehicle License Excise Surtax.* A Motor Vehicle License Excise Surtax ("surtax") of $20.00 shall be imposed on the following motor vehicles registered in the Town of Cumberland:

(1) Passenger vehicles;

(2) Motorcycles;

(3) Trucks with a declared gross weight that does not exceed 11,000 pounds; and,

(4) Motor driven cycles.

This surtax shall be paid each year at the time the vehicle is registered.

(B) *Motor Vehicles subject to Surtax*. A vehicle is subject to the surtax if the vehicle is registered in the Town of Cumberland after December 31, 2018 pursuant to Ind. Code § 6-3.5-10-3. However, in the first year the surtax is effective, the surtax does not apply to the registration of a motor vehicle for the registration year that commenced in 2018.

The Cumberland Town Council ("Council") shall send a copy of this ordinance imposing the surtax and a copy of a letter from the Indiana Department of Transportation ("INDOT") approving the Town's transportation asset management plan to the Bureau of Motor Vehicle ("BMV") on or before September 1st following the adoption of the ordinance.

(C) *Rescission of Surtax*. After January 1 but before September 1 of any year, the Council may adopt an ordinance to rescind the surtax. If the Council adopts an ordinance to rescind the surtax, the surtax does not apply to a motor vehicle registered after December 31 of the year in which the ordinance is adopted.

The Council cannot adopt an ordinance to rescind the surtax unless the Council concurrently adopts an ordinance to rescind the municipal wheel tax pursuant to Ind. Code § 6-3.5-11.

The Council must send a copy of an ordinance rescinding the surtax and a copy of a letter from INDOT approving the Town's transportation asset management plan to the BMV on or before September 1 of the following calendar year.

(D) *Increase or Decrease of Surtax*. The Council may adopt an ordinance to Increase or decrease the surtax. An ordinance establishing a new amount adopted after December 31 but on or before September 1 of the following year applies to motor vehicles registered after December 31 of the year the ordinance is adopted. An ordinance establishing a new amount adopted after September 1 but before January 1 of the following year applies to motor vehicles registered after December 31 of the year following the year the ordinance is adopted.

The Council must send a copy of an ordinance increasing or decreasing the surtax and a copy of a letter from INDOT approving the Town's transportation asset management plan to the BMV on or before September 1 of the following calendar year.

(E) *Payment of Surtax Required to Register Motor Vehicle; Amount; Collection*. A person may not register a motor vehicle in the Town unless the person pays the surtax due, if any, to the BMV. The BMV shall collect the surtax due, if any, at the time the vehicle is registered.

(F) *Adjustment of Surtax*. If a vehicle has been acquired or brought into Indiana, or for any other reason becomes subject to registration after the regular annual registration date in the year on or before which the owner of the vehicle is required under the motor vehicle registration laws of Indiana to register vehicles, the amount of the surtax shall be reduced in the same manner as the excise tax is reduced under Indiana Code § 6-6-5-7.2.

The owner of a vehicle who sells the vehicle in a year in which the owner has paid the surtax imposed by this chapter is entitled to receive a credit that is calculated in the same manner and subject to the same requirements as the credit for the excise tax under Ind. Code § 6-6-5-7.2.

If the name of the owner of a vehicle is legally changed and the change has caused a change in the owner's annual registration date, the surtax liability of the owner shall be adjusted in the same manner as excise taxes are adjusted under Indiana Code § 6-6-5-7.2.

(G) *Remittance of Collected Surtax; Surtax Collections Report.* On or before the tenth day of the month following the month in which the surtax is collected, the BMV must remit the surtax revenue to the Town of Cumberland Clerk-Treasurer. Concurrently with the remittance, the BMV must file a surtax collections report prepared on forms prescribed by the State Board of Accounts with the Town of Cumberland Clerk-Treasurer.

(H) *Cumberland Surtax Fund; Use*. The Clerk Treasurer shall deposit the surtax revenues in the "Cumberland Surtax Fund." The Town may use the surtax revenues to construct, reconstruct, repair, or maintain streets and roads under the Town's jurisdiction or for the Town's contribution to obtain a grant from the local road and bridge matching grant under Ind. Code § 8-23-30.

(I) *Report of Estimate of Anticipated Surtax Revenue; Budget*. On or before October 1 of each year, the Cumberland Clerk-Treasurer shall provide the Council with an estimate of the surtax revenues to be received by the Town during the next calendar year. The Council shall include the estimated surtax revenues in the Town's budget estimate for the calendar year.

(J) *Violations*. The owner of a vehicle who knowingly registers the vehicle without paying the surtax commits a Class B misdemeanor.

(Ord 2017-19, passed 12-6-2017)

PURCHASING

§ 00-03-32-30 PURCHASING POLICY

(A) **Purchasing Agency:** The Town Council will serve as the purchasing agency for the Town.

(B) **Powers and Duties of Purchasing Agency:** The Town Council, as the Town's purchasing agency, will have all powers and duties under Indiana Code §5-22, as amended, as may be supplemented from time to time by ordinance and policies adopted by the Town Council.

(C) **Authority:** The Town Council will act as the purchasing agency for every agency, board, office, branch, bureau, commission, council, department, or other establishment of the Town.

(D) **Designation of Purchasing Agents:** The Town Council designates the Cumberland Clerk-Treasurer, Town Manager, Assistant Town Manager, Public Works Director, Deputy Public Works Director, Police Chief, and any Special Project Administrator as designated by the Town Council as purchasing agents for the Town, subject to any and all

limitations of their authority as established by statue or established by policy or procedure of the Town.

(E) **Limitations on Authority of Purchasing Agents:** Subject to the policies and procedures of the Town, the Clerk-Treasurer, Town Manager, Director of Public Works, and Police Chief may purchase and, if necessary, enter into contracts for supplies, goods, and/or services with an estimated cost of less than $5,000 on the open market without inviting or receiving quotes. The Assistant Town Manger and Deputy Director of Public Works may purchase, and if necessary, enter into contracts for supplies, goods, and/or services with an estimated cost of less than $2,500 on the open market without inviting or receiving quotes. A Special Project Administrator may purchase, and, if necessary, enter into contracts for supplies, goods, and/or services with an estimated cost of less than $3,000 on the open market without inviting or receiving quotes.

(F) **Duty of Purchasing Agents to Comply with Law and Policies:** Designated purchasing agents must comply with all provisions of Indiana law and Town policy and procedure when purchasing supplies with an estimated value of $5,000 or more.

(G) **Procedure for Requesting and Receiving Quotes for Certain Public Works Projects.**

(1) *Applicability*. This section applies to all public work projects estimated, by the Town, to cost less than $50,000. This procedure does not apply for resurfacing of a road, street, or bridge unless the weight or volume of material in the project is capable of accurate measurement and verification and the specifications define the geographic point at which the project begins and ends.

(2) *Procedure*. The Cumberland Town Council will invite quotes from at least three persons known to deal in the class of work proposed to be done by either of the following methods:

(a) *Mail*. The Town Council may mail notice inviting quotes and stating the plans and specifications on file in the Public Works Department. This notice will be mailed at least seven days before the time fixed for receiving quotes. Persons mailed this notice are not required to submit a quote before the Town Council meeting at which the quotes are to be received and opened.

(b) *Telephone or Electronically***.** The Town Council may solicit quotes by telephone, facsimile transmission, or electronic mail. The seven-day waiting period required under section (B)(1) does not apply to quotes solicited under this section.

(3) *Opening and Reading Quotes*. All quotes received pursuant to this policy will be opened publicly and read aloud at the time and place designated in the solicitation for quotes. The Town Council will announce the person who submitted each quote and the amount of each quote.

(4) *Awarding of Contract*. The Town Council will award the contract for the public work project to the lowest responsible and responsive quoter.

(5) *Rejection of Quotes*. The Town Council may reject all quotes submitted. If the Town Council rejects all quotes, the Town Council may negotiate and enter into

agreements for the work in the open market without inviting or receiving quotes if the Town Council establishes in writing the reasons for rejecting the quotes.

(Ord. 1998-5, passed 6-3-1998; Am. Ord. 2013-10, passed 8/21/2013; Am. Ord. 2016-14, passed 8-3-16; Am. Ord 2016-22, passed 10-5-16; Am. Ord 2017-05, passed 06/7/17.; Am. Ord 2017-31, passed 12-6-2017; Am. Ord. 2018-26, passed 11-7-18)

§ 00-03-32-31 PURCHASING RULES.

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

(A) The supplies are not manufactured in the United States in reasonably available quantities:

(B) The prices of the supplies manufactured in the United States exceed by an unreasonable amount the price of available and comparable supplies manufactured elsewhere;

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

(D) The purchase of supplies manufactured in the United States is not in the public interest.
(Ord. 5, passed 6- --1998)

§ 00-03-32-32 TRAVEL POLICIES

The following policies will be used to reimburse Town officials and employees for travel accommodations when such travel is budgeted and authorized by the Town Council:

(A) **Approval of Travel to Conferences**. All travel to conferences shall be approved by the Town Council President. The President may approve travel one day before the conference begins and the day following the conference if, in the President's discretion, travel is necessitated because of the schedule of the conference.

(B) **Per Diem for Travel to Conferences.** Town officials and employees traveling to conferences on official town business may claim reimbursement for meals, tax on meals, gratuities, and other incidental expenses. The maximum amount of reimbursement for these expenses will be calculated by taking the number of approved travel days, multiplied by the per diem for federal employees in the zip code the Town official or employee is traveling. These per diems are annually determined and published by the United States General Service Administration. The official or employee must submit all receipts to the Clerk-Treasurer. The Clerk-Treasurer must pay all properly submitted claims within the allotted expense limit.

(Ord. 1007-06, passed 11-7-1-2007; Am. Ord. 2011-16, passed 12-7-2011; Am. Ord. 2017-16, passed 9-6-2017)

§ 00-03-32-33 CREDIT CARDS RULES

(A) The issuance and use of credit cards by the various departments and other units of the town that are subject to the Town Council's oversight is hereby authorized and allowed.

(B) At the Clerk-Treasurer's discretion and on such terms as he or she deems advisable, the Clerk-Treasurer of the town is hereby authorized to negotiate with banks and other financial institutions and with suppliers and service providers to the town to obtain credit cards and purchasing cards (collectively "credit cards") for the use and benefit of any and all department and other operating units of the town that may require them to operate efficiently. The Clerk-Treasurer is further authorized and empowered to apply for and execute on behalf of the town credit applications and any other documentation required to obtain those cards for those departments and operating units. The Clerk-Treasurer is further authorized to pay all annual fees assessed for the use of these credit cards. For purposes of this section, annual fees includes, but is not limited to, membership fees, service fees, and renewal fees.

(C) Unless a higher limit is authorized by this Town Council for the appropriate fiscal body for that department or operating unit, the credit limit for such cards shall be $5,000 per department.

(D) The regulation and usage of credit cards shall be the responsibility of the directors, chief, superintendent, or other department head of each of the various departments and operating units of the town, and that person shall be the custodian and any departmental credit card(s). No employee shall use a card issued to another employee.

(E) Departmental credit cards may be used only for lawful charges of expenses related to and necessary for the effective operation of that department. Such uses include but are limited to:

(1) Purchasing of supplies and equipment for the use and benefit of the department;

(2) Travel and lodging expenses of departmental personnel while traveling on approved municipal business;

(3) Meal expenses of departmental personnel while traveling on approved municipal business, provided that any such expense may not exceed any authorized per diem for meal. Reasonable tips or gratuities are allowed as meal expenses if service is provided as part of the meal.

(4) Approved training and education costs for departmental personnel; and

(5) Any other use required for the efficient operation of the department when use of vouchers, checks, or other means of credit are not possible, provided that said use had been approved by the department head.

(F) When the purpose for which credit has been used is accomplished, the card must be returned to the authorized custodian of the card.

(G) The authorized custodian of any credit cards must maintain an accounting system concerning their use, which shall include the names of the individuals requesting and using the cards, their positions, the estimated amount and purpose of any charges, and the date

and time the card is taken return. The custodian shall also obtain and keep all charge receipts and other documentation supporting the charges.

(H) (1) Within seven days of use of a town credit card, the employee using the credit card shall deliver to the authorized custodian of the car the following documents:

(a) A claim form for the charges made signed by the employee;

(b) Original receipts and/or invoices for the charges; and

(c) Any other documentation requested by the town which supports the claim.

(2) IF the employee loses the original receipt and/or invoice, the employee shall provide a duplicate receipt and/or invoice or an affidavit of lost receipt.

(I) Within seven days of receiving the required documentation, the authorized custodian shall deliver the documentation to the Clerk-Treasurer for processing.

(J) Any interest, late charges, or other fees resulting from the tardy submission of credit card receipts by any officer or employee shall be the personal responsibility of that officer or employee to pay.

(K) The credit cards may not be used for the following.

(1) Personal use:

(2) Purchase of alcohol:

(3) Any illegal purpose:

(4) To bypass, the town's accounting system or purchasing policies.

(L) Any misuse of a Town credit card may result in disciplinary action up to and including termination.

(M) Any Town credit card must be surrendered immediately at separation from employment."

(Ord. 2009-15, passed _____-2015)

USE OF TOWN FACILITIES

§ 00-03-32-40 USE OF TOWN FACILITIES

(A) Permit Required

(1) It is unlawful for any person to hold, conduct, or participate in any public meeting or assembly, in or upon any public facility in the town without obtaining a permit in compliance with the provisions of this section.

(B) Exceptions

(1) This article shall not apply to any of following:

(a) Funeral processions;

(b) A governmental agency acting within the scope of its functions.

(C) Permits

(1) Applications for permits must be submitted, in writing, to the Cumberland Town Manager's Office not less than 15 days before the date of the proposed activity.

(2) The Town Manager's Office shall develop applications and fees for Town Facility Use Permits.

(3) The Town Manager, upon due consideration of the application, as well as any other pertinent information, may issue a permit upon making a finding that:

- The proposed activity will not substantially interrupt the safe and orderly movement of traffic;

- The concentration of persons, animals, and vehicles will not interfere with proper fire and police protection services to the area;

- The conduct of the activity is not reasonably likely to cause injury to persons or property;

- The activity is not being held for the sole purpose of advertising goods or merchandise of a particular business establishment or vender; and

- The activity is not being held for the sole purpose of religious worship or other similar activities;

(D) Special Conditions Applicable

(1) The Town Manager shall have authority to impose conditions as are necessary to insure that all of the findings made above shall exist during the continuation of the activity. Conditions to the issuance of any permit shall be stated in the permit.

(E) Duty of Permittee

(1) A permittee shall comply with all terms and conditions of the permit and with all applicable laws and ordinances.

(2) The written permit obtained shall be carried by the person heading or leading the activity for which the permit was issued.

(F) Revocation of Permit

(1) The Chief of Police or Town Manager may revoke any permit issued upon the failure to comply with the terms and conditions of the permit.

(G) Permit Fees

(1) The fee for a permit shall be detailed in the permit application. Fees must be payable upon issuance of the permit. No permit shall be issued until the fee has been paid in full.

A facility use permit fee may be waived upon the determination of the Town Manager that the activity, public meeting or assembly makes a major civil contribution to the town the Town.

(Ord. 2010-18, passed 9/15/2010, AMD by Ord. 2017-09, passed 6/7/2017)

H1N1 POLICY

§ 00-03-32-50 H1N1 POLICY.

The H1N1 influenza (a.k.a swine flu) became a public health threat I the Spring of 2009. During the latter half of 2009 the town established an emergency management planning committee to establish a policy to address the H1N1 influenza. In preparation for a potential outbreak in town or I the case of employees coming down with H1N1 or seasonal influenza, the following policy has been adopted.
(Ord. 2010-04, passed 4-21-2010)

§ 00-03-32-51 COMMUNICABLE DISEASE RESPONSE.

(A) *Purpose*. The purpose of this subchapter is to establish procedures for quarantining, isolating or evacuating areas in response to an infectious disease outbreak. It is the purpose of the Police Department to take into consideration all federal, state and municipal medical procedures and standards when dealing with an incident.

(B) *Policy*. It is the goal of the Police Department to minimize risk to the officers and town employees during an outbreak while as the same time making every effort to provide a safe and secure environment to all persons who may be combined within a contaminated area or facility.
(Ord. 2010-04, passed 4.21.2010)

§ 00-03-32-52 DEFINITIONS.

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

COMMUNICABLE DISEASES. An illness caused by a specific infectious agent or its toxic products that arises through transmission of an agent or its products from an infected person, animal or inanimate source to a susceptible host, either directly or indirectly through an intermediate plant or animal host, vector or the inanimate environment. A single case of disease long absent from a population may require immediate investigation (Control of Communicable Diseases Manual 18th Edition.)

CONTAGIOUS/QUARANTINABLE DISEASES. Cholera; diphtheria; infectious tuberculosis; plague; smallpox; yellow fever; and viral hemorrhagic fevers (lassa, Marburg, ebola, and acute respiratory syndrome (SARS). May include viral influenza during a pandemic or other novel and highly infectious diseases (presidential executive order 13295, and 25-1-650, C.R.S.)

EPIDEMIC. Cases of an illness or condition, communicable or non-communicable, ceased by bioterrorism, pandemic influenza, novel and highly fatal infectious agents or biological toxins (24-32-2103, C.R.S.) Local, regional or statewide event.

HEALTH AUTHORITY. Marion/Hancock County Health Department, Indiana State Health Department, CDC or other recognized entity.

ISOLATION. The separation of persons who have a specific infectious disease from those who are healthy, and the restriction of their movement to stop the spread of disease (CDC).

PANDEMIC. An epidemic occurring over a very wide area (several countries or continents) and usually affecting a large population (CDC) statewide, national region, national or larger event.

PANDEMIC INFLUENZA. A widespread epidemic of influenza caused by a highly virulent strain of the influenza virus (24-32-2103, C.R.S.).

PATIENT. Any person identified as being infected or possibly infected until cleared by medial staff.

QUARANTINE. Quarantine refers to the separation and restriction of movement of persons who while not yet ill have been exposed to an infectious agent and therefore may become infectious (CDC).
(Ord. 2010-04, passed 4-21-2010)

§ 00-03-32-53 COMMUNICATION AND EDUCATION.

(A) When an epidemic or pandemic has been confirmed in the Indianapolis Metro area by a health authority, consultation will be made with the Town Manager and/or Chief of Police, the departments' medical provider or other health authority to determine what additional medical screening processes may need to be implemented in an effort to identify employees who display signs or symptoms consistent with the declared epidemic or pandemic.

(B) The departments' health care provider will meet with the department's command staff, the appointed incident commander, and others identified by the Town Manager or designee to determine a proposed course of action for the evaluation, diagnosis and treatment of

town personnel creation of informational material for employees that includes basic information about the contagion, transmission routes, precautions to limit transmission, signs and symptoms to look for (self screening) and other information as may be appropriate. Appropriate personal protective equipment will be identified, procures and issued as necessary and appropriate to town employees.

(C) Educational material should be read in briefings for town personnel.

(D) During cold and flu season, staff should be encouraged to obtain flu shots or take advantage or other means shown to reduce the livelihood of infection from seasonal cold/flu. (Ord. 2010-04, passed 4-21-2010)

§ 00-03-32-54 EMPLOYEES WITH H1N1.

(A) Employees that become ill with flu-like symptoms may be asked to go home. Employees may use earned sick or vacation time.

(B) Employees that have H1N1 or flu-like symptoms will not be permitted to return to work until they have been without a fever for 24-hours and without fever reducing mediation, like Tylenol.

(C) Employees with H1N1 or flu-like symptoms may use earned sick or vacation time for the work missed. If an employee does not have earned sick or vacation time to utilize, the employee will be permitted to stay home without penalty, but it will be unpaid time off.

(D) Employees that see a doctor for an initial diagnosis shall bring in a doctor's note. Employees that have flu-like symptoms and stay home from work will be excused for no more than five consecutive days without a doctor's notice.
(Ord. 2010-04, passed 4-21-2010)

§ 00-03-32-55 EMPLOYEES CARING FOR FAMILY MEMBERS WITH H1N1.

(A) Employees caring for family members affected by H1N1 will be excused from work without a doctor's note. If a doctor is consulted, a note stating the family member's illness shall be presented to the employee's supervisor upon return to work.

(B) Employees should monitor their health upon returning to work.

(C) Employees caring for ill family members may use earned sick or vacation time. (Ord. 2010-4, passed 4-21-2010)

§ 00-03-32-56 SEVERE OUTBREAKS.

In the event of a severe outbreak of H1N1:

(A) If schools or childcare centers close:

(1) In the event local schools and/or childcare centers close, parents of a student may stay home to care for the child (children);

(2) An employee may be permitted to telecommute from home if approved by the employee's department head and if the employee has access to adequate infrastructure to complete said work. Employees that work in the field will not be permitted to telecommute.

(3) Employees may use earned vacation or sick time during their absence.

(B) Multiple absences within a Town Department.

(1) The Town Council President shall be made aware of the absences.

(2) Town Departments will remain operational as long as there is at least one individual on site to represent the department.

(3) In the event that service delivery will be delayed, each department will be responsible for posting notice as to essential services that will be delayed due to an outbreak of H1N1.

(C) Town Hall closure.

(1) The Town Manager shall consult with the Town Council President upon making determinations to close Town Hall or operate under essential personnel and services only.

(2) Town Hall will remain open and operate on essential personnel and services only I the event of a severe outbreak of H1N1.

(3) The Town Manager will notify all department heads of the operation for essential personnel and services only. Department heads are responsible for contacting their employees.

(4) The Town manager may close the Town Hall if there is a severe public health risk in keeping the building open. Normal building closure policies shall govern the closure of the building.
(Ord. 2010-04, passed 4-21-2010)

§ 00-03-32-57 ESSENTIAL TOWN EMPLOYEES AND SERVICES.

(A) *Essential personnel.* Essential personnel are the Town Manager, Director of Public Works, employees, all sworn police officers, Clerk-Treasurer, and Director of Planning and Development.

(B) *Reallocation of personnel.*

(1) In the absence of the Town Manager. The Town Manager's designee and or the Town Council President will step in to fulfill the responsibilities of the Town Manager. At the Town Council President's designation or in the Town Council President's absence the Director of Planning and Development will step in to fulfill the responsibilities of the Town Manager. In the event that neither the Town Council President nor the Director of Planning and Development is able to fulfill the Town Manager's role the Chief of Police will take responsibility for the Town Hall and town facilities.

(2) In the event that 30% of town staff is absent due to the flu or flu like symptoms the Town Manager will determine whether to reallocate personnel to fulfill necessary positions or to contact a temporary employment service to fulfill the positions. Staff members that may be asked to fill-in for another position in the event of absences shall be cross trained in these additional duties.

(3) In the event that 50% of town staff is absent due to the flu or flu like symptoms the Town Manager will determine whether to reallocate personnel to fulfill necessary positions, to contact a temporary employment service to fulfill the positions, or close the department/Town Hall. Staff members that may be asked to fill in for another position in the event of absences shall be cross-trained in these additional duties.

(4) In the event that all members of a department are absent due to illness the same procedures as above will apply. In the case where there is only one member of the staff and there are mutual aid agreements or on-call consultants available those organizations shall be contacted to fulfill the responsibilities.

(5) The Town Hall will continue to operate under normal business hours unless the Town Manager decides to close the building, quarantines are enforced or the town is operating under essential personnel only.

(C) *Clerk Treasurer's office.*

(1) Payroll, claims, checks.

(a) The Deputy Clerk Treasurer issues all checks. In the event of the Deputy Clerk Treasurer's absence the Clerk Treasurer will issue checks.

(b) The Clerk Treasurer and Deputy Clerk Treasurer are cross trained in all department functions.

(c) The Billing Coordinator/customer facilitators are cross trained on receipts and deposits to assist if needed.

(2) In the event that there are two or more absences in the Clerk Treasurer's office, the office will be closed to the public for half of each day or the entire day at the discretion of the Clerk Treasurer. This will allow for the reallocation of staff within the department to carry out essential functions.

(3) Keystone receives and stores year-end date and it is kept for two years. Keystone also stores monthly/quarterly back-ups for the Clerk Treasurer.

(D) *Department of Public Works.*

(1) Department Chain-of-Command.

(a) In the absence of the Director of Public Works, the Assistant Director of Public Works shall be in charge.

(b) In the event neither individual is available then the Town Manager will designate from the staff of the department.

(2) In the event of a staff shortage, influenza outbreak or quarantine all services unless specified in this section will be suspended.

(a) Snow plowing.

1. In the event the town has a snow emergency or is short staffed and cannot handle the snow, H & H Construction should be called in to assist. Contact: Kent Haste: 375-0114 or cell 223-7332.

2. District Maps will be made available to all consultants assisting with snow plowing.

(b) In the event of large sink-holes, storm sewer collapse or large chuck holes that cannot be taped or barricaded until a later date Russell Excavating will provide services. Contact: Rodger Russell 697-1020.

(E) *Department of Planning and Development.* Building permits/inspections.

(1) The Building Commissioner and/or Director of Planning and Development will e responsible for meeting all deadlines for new permit applications. Both individuals will be permitted to telecommute in the event it is necessary.

(2) The Building Inspector will continue to conduct building inspections unless ill. Then the Building Commissioner and/or Director of Planning and Development will fulfill the duties.

(3) The Director of Planning and Development will establish mutual aid agreements with Hancock County and/or McCordsville to assist with building inspections I the event of a sever H1N1 outbreak. These agreements should be reviewed on an annual basis. The Director of Planning and Development may contract with qualified companies to provide on-call services in lieu of or addition to mutual aid agreements.

(4) Permits must be issued/denied within 15 days of submission.

(5) The Director of Planning and Development will invoke the mutual aid agreements in the event necessary. If the Director is ill then the Town Manager will invoke the mutual aid agreements.

(F) *Plan Commission/Board of Zoning Appeals petitions.*

(1) Director of Planning and Development will be responsible from meeting all deadlines established by code for petitions before the Plan Commission and/or Board of Zoning Appeals in the event of a sever outbreak.

(2) In the event the Director is unable to be in the office, the Directors may telecommute to complete these taxes.

(3) In the event the Director is ill then the Town Manager will contact the organizations in which the town has mutual aid agreements with to compete all tasks related to the Plan Commission and Board of Zoning Appeals case administration.

(4) The Director of Planning and Development will also have a Planning Consultant on contract as on call hourly services I the event Hancock County and/or McCordsville are affected similarly by the H1N1/Pandemic Influenza.

(G) Regular Board and Commission meetings will be suspended in the event of a severe outbreak and if Town Hall is closed.

(1) Town Council.

(2) Plan Commission.

(3) Board of Zoning Appeals.

(4) Parks Advisory Council.

(5) Redevelopment Commission.

(6) Stormwater Utility Board.

(7) Sanitary Sewer Utility Board.
(Ord. 2010-04, passed 4-21-2010)

§ 00-03-32-58 PUBLIC SAFETY; POLICE DEPARTMENT.

(A) *Mission statement.* The Cumberland Police Department operational mission is to ensure a safe environment for all members of the community, employees, and persons I our custody during this event, while protecting life and property by prioritizing calls and responses.

(B) *Specific goals will be to:*

(1) Limit the number of illnesses and deaths within our community.

(2) Preserve continuity of essential government functions.

(3) Minimize fiscal impact on the town.

(C) This plan will be coordinated with other preparedness plans of the community, state and federal agencies.
Ord. 2010-04, passed 4-21-2010)

§ 00-03-32-59 GENERAL GUIDELINES.

(A) The Cumberland Police Department will work I cooperation with the County Health Departments, the Indiana State Board of Health, the CDC, County Emergency Management Agency and the Indiana Department of Homeland Security during a pandemic event.

(B) The Cumberland Police Department will ensure notification of communications to appropriate state and federal agencies.

(C) The Cumberland Police Department will utilize the National Incident Management System (NIMS) as the organization basis for response to health emergencies.

(D) The appointed Incident Commander will retain the role until the threat to public safety is abated or the incident command is transferred to the appropriate state or federal agency.

(E) Appropriate information will be shared with the public through the Public Information Officer (P.I.O.) as designated by the Chief of Police.

(F) The Cumberland Police Department will adhere to appropriate medical ethics and practice when allocating resources.

(G) Information will be shared with Marion/Hancock County health and emergency management agencies at appropriate levels.

(H) Cumberland Police Personnel will have a working knowledge of this plan.

(I) All Cumberland Police Personnel will follow established safety and health guidelines. (Ord. 2010-04, passed 4-21-2010)

§ 00-03-32-60 ASSUMPTIONS.

(A) The current influenza outbreak may result in widespread infection globally causing simultaneous impacts to the community, state and federal agencies.

(B) The World Health Organization and the Center for Disease Control have heightened global, national and local surveillance.

(C) The Town may not be able to rely on mutual aid resources, local, state or federal assistance to support local response efforts.

(D) A vaccine for the swine flu is currently unavailable.

(E) Antivirals may be in short supply and prioritized by the Marion/Hancock Health Departments for use in hospitalized patients.

(F) The number of infected patients could overwhelm area hospitals.
Ord. 2010-04, passed 4-21-2010.

§ 00-03-32-61 RESPONSIBILITIES.

(A) To provide for the safety of all residents of the town.

(B) To provide for the safety of the Cumberland Police Department Personnel (first responders).

(C) To enforce quarantine as directed in order to stabilize the outbreak.

(D) To provide security as needed.
(Ord.2010-04, passed 4-21-2010)

§ 00-03-32-62 REPORTS; INCIDENTS.

(A) *Reports*. The Operations Section Chief or designee will be responsible for completing an after action report in full pandemic on a daily basis.

(B) *Incidents*. Any unusual activity related specifically to the pandemic event will be reported to the command post or supervision.
(Ord. 2010-04, passed 4-21-2010)

§ 00-03-32-63 EQUIPMENT.

(A) Incident Command will assist in the procurement and dissemination of PPE. Staff will receive items such as masks, gloves, gowns and eye shields before reporting to their pos.

(B) It is estimated that the following items may be needed to sustain the Department Personnel in a pandemic event.

(1) N95 masks.

(2) Paper gowns (for staff working with ISO/Quarantine).

(3) Gloves.

(4) Eye shields (reusable protective eyewear).
(Ord. 2010-04, passed 4-21-2010)

§ 00-03-32-64 STAFFING FOR THE CUMBERLAND POLICE DEPARTMENT.

(A) *Alternate staffing strategies*. The Cumberland Police Department must be able to staff shift operations 24 hours a day, seven days a week without exception to fulfill our duty to the public. We must balance the needs of the public with the needs of the employees to be successful in meeting service demands.

(B) *Essential/non-essential employees*. All sworn employees are deemed essential employees. Non-sworn essential employees would be civilian employees.

(C) *Staffing*. The preferred minimum staffing would be one officer per eight hour shift as normal, however it is recognized that in an emergency operational situation the preferred minimum number of officers would be one officer per 12 hour shift, this may be the best alternative due to absenteeism.

(D) *Roll calls*.

(1) Reporting times will be held in the Multiple Purpose Room (M.P.R.) unless advised otherwise. Supervisor (if available) may wish to hold equipment and uniform inspections, (each office should have the respirator available). Alternative roll call sites must be available.

(2) If 12-hour shifts are necessary the hours would be as follows and be instituted as quickly as possible.

(a) First Shift: 0600-1800.

(b) Second Shift: 1800-0600.

(E) *Authority to authorize alternative shifts and scheduling*.

(1) The Chief of Police will have the authority to authorize alternative staffing. Should the Chief not be available the Captain of Police in conjunction with the Town Manager and President of the Town Council will have this authority.

(2) All supervisors/command officers scheduled for this event will meet at operations (Town Hall) at 0520 hours and 1720 hours to brief with the Incident Commander and discus any last minute changes/issues for the day; this is for information exchange between the ID and the section captains.

(F) *Overtime*. The above shift scheduling will necessitate the use of overtime. All sworn employees are deemed essential employees and will be eligible for overtime compensation as needed and at a premium rate of pay.

(G) *Administrative staff (sworn)*. Administrative sworn staff (Chief of Police, Captain and Detective) will be available for shift staffing as needed. When absentee rate is high enough, the Captain and Detective will be reassigned to a 123 hour shift on patrol.

(H) *Administrative staff (non-sworn)*. Non-sworn administrative staff may work from home.
(Ord. 2010-04, passed 4-21-2010)

§ 00-03-32-65 LEAVE; MUTUAL AID.

(A) *Vacation*. Vacation and compensatory leave time will be cancelled as the absenteeism rate increase or as otherwise directed by the Chief of Police to ensure minimum staffing levels.

(B) *Mutual aid*. Mutual aid agreements exist among all neighboring jurisdictions and we will ask for or provide assistance as needed or available. However, internal staffing plans will be made with the assumption that neighboring agencies are experiencing similar staffing issues and will not be able to provide any additional resources.
(Ord. 2010-04, passed 4-21-2010)

§ 00-03-32-66 RESPONDING TO CALLS.

In any situation where manpower is hampered reports can be taken over the phone.

(A) *Pandemic Severity Index Category 1*. Respond as available for routine calls.

(B) *Pandemic Severity Index Category 2-3*. Respond only if necessary for an officer to make personal contact with complainant. Reports can be taken over the phone. Non-injury auto accidents reported at the police station.

(C) *Emergency response only*. Non-emergency calls handled by phone.
(Ord. 2010-04, passed 4-21-2010)

§ 00-03-32-67 PROTOCOLS.

(A) *Protocol: Response to EMS calls with IFD and or BCTFD*.

(1) *Pandemic Severity Index Category 1*. Respond to EMS calls when requested by IFD and/or BCTFD if dispatched to known problem areas.

(2) *Pandemic Severity Index Category 2-3*. Respond to known problem areas or when requested by IFD and/or BCTFD.

(3) *Pandemic Severity Index Category 4-5*. Respond to known problem areas or when requested by IFD and/or BCTFD.

(B) *Protocol: office operations*.

(1) *Pandemic Severity Index Category 1*. All personnel report as normal. Limited personal contact. Use walk up window only.

(2) *Pandemic Severity Index Category 2-3*. Essential personnel only. No public access to building. Must use outside phone.

(3) *Pandemic Severity Index Category 4-5.* Building restricted to emergency personnel only. Establish secure VPN connection for computer access off site. Telephones forwarded off site.

(C) *Protocol: reporting*.

(1) *Pandemic Severity Index Category 1.* Officers respond and take reports as needed.

(2) *Pandemic Severity Index Category 2-3.* Reports taken by telephone except for emergencies (telephone crime reporting).

(3) *Pandemic Severity Index Category 4-5.* Reports taken by telephone except for emergencies.

(D) *Protocol; staffing*.

(1) *Pandemic Severity Index Category 1.* Normal staffing or officers and shift assignments for patrol. All non-sick leave cancelled. Supplemental personnel (reserve officers and/or civilian volunteers).

(2) *Pandemic Severity Index Category 2-3.* Twelve-hour shifts as needed due to reduced staffing. All non-sick leave cancelled. Supplemental personnel (reserve officers and/or civilian volunteers).

(3) *Pandemic Severity Index Category 4-5.* Twelve-hour shifts as needed as well as necessary overtime to staff patrol operations. All non-sick leave cancelled. Supplemental personal (reserve officers and/or civilian volunteers) as needed.

(E) *Protocol: arrest procedures.*

(1) *Pandemic Severity Index Category 1.* Summons or citation in lieu of physical arrest. No prisoners at eh police station for processing.

(2) *Pandemic Severity Index Category 2-3.* Physical arrest as last resort. Transport directly to jail. No prisoners at eh police station for processing.

(3) *Pandemic Severity Index Category 4-5.* Physical arrest as last resort. Transport directly to jail. No prisoners at the police station for processing.
(Ord. 2010-04, passed 4-21-2010)

§00-03-32-80 PROHIBITION ON USE OF PUBLIC RECORDS FOR COMMERCIAL PURPOSES

(A) Use Prohibition. Any person, corporation, limited liability company, limited liability partnership, partnership, unincorporated association or other entity receiving public records or information, pursuant to a request made under Indiana Code §5-14-3-3(d), may not use the records or information for commercial purposes. For purposes of this section, the term 'commercial purposes' means using the record or information to sell, loan, give away or otherwise deliver the record for information obtained by a public records request to any other person, corporation, limited liability company, limited liability partnership, partnership, unincorporated association or other entity for these purposes.

(B) Exemption. This prohibition does not apply to records or information used in connection with the preparation or publication of news, used for nonprofit activities, or used in academic research.

(C) Use in Violation of Prohibition: Any person, corporation, limited liability company, limited liability partnership, partnership, unincorporated association or other entity using the record or information in a manner contrary to the prohibition contained in this section is prohibited from obtaining further records and data under Indiana Code §5-14-3-3(d).

(Ord 2017-04, passed 04-05-2017)

§ 00-03-32-81 Determination of Political Affiliation for Various Town Boards and Commissions.

(A) Whenever the Town of Cumberland appoints a person to a Town board, commission, office, committee, or other group of the Town (collectively "boards"), and that appointment, by law, is conditioned upon the political affiliation of the appointee, or that the membership of a board cannot exceed a stated number of members from the same political party, at the time of an appointment, the political affiliation of the person is determined by:

(1) The person's vote in the most recent primary election in Indiana held by the party with which the appointee claims affiliation; or

(2) If the appointee has never voted in a primary election in Indiana, the appointee is certified as a member of that party by the party's county chairman for the county in which the appointee resides.

(B) If a certification by a county chairman of a political party is required under subsection (2), the certification must be filed with the circuit court clerk not later than the time the appointee's oath of office is filed with the clerk under Ind. Code § 5-4-1. If the county chairman's certification is not filed with the circuit court clerk's office, the appointment is void.

(C) If the term of an appointed member of a board expires and the appointing authority of the Town does not make an appointment to fill the vacancy, both of the following apply:

(1) The member may continue to serve on the board for 90 days after the expiration date of the member's term.

(2) The county chairman of the political party of the member whose term has expired shall make the appointment.

(Ord. 2018-7. Passed 4-18-2018)

CHAPTER 33: POLICE DEPARTMENT

Section

00-03-33-01 Board of Metropolitan Police Commissioners established
00-03-33-02 Board Membership
00-03-33-03 Term
00-03-33-04 Powers and Duties
00-03-33-05 Oath and Bond
00-03-33-06 Salary
00-03-33-07 Police Reserve Officers
00-03-33-08 Police Department Auxiliary Support Unit

Cross-reference:

Ordinance Violations Bureau, see Chapter 36
Police Department Funds, see §§00-03-35-20 et seq.
Town Marshal, see § 00-03-31-03
Fees for deployment of police services for motor vehicle accidents, see § 00-03-32-18

§ 00-03-33-01 BOARD OF METROPOLITAN POLICE COMMISSIONERS ESTABLISHED.

There is hereby established a Board of Metropolitan Police Commissioners for the Town of Cumberland, Indiana, as provided in Indiana Code 36-8-9, and the office of Town Marshal is hereby abolished, effective January 1, 2016.

§ 00-03-33-02 BOARD MEMBERSHIP.

A. The Board of Metropolitan Police Commissioners shall consist of 3 members appointed by the Town Council. The members must be of good moral character and legal residents of the town. Not more than three members may be members of the same political party, if individuals who satisfy this requirement can be found to serve on the board with reasonable and diligent efforts. Members of the town's police department may not be appointed to serve on the Board. Town Council members may serve on the Board as ex officio members. No more than two Town Council members may serve on the Board at any one time.

§ 00-03-33-03 TERM.

The board members' terms shall be 3 years, expiring on January 1 of the third year after the member's appointment. However, to establish staggered terms, one initial member shall be appointed for a one-year term, one initial member shall be appointed for a two-year term, and one initial member shall be appointed for a three-year term. Each member serves at the pleasure of the Town Council and may be removed by the Town Council for any cause that it considers sufficient. The terms of not more than two Board members may expire each year.

A Town Council member vacates the member's position on the Board when the member is no longer a member of the Town Council

§ 00-03-33-04 POWERS AND DUTIES.

A. As provided in I.C. §36-8-9-4, the Board shall have the following powers and duties:
1. Appointment of Members. The Board shall appoint persons to serve in the town's police department, subject to the qualifications for employment determined by the Board and approved by the Town Council.
2. Appointment of Police Chief. The Board shall appoint one person to serve as the police chief.
3. Appointment of civilian employees. The Board may appoint other employees that are necessary to carry on the work of the police department.
4. Recommendations for Compensation. The Board may recommend and the Town Council shall determine the compensation to be paid to members of the police department.
5. Safety Board. The Board constitutes the town's safety board for purposes of the suspension, demotion, or dismissal of any member of the police department. Proceedings for the suspension, demotion, or dismissal of police department members shall be conducted in the manner prescribed by I.C. §36-8-3-4. The disciplinary provisions of I.C. §36-8-3-4.1 also apply to the safety board and the police chief.
6. Adoption of Rules and Orders. The Board may make general and special rules for the government and discipline of the police department and may make special and general orders to the department through the police chief, who is the executive head of the department.

B. The Board shall have all other powers and duties as provided by Indiana law or town ordinances.

C. The Board shall adopt and maintain rules governing the conduct of its business, including but not limited to rules concerning its meetings, the selection and appointment of persons to be employed as members of the police department, promotions and demotions of department members, and the discipline or dismissal of department members.

§ 00-03-33-05. OATH AND BOND.

A. Before performing any function of a board member, an individual appointed to serve as a member shall take and subscribe before the Clerk of the Marion County Circuit Court an oath or affirmation of office and an oath or affirmation that in each appointment or removal made by the Board to or from the town's police department, the member will not appoint or remove a member of the town police department because of the political affiliation of the person or for another cause or reason other than that of the person's fitness; and

B. This section does not apply to a Board member who is a member of the Town Council. Before performing any function of a board member, an individual appointed to serve as a member shall take and subscribe an oath or affirmation of office before the Marion County Circuit Court Clerk.

C. This section does not apply to a Board member who is a member of the Town Council. Before performing any function of a board member, an individual appointed to serve as a member shall give bond in the penal sum of $5,000, payable to the state and conditioned upon the faithful and honest discharge of the member's duties. The bond must be approved by the Town Council.

§ 00-03-33-06. SALARY.

The members' salaries shall be set by the Town Council. A Board member's salary is payable monthly out of the Town treasury. A Board member who is also a member of the Town Council may not receive compensation as a Board member.

(Ord. 2015-18, passed 12-2-15. Amd. By Ord. 2019-03, passed 3-20-19)

§ 00-033-07. POLICE RESERVE OFFICERS

(A) *Establishment of Reserve Force*. There shall be a force of police reserve officers which shall assist the regular officers of the Cumberland Metropolitan Police Department, as provided for by the Department's rules. The number of reserve officers serving the Department shall not exceed 20.

(B) *Appointment*. Reserve officers shall be appointed by the Cumberland Board of Metropolitan Police Commissioners, as provided by I.C. §36-8-3-20, upon the recommendation of the Chief of Police. The Board of Police Commissioners may establish rules, procedures, and requirements for the application and hiring of reserve officers.

(C) *Not Department Members; Authority***.** Reserve officers are not members of the Police Department, but they have all of the same police powers as regular officers, except as limited by this ordinance or the Department's rules. The Department, through the Board of Police Commissioners, may adopt rules that limit the authority of reserve officers. In addition to the other limitations imposed by the Board of Police Commissioners, a reserve officers shall not have the authority to make an arrest, conduct a search or a seizure of a person or property, or carry a firearm unless and until he or she successfully completes a pre-basic course under Indiana Code §5-2-1-9(f).

(D) *Compensation*. Reserve officers are volunteers and will receive no wages or salaries. To the extent money is appropriated by the Town Council, reserve officers may receive (i) a uniform allowance; and (ii) compensation for time lost from other employment because of court appearances.

(E) *No Pension*. Reserve officers are not eligible for any pension or retirement benefits.

(F) *Training*. A reserve officer may not be appointed to the Department until completing the training and probationary period specified by the Department's rules. In addition, reserve officers must also complete the mandatory inservice training established by the Indiana Law Enforcement Training Board, unless that Board waives such in-service training for any particular officer, and any other training deemed necessary by the Police Chief and approved by the Board of Police Commissioners.

(G) Injury Benefits.

(1) Pursuant to I.C. §36-8-3-22, Cumberland shall provide for a reserve officer who is injured or contracts an illness in the course of or as the result of performing duties as a

police reserve officer, without charge to the officer, the physician, surgical, hospital, and nursing services and supplies the physician or surgeon in charge determines are necessary. The Town may satisfy these obligations, and may seek recovery or reimbursement from a responsible third party of any amounts paid for care described in this section, as provided in I.C. §36-8-3-22 or as otherwise allowed by law.

(2) Pursuant to I.C. §36-8-3-23, if a police reserve officer is unable to pursue the officer's usual vocation as the result of an injury or illness occurring in the course of or as the result of performing duties as a police reserve officer, Cumberland shall pay such officer a weekly amount that may not be less than Indiana's minimum wage and computed on the basis of a 40-hour week, for the lesser of (1) the period the officer is unable to pursue his or her usual vocation, or (2) two hundred sixty (260) weeks.

(Ord. 2018-03. Passed 03-07-2018)

Section 00-03-33-08, Police Department Auxiliary Support Unit

(A) *Auxiliary Support Unit Authorized.* In addition to reserve officers described above, the Town's police department may utilize the services of a voluntary auxiliary support unit to assist the Department in carrying out its functions.

(B) *Volunteers***.** These civilian volunteers are not Town employees and are not entitled to any salary, wages, compensation, or benefits of any kind.

(C) *No Police Powers*. These volunteers have no police powers. They shall not wear a Department police uniform or badge and shall not carry a firearm. They are not entitled to use police vehicles or other town vehicles.

(D) *Appointment***.** Such volunteers are appointed by the Chief of Police.

(E) *Minimum Qualifications*. The Board of Police Commissioners may establish rules concerning minimum qualifications, duties and responsibilities, and any necessary training for such volunteers.

(Ord. 2018-03. Passed 03-07-2018)

CHAPTER 34: BOARDS AND COMMISSIONS

Section

Parks Advisory Council

00-03-34-01 Creation
00-03-34-02 Membership
00-03-34-03 Regular and special meetings
00-03-34-04 Powers and duties

Plan Commission

00-03-34-15 Established
00-03-34-16 Appointment of members
00-03-34-17 Budget

Board of Zoning Appeals

00-03-34-30 Established
00-03-34-31 Appointment and number of members

Redevelopment Commission

00-03-34-40 Established
00-03-34-41 Organization of Commission
00-03-34-42 Term of office and removal
00-03-34-43 Oath and bond
00-03-34-44 Compensation
00-03-34-45 Purpose, duties and powers
00-03-34-46 Organization meeting and election of officers
00-03-34-47 No pecuniary interests

Police Pension

00-03-34-50 Establishment of Police Pension Board

PARKS ADVISORY COUNCIL.

§ 00-03-34-01 CREATION.

An advisory parks and recreation council is established to be known as the Cumberland Parks Advisory Council. The Cumberland Parks Advisory Council shall report to the Town Council. The Council shall serve as the "Park Authority," as defined by I.C. 36-10-5-2.
(1995 Code, § 00-03-31-01) (Ord. 1992-13, passed 8-5-1992; Am. Ord. 2009-01, passed 2-17-2009)

§ 00-03-34-02 MEMBERSHIP.

(A) The Parks Advisory Council shall consist of five to ten members as follows:

(1) Each Town Council member may nominate one person who resides in their council district to the Council President for appointment to the Council. In addition to appointing the persons nominated by Council members by district, the Council President may appoint up to five other persons to serve on the Council.

(2) Board members shall serve for a term of one year at the pleasure of the Council. The term of each member shall expire on the day following the first regular meeting of the Town Council each calendar year.

(3) The Chairperson of the Council shall be selected by a majority of the Council members.

(B) The Secretary for the Council, responsible for the preparation of the minutes of Council meetings, shall be designated by the Park Authority. The Secretary shall be entitled to compensation only to the extent the Park Authority expressly allows.
(1995 Code, § 00-03-31-02) (Ord. 1992-13, passed 8-5-1992; Am. Ord. 97-1, passed 3-5-197; Am. Ord. 2009-01, passed 2-17-2009)

§ 00-03-34-03 REGULAR AND SPECIAL MEETINGS

(A) The Council shall fix the time and place of its regular meetings, but shall hold regular meetings at least quarterly.

(B) Special meetings of the Council may be called by the Chairperson or by any two members of the Council, if advance permission is obtained from the Park Authority. Unless the special meeting is called at a Council meeting, the Secretary shall provide written notice to all Council members, at least 48 hours I advance of the special meeting, indicating the time, place, and purpose of the meeting.

(C) Public notice must be given for all Council meetings. All meetings of the Council shall be open to the public, unless the subject matter to be addressed in the meeting necessitates an executive session. Executive sessions may be held only if pursuant to state law and with the advance permission of the Park Authority.
(Ord. 97-1, passed 3-5-1997; Am. Ord. 2009-01, passed 2-17-2009)

§ 00-03-34-04 POWERS AND DUTIES.

(A) The Council shall:

(1) In cooperation with the Town Council and Town Plan Commission, develop long-term plans for the town's parks and recreational programs and facilities:

(2) Prepare an annual report on the town's parks and recreational programs and facilities, including recommendations on capital improvements, and present that report to the park Authority at its April Council meeting.

(3) Recommend rules on the use of the town's parks and recreational facilities for consideration and adoption by the Park Authority; and

(4) Provide that the town's parks and recreational programs and facilities are kept safe by alerting the town Police Department or other appropriate town officers or employees when situations or conditions develop that present a danger to the public or to public property.

(B) The Council may:

(1) Seek donations for the town's parks and recreational programs and facilities;

(2) Recommend to the Park Authority fees to be charged for the use of the town's parks and recreational programs and facilitates;

(3) Recommend contracts or leases to the Park Authority that involve the use or management of the town's parks and recreational programs and facilities.

(4) Recommend that the Park Authority acquire or dispose of real or personal park property; or

(5) Make any other recommendations to the Park Authority pertaining to the use or management of the town's parks and recreational programs and facilities.
(Ord. 97-1, passed 3-5-1997; Am. Ord. 2009-01, passed 2-17-2009)

PLAN COMMISSION

§ 00-03-34-15 ESTABLISHED.

(A) A Plan Commission is established for the town. The Commission shall have the powers and duties set forth for it in the Cumberland Zoning Code and Subdivision Control Ordinances(which are separate documents from the Town Code), consistent with I.C. 36-7-4. (1995 Code, § 00-03-31-35) (Ord. 1987-1, passed 1-7-1987)

§ 00-03-34-16 APPOINTMENT OF MEMBERS.

(A) The Plan Commission shall have seven members. The Town Council shall appoint three members from town government and the President of the Town Council shall appoint four citizen members, of whom no more than two may be of the same political party.

(B) The terms of office of the members of the Plan Commission shall be as follows:

(1) The term of each municipal representative member of the Commission shall be one year unless he municipal member ceases to hold other town office or Town employment.

(2) When an initial term of office of a citizen member expires, each new appointment of a citizen member shall be for a term of four years.

(3) A member serves until his or her successor is appointed and qualified; any member is eligible for reappointment.

(C) If a vacancy occurs, the appointing authority shall appoint a member for the unexpired term of the vacating member. Missing meetings of the Commission may be grounds for cause to remove a member. The Commission President shall report to the Town Council any situation where a member has missed three consecutive regular meetings of the Commission. (1995 Code, § 00-03-31-37) (Ord. 1987-1, passed 1-7-1987)

§ 00-03-34-17 BUDGET.

(A) The Town Council may make appropriations to carry out the duties of the Plan Commission.

(B) The Commission will supervise the fiscal affairs of the Commission and prepare and submit a budget to the Council for approval of annual operations.
(1995 Code, § 00-03-31-42) (Ord. 1987-1, passed 1-7-1987)

BOARD OF ZONING APPEALS.

§ 00-03-34-30 ESTABLISHED.

A Board of Zoning Appeals is established for the town. The Board shall have the powers and duties set forth for it in the Cumberland Zoning Code Ordinance, consistent with I.C. 36-7-4.

§ 00-03-34-31 APPOINTMENT AND NUMBER OF MEMBERS.

(A) The Board of Zoning Appeals shall consist of five members, as follows:

(1) Three citizen members appointed by the Town Council President, of whom one must be a member of the Plan Commission and two must not be members of the Commission;

(2) One citizen member appointed by the Council who must not be a member of the Plan Commission; and

(3) One citizen member appointed by the Commission, who must be a member of the Commission other than the member appointed under division (A)(1) above.
(1995 Code, § 00-03-31-61) (Ord. 1987-1, passed 1-7-1987)

(B) Missing meetings of the Board may be grounds for cause to remove a member. The Board President shall report to the Town Council any situation where a member has missed three consecutive regular meetings of the Board.

(C) A Board member serves until his or her successor is appointed and qualified. A member is eligible for reappointment.

REDEVELOPMENT COMMISSION

§ 00-03-34-40 ESTABLISHED.

A Department of Redevelopment is established for the town. The Department will be controlled by a board of five members to be known as the Cumberland Redevelopment Commission.
(Ord. 2008-05, passed 4-16-2008)

§ 00-03-34-41 ORGANIZATION OF COMMISSION.

(A) The Redevelopment Commission shall consist of five members; appointed as follows:

(1) Three members shall be appointed by the Town Council President; and

(2) Two members shall be appointed by the Town Council.

(B) In order to be eligible for appointment, a person must be at least 18 years of age and be a resident of the town. If a Commissioner ceases to be a resident after his or her appointment, the Commission forfeits his office.

(D) *Nonvoting Adviser*. The Town Council President shall also appoint one (1) person to serve as a non-voting adviser to the Redevelopment Commission. This person must be a school board member of either the Warren Township Schools, Mt. Vernon Community Schools or Southern Hancock Community Schools, or an individual recommended by either Warren Township Schools, Mt. Vernon Community Schools or Southern Hancock Community Schools. This adviser is not considered a member of the Commission but is entitled to attend and participate in the proceedings of all Commission meetings. The non-voting adviser is not entitled to a salary, per diem, or reimbursement of expenses. The adviser serves a term of two (2) years and until a successor is appointed, and serves at the pleasure of the Town Council President.

(Ord. 2008-05, passed 4-16-2008, Amd. Ord 2016-18, passed 9-21-16)

§ 00-03-34-42 TERM OF OFFICE AND REMOVAL.

(A) Each Commissioner shall serve a term of one year, commencing January 1 of his or her appointment and ending the following January 1.

(B) The Commissioners serve at the pleasure of the appointing authority and may be removed from the Redevelopment Commission by the appointing authority at any time.

(C) If vacancy occur because of ineligibility, resignation, removal, or any other reason, the appointing authority hall appoint a new Commissioner and notify the Clerk-Treasurer and Secretary of the Commission of the appointment. The new Commissioner shall serve the unexpired term of the Commissioner her or she replaced.
(Ord. 2008-05, passed 4-16-2008)

§ 00-03-34-43 OATH AND BOND.

(A) Before beginning his or her duties, each Commissioner shall take and subscribe an oath of office in the form used by the Clerk-Treasurer and file the oath with the Clerk-Treasurer.

(B) Before beginning his or her duties, each Commissioner shall execute a bond, payable to the state, with surety to be approved by the Town Council President, in the penal sum of $15,000. This bond must be conditioned upon the faithful performance of the duties of the office of Commissioner and the accounting for all monies and property that may come into his or her hands or under his or her control. The cost of the bond shall be paid by the special taxing district.
(Ord. 2008-05, passed 4-16-2008)

§ 00-03-34-44 COMPENSATION.

Redevelopment Commissioners are not entitled to salaries, but they are entitled to reimbursement for expenses necessarily incurred by them in the performance of their duties.
(Ord. 1008-05, passed 4-16-2008)

§ 00-03-34-45 PURPOSE, DUTIES AND POWERS.

(A) The Redevelopment Commission and the Department of Redevelopment shall promote the interests of redevelopment as provided for in I.C. 36-7-14 *et seq*. by planning, re-planning, development and redevelopment of economic development areas, cleaning, re-planning and redevelopment of blighted areas, and taking all other action necessary to accomplish the purposes of I.C. 36-7-14 *et seq*.

(B) The Redevelopment Commission shall:

(1) Investigate, study and survey blighted areas within the corporate boundaries of the town;

(2) Investigate, study and determine, and, to the extent possible, combat the causes of blighted areas;

(3) Promote the use of land in the manner that best serves the interests of the town and its inhabitants;

(4) Cooperate with the departments and agencies of the town and other governmental units in the manner that best serves the purposes of I.C. 36-7-14 *et seq*.

(5) Make findings or reports of their activities under I.C. 36-7-14 *et seq*. and keep those reports open to inspection by the public at the office of the department;

(6) Select and acquire the blighted areas to be redeveloped under I.C. 36-7-14 *et seq*.; and

(7) Re-plan and dispose of the blighted areas in the manner that beset serves the social and economic interests of the town and its inhabitants.

(C) The Redevelopment Commission shall have all of the powers provided by I.C. 36-7-14-12.1 and by any other law, rule or ordinance.
(Ord. 2008-05, passed 4-16-2008)

§ 00-03-34-46 ORGANIZATIONAL MEETING AND ELECTION OF OFFICERS.

(A) The Redevelopment Commission shall hold a meeting for the purpose of organization not more than 30 days after the Commissioners are appointed. After the initial organization of the Commission, it shall reorganize each year in January.

(B) At its organizational meeting, the Commission shall choose one of their members as president, another member as vice president, and another member as secretary. These officers shall perform the duties usually pertaining to their office and shall serve from the date of their election until their successors are elected and qualified.

(C) The Redevelopment Commission may appoint a treasurer who need not be a member of the Commission.

(D) The Redevelopment Commission may adopt rules and bylaws they consider necessary for the proper conduct of their proceedings, the carrying out of their duties and the safeguarding of the money properly placed in its custody.

(E) Three members of the Redevelopment Commission constitutes a quorum, and the concurrence of three members of the Commission is necessary to authorize any action.
(Ord. 2008-05, passed 4-16-2008)

§ 00-03-34-47 NO PECUNIARY INTERESTS.

A member of the Redevelopment Commission may not have a pecuniary interest in any contract, employment, purchase or sale made under I.C. 36-7-14 e*t seq*. However, any property

required for redevelopment purposes in which a Commissioner has a pecuniary interest may be acquired by the Commission, but only by gift or condemnation.
(Ord. 2008-05, passed 4-16-2008)

Police Pension

§ 00-03-34-50 ESTABLISHMENT OF POLICE PENSION BOARD.

(A) **Board Members**. The Police Pension Board consists of 7 members, as follows:

(1) The President of the Town Council;

(2) The Town Clerk-Treasurer;

(3) The Police Chief;

(4) One retired member of the Town's police department; and

(5) Three active members of the Town's police department.

(B) **Ex Officio Members.** The Town Council President, the Clerk-Treasurer, and the Police Chief are ex officio voting members of the Board.

(C) **Election and Terms:**

(1) Election of Board Members by Police Department Members. The Board members who are the retired police department member and the three active department members shall be elected by the police department members. The initial election will be held at the police station within 30 days of the effective date of this ordinance. Thereafter, the elections shall occur at a meeting of the department members held at the police station on the second Monday in February of each year. The initial members of the Board who are active members of the Police Department will serve staggered terms, with one serving a one-year term, one serving a two-year term, and one serving a three-year term, as determined by the Board. Thereafter, these Board members are elected for terms of three years, succeeding those Board members whose terms of office expire on that date. These members hold their offices until their successors are elected and qualified.

(2)Terms of Other Board Members. The terms of the President of the Town Council, Clerk-Treasurer and Police Chief will be the same as the term of their respective offices.

(3) Vacancies. If a vacancy occurs on the Board among the members elected by
the department members, the police department members shall hold a special meeting upon the call of the Town Council President and elect a successor for the remainder of the vacating member's term.

(4) Notices. Notice of a meeting at which an election will be held by department

members must be given to all active police department members at least five days before the meeting.

(D) **Officers.** The Town Council President serves as president of the Board, the Clerk-Treasurer serves as its treasurer, and the Board shall select one member to serve as secretary.

(E) **Quorum**. A majority of the Board's members shall constitute a quorum for transacting business.

(F) **Powers and Duties.** The Board shall have all powers and duties provided by law.

(G) **Compensation and Reimbursement.** The Board members receive no pay for their services and shall be paid only their necessary expenses. However, the Board members, the secretary, and each member of the police department selected by the Board shall be paid their necessary traveling expenses from the 1977 fund when acting upon matters pertaining to the fund.

(H) **Bylaws and Rules.** The Board may make all necessary bylaws or rules for it meetings and all matters relating to the conduct of its business, and it shall keep and maintain records of its business.
(Ordinance 2016-11, passed 6-21-2016)

CHAPTER 35: FUNDS

Section

Special Purpose Funds

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Editor's Note:

There are numerous other funds the town is required to use that are established by state statute and thus not set forth in this town code, e.g., the town's general fund.

SPECIAL PURPOSE FUNDS

§ 00-03-35-01 GENERAL PROMOTIONAL FUND

(A) The Town Council is authorized to budget and appropriate funds from the General Fund of the Town, to pay the expenses incurred in promoting the interest and betterment of the Town.

(B) Expenses from this fund may include, but are not limited to, the following:

(1) Membership dues in local, regional, state and national associations of a civic, educational or governmental nature, which have as their purpose the betterment and improvement of town operations;

(2) Direct Expenses for travel, meals, and lodging in conjunction with municipal business or meeting of organizations to which the town belongs.

(3) Expenses incurred in the promotion of economic or industrial development of the town, including meeting room rental, decorations, meals, travel, memorabilia, awards, expenses incurred in interviewing job applicants and expenses incurred in developing relations with other units of government.

(4) Flowers or other appropriate items, for the purpose of demonstrating the concern, sympathy, or support of town officials and/or employees in response to an individual's death, illness, hospitalization, or other similar circumstance;

(5) Food, beverages, tableware, decorations, entertainment, or other items in connection with a town-sponsored event or program, or with work by employees outside of normal work hours; and

(6) Any other expenses of a civic or governmental nature deemed by the Town Council to be in the interest of the Town.
(1995 Code, § 00-03-34-01) (Am. Ord. 97-6, passed 7-9-1997; Am. Ord. 2012-07, passed 5-2-1-2012)

§ 00-03-35-02 YOUTH ACTIVITIES PROGRAM FUND.

(A) There is a created a Youth Activities Program Fund ("Fund") to be maintained by the town Clerk-Treasurer on behalf of the Cumberland Youth Activities Program ("Program").

(B) The Fund is to receive all payments to the Cumberland Youth Activities Program that have been provided as registration fees from Program participants, team sponsorship fees, and donations intended for use in paying expenses of any Program activity.

(C) Monies deposited I the Fund may be expended by the Youth Activities Program Director ("Director") for any expense of the Program, subject to any conditions or restrictions imposed by the Town Council, Town Manager, or Park Board, including conditions contained in the Director's contract, and any applicable requirement of town policies or procedure and state statutes or regulations. Written documentation shall be provide to the Clerk-Treasurer of all expenditures paid with monies from this Fund.

(D) Monies deposited in the Fund shall not revert or transfer to any other fund of the won at the end of each calendar or fiscal year, or any other time, without Town Council action specifically authorizing the reversion or transfer.
(Ord. 1998-4, passed 4-1-1998)

§ 00-03-35-03 PARK DONATION FUND.

(A) There is created a Park Donation Fund to be maintained by the town Clerk-Treasurer on behalf of the Park Department.

(B) The Park Donation Fund shall consist of individual and organizational donations, income from fundraisers, and other non-appropriated money.

(C) The Park Donation Fund may be used for Park Department purposes, including promotions and good will projects as recommended by the Parks Advisory Council and approved by the Town Council. (1995 Code, § 00-03-34-08) (Ord. 1993-13, passed 11-3-1993)

§ 00-03-35-04 FUNDS FOR SEWAGE WORKS.

(A)(1) There are established the following funds for the sewer works:

(a) Operating Fund;

(b) Depreciation Fund; and

(c) Sinking Fund.

(2) Within the Sinking Fund there shall be two accounts:

(a) Bond and Interest Account; and

(b) Bond and Interest Reserve Account.

(3) There shall be monthly transfer into the Bond and Interest Account and Bon and Interest Reserve Account money that may be required for the payment of:

(a) The interest on all bonds which, by their term, are payable from the revenues of the sewage works, as the interest shall fall due;

(b) The necessary fiscal agency charges for paying the bonds and interest;

(c) The principal of all bonds payable from the revenues of the sewage works, as the principal shall fall due; and/or

(d) A additional amount as a margin of safety and for the payment of premiums upon bonds redeemed by call or purchase, which margin, together with any unused surplus of the margin carried forward from the preceding year, shall equal 10% of all other amounts so required to be paid into the Bond and Interest Account for a margin of safety.

(4) Payments into the Bond and Interest Account shall be made monthly in an amount equal to at least half the amount required for bond principal payments, interest payments, fiscal charges, and the margin of safety during the next succeeding 12 calendar months, and shall contain any amount sufficient to pay all of the bonds then outstanding and payable within one year, together with the interested thereon to the dates of maturity thereof.

(5) In addition to the required monthly payments into the Bond and Interest Account, net revenue of the sewage works not used in making the payments shall be set aside and paid in

the Bond and Interest Reserve Account monthly, if necessary, until there has been accumulated as a debt reserve payable from the Sinking Fund an amount equal to the maximum annual debt service on the bonds. The debt reserve invested ant an unrestricted yield never shall exceed the reserve requirement. The margin of safety shall be allocated according to the face amounts of the 1966 bonds, the 1970 bonds, and the 1988 bonds. The amount of the monthly deposit into the Bond and Interest Reserve Account of the Sinking Fund shall be sufficient to accumulate the reserve requirement within five years from the date of delivery of the 1988 bonds.

(6) No part of the Sinking Fund shall be used in calling revenue bonds for redemption before maturity, except to the extent that the amount in the Sinking Fund exceeds the amount required to pay the principal of and interest on the revenue bonds during the 12 calendar months following the date of the redemption. Any excess funds above the required level also may be used in purchasing outstanding bonds at a price less than the then-applicable redemption price, if first approved by the Town Council. Money in the Sinking Fund shall not be used for any other purpose except as provided by ordinance.

(7) Any excess revenues, which remain after the accumulation in the Sinking Fund of an amount sufficient to meet the requirements of the Sinking Fund for the then-next succeeding 12-month period and after the accumulation of funds reserved in the Operating Fund for that period in an amount sufficient for operation, repair, and maintenance, may be transferred into the Depreciation Fund for extensions, betterments, and additions to the sewage works. However, no transfer shall be made which will interfere with the requirement monthly payments into the sinking Fund or with the operation of the sewage works.

(8) All funds of the sewage works not reasonably needed for its routine operation and maintenance and not required to be transferred pursuant to divisions (A)(2) through (A)(7) above, shall be transferred to the Depreciation Fund.

(9) Funds may be disbursed from the Depreciation Fund only as otherwise provided by law and consistent with divisions (A)(2) through (A)(7) above, solely for extensions, betterments, and additions to the sewage works.

(10) If, on the adoption of this section, any fund already shall exist, the creation of which is otherwise contemplated, that fund shall be used instead of a newly created fund.

(11) Nothing in this section shall be construed to authorize the Clerk-Treasurer or any transfer agent to disburse funds to vendors, employees, or other payees, except by proper claim and warrant drawn pursuant thereto, or as otherwise permitted by statute.

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

PAYEE. Shall not include the sewage works itself.
(1995 Code, § 00-03-34-03) (Ord. 88-15-A, passed 12-7-1988)

§ 00-03-35-05 PARKS RECREATIONAL EQUIPMENT FUND.

It has been determined that it is necessary to originate a fund for the parks recreational equipment.
(1995 Cod, § 00-03-34-04) (Ord. 1992-7, passed 6-3-1992)

§ 00-03-35-06 FUND FOR COLLECTION AND REMISSION OF STATE SALES TAX.

A separate fund is created for the collection and remission of state sales tax.
(1995 Code, § 00-03-34-05) (Ord. 10-1992, passed 7-1-1992)

§ 00-03-35-07 RAINY DAY FUND.

(A) There is established a "Rainy Day Fund" pursuant to the provisions of I.C. 36-1-8-5.1 to receive transfers of unused and unencumbered monies whenever the purposes of any tax through which the monies have been raised including those authorized by I.C. 6-3.5-1.1-21.1, 6-3.5-6-17.3, 6-3.5-7-17.3 and 36-1—8-5, have been fulfilled and an unused and unencumbered balance remains.

(B) Monies on deposit in the Rainy Day Fund may be used for the operation of the town and its various departments, when the town would otherwise not have sufficient monies to pay such costs, including, but not limited to, salaries and wages, services, supplies, equipment, capital improvements, repairs and similar expenses.

(C) The Town Council shall determine the amount, if any, of any unused and unencumbered monies available to be transferred to the Rainy Day Fund, which transfer may not exceed more than 10% of the town's total annual budget for that fiscal year.

(D) The Town Council may authorize expenditure of monies for the Rainy Day Fund by appropriations made in the same manner as for other funds that receive tax monies, upon making a finding that the proposed use of the monies is consistent with the intent of the Fund.
(Ord. 2004-03, passed 5-5-2004)

§ 00-03-35-08 ECONOMIC DEVELOPMENT FUND.

(A) There is hereby created an Economic Development Fund to be maintained by the Town Clerk-Treasurer on behalf of receipts obtained from County Economic Development Income Tax. (CEDIT).

(B) Monies deposited in the Fund may be expended for any purpose authorized by I.C. 6-3.5-7-13.1, as amended, subject to any specific conditions or restrictions imposed by the Town Council and any applicable legal requirements.

(C) The Fund shall be a non-reverting fund and the money deposited in the Fund shall not transfer to any other fund of the town at any time, without Council action specifically authorizing such transfer.

(D) If this fund is to be terminated, disposition upon termination shall be made to the General Fund.
(Ord. 2010-16, passed 9-1-2010)

§ 00-03-35-09 SELF-INSURANCE FUND.

(A) Fund Establishment: There is hereby established and created a fund, called the Self-Insurance Fund (Fund 212), to be maintained by the Clerk-Treasurer.

(B) Source of Funds: This Fund shall be comprised of contributions for the Town's self-funded health insurance plan from the Town and employees. The Clerk-Treasure will deposit these contributions in to the Fund.

(C) Use of Funds: Monies in the Fund will be used to pay proper claims under the Town's self-funded health insurance plan.

(D) Non-Reverting Fund: This fund shall be a non-reverting fund.
(Ord. 2012-3, passed 2-2-2012)

§ 00-03-35-10 TRAIL REIMBURSEMENT FUND.

(A) There is created a Trail Reimbursement Fund to be maintained by the Clerk-Treasurer. The source of these funds shall be appropriations made by the Town Council for the purpose of reimbursing the Indiana Department of Transportation or the Federal Highway Administration for overpayments made to the Town for the Town's share of right-of-way acquisition expenses relating to the Town's trail system.

(B) The monies in this fund may be used only to reimburse the Indiana Department of Transportation or the Federal Highway Administration for overpayments made to the Town for the Town's share of right-of-way acquisition expenses relating to the Town's trail system.
(Ord. 2012-10, passed 6-6-2012)

§ 00-03-35-11 LOIT SPECIAL DISTRIBUTION FUND

(A) There is created a One-Time LOIT Special Distribution Fund to be maintained by the Clerk-Treasurer. The source of these funds consists of monies allocated to the Town by a LOIT Special Distribution by the state of Indiana.

(B) Seventy-five (75) percent of these monies may only be used exclusively for infrastructure as specified in Indiana Code § 6-3.6-9-17(h)(1)(A). This portion of the fund is non-reverting. Twenty-five (25) percent of these monies may be used for any legal purpose and will be allocated to the Town of Cumberland Rainy Day Fund.
(Ord. 2016-10, passed 6-21-16)

§ 00-03-35-13 CUMBERLAND WHEEL TAX FUND

(A) *Source of Funds*. The Cumberland Town Council hereby established the Cumberland Wheel Tax Fund. The fund shall consist of revenue collected by the Town of Cumberland for its imposed Wheel Tax under § 00-03-32-23 of Town of Cumberland Code of Ordinances.

(B) *Use of Funds*. All money deposited into the Cumberland Wheel Tax Fund will only be used in the following manner:

(1) to construct, reconstruct, repair, or maintain streets and roads under its jurisdiction;

(2) as a contribution to an authority established under Indiana Code § 36-7-23; or,

(3) for the Town's contribution to obtain a grant from the local road and bridge matching grant fund under Indiana Code § 8-23-30.

(C) *Non-Reverting Fund.* This is a non-reverting fund.

(Ord. 2017-21, passed 12-6-2017)

§ 00-03-35-14 CUMBERLAND SURTAX FUND.

(A) *Source of Funds*. The Cumberland Town Council hereby establishes the Cumberland Surtax Fund. The fund shall consist of revenue collected by the Town of Cumberland for its imposed surtax under § 00-03-32-24 of Town of Cumberland Code of Ordinances.

(B) *Use of Funds*. All money deposited into the Cumberland Surtax Fund will only be used to construct, reconstruct, repair, or maintain streets and roads under the Town's jurisdiction or for the Town's contribution to obtain a grant from the local road and bridge matching grant under Ind. Code § 8-23-30.

(C) *Non-Reverting Fund*. This is a non-reverting fund.

(Ord. 2017-20, passed 12-6-2017)

POLICE DEPARTMENT FUNDS

§ 00-03-35-20 POLICE CANINE EXPENSE FUND.

(A) There is created a Police Canine Expense Fund ("Fund") to be maintained by the town Clerk-Treasurer on behalf of the Cumberland Police Department ("Department").

(B)(1) The Fund is to receive all payments received:

(a) As contributions from individuals, companies, or other private entities; and/or

(b) As grants or other financial contributions from other governmental units or public agencies that have been designated by the contributor as being intended for the town's Police Canine Program.

(2) No tax revenues or other monies generally distributed by the State of Indiana to the Town of Cumberland and other municipalities shall be deposited in this Fund.

(C)(1) Monies deposited in the Fund may be expended by the Town Marshal/Chief of Police ("Marshal") for any item or activity listed in division (E) of this section without prior authorization of the Cumberland Town Council ("Council"), if the Marshal reasonably anticipates that the total expenditures from the Fund for the calendar year for that item or activity will not exceed $1,000.

(2) The member of the Police Department who is designated by the Marshal as the Canine Officer may make expenditures of up to $100 per month for routine expenses incurred in the care of the canine without the specific approval of the Marshal, subject to any restrictions or conditions imposed by the Marshal.

(3) Expenditures for items or activities in excess of $1,000 may be made by the Marshal if advance authorization is obtained from the Council or, in the case of an urgent funding needed, if authorization is obtained from the Town Manager and the Department liaison on the Council.

(4) In urgent situations involving the health and/or safety of the canine, the Marshal or the Canine Officer may make expenditures exceeding the above stated limits, subject to securing the approval otherwise needed as soon as possible after the event requiring the urgent expenditures commitment.

(5) Fully itemized invoices, bills, or receipts for all expenditures, or copies thereof, shall be delivered to the Clerk-Treasurer within 30 days of when the expense is incurred.

(D) Monies deposited in the Fund shall not revert or transfer to any other fund of the town at the end of each calendar or fiscal year, or at any other time, without Council action specifically authorizing such reversion or transfer.

(E) Monies deposited in the Fund may be used for:

(1) Payment of expenses incurred in caring for the police canine;

(2) Purchase or lease of equipment for the Police Canine Program;

(3) Training expenses of the canine and Canine Officer (including travel expenses);

(4) Payment of expenses incurred in public relations for the Police Canine Program or the Department; and/or

(5) Payment of any other expense related to the Police Canine Program that the Town Council specifically authorizes.

(F) This Fund shall be deemed to have been in effect January 1, 1998, and shall have all monies received from the sources identified in division (B) above and held in other funds immediately transferred to this Fund.
(Ord. 1998-1, passed 2-4-1998)

§ 00-03-35-21 FUND FOR FEES RECEIVED FOR POLICE INSPECTION OF MOTOR VEHICLE IDENTIFICATION NUMBERS.

A fund is established within the Police Department to be known as the VIN Inspection Fund, into which shall be placed all fees received by the Police Department for conducting examinations and making reports regarding motor vehicle identification numbers. The fund may be expended for Police Department training and equipment.
(1995 Code, § 00-03-34-06) (Ord. 1993-5, passed 3-3-1993)

§ 00-03-35-22 POLICE SCHOLARSHIP FUND.

(A) There is created a Police Scholarship Fund to be maintained by the town Clerk-Treasurer on behalf of the Police Department.

(B) The Police Scholarship Fund shall consist of individual and organization donations, income from fundraisers, and other non-appropriated money.

(C) The Police Scholarship Fund may be used for scholarships for students of the town to attend colleges and universities as recommended by the Safety Board and approved by the Town Council.
(1995 Code, § 00-03-34-07) (Ord. 1993-12, passed 11-3-1993)

§ 00-03-35-23 FIREARMS TRAINING FUND

(A) The Town Council establishes a Firearms Training Fund. Revenue of the Fund will be used for training law enforcement officers of the town in the proper use of firearms and other law enforcement duties.

(B) To provide revenue for the Fund, the handgun license application fee of $10, prescribed by I.C. 35-47-2-3(b), is to be deposited into the Fund for each application procured from the Police Department.
(1995 Code, § 00-03-34-02)

§ 00-03-35-24 POLICE COPS-FAST GRANT FUND.

(A) There is created a Police Cops-Fast Grant Fund to be maintained by the town Clerk-Treasurer on behalf of the Police Department.

(B) The Police Cops-Fast Grant Fund shall consist of federal monies awarded for a police officer's salary at 85% the first year, 75% the second year, and 65% the third year.

(C) The balance of this police officer's salary will be paid out of the Police-General Fund, as necessary to coordinate with the federal monies received.
(1995 Code, § 00-03-34-09) (Ord. 1995-10, passed 9-6-1995)

§ 00-03-35-25 PARKING FUND.

(A) All money collected from charges in the operation of any parking meter shall be deposited and kept in a special fund known as the Parking Fund. The Parking Fund shall be set up I a budget approved by the Town Council and shall be under the control, orders, and

directions of the Council. Disbursements therefrom shall be made for the following purposes, unless otherwise authorized by any relevant statues or required by any contract:

(1) For the payment of the purchase price or rental fees and costs of installation, relocation, or removal of parking meters.

(2) For the payment of the costs of maintenance, operation, repair, and all other incidental costs and expenses included in the operation of parking meters and the collection of money deposited therein, including clerical, bookkeeping, supplies, records, and collection costs;

(3) For the payment of the costs of acquiring, installing, and maintain traffic signal devices and signs to guide and regulate traffic in the town; and for costs related to operation of tow-in trucks, snow plows, and trucks to keep parking places clear; and for the cost of the repair, reconstruction, and maintenance of any of the public highways or public places where parking meters are in use, and all other public streets, highways, or public places intersecting or connected therewith, in the town; and

(4) For off-street parking facilities and for any other uses, all as now or hereafter prescribed by statute thereon.

(B) The Council shall have the authority to expend the Fund for the purposes provided in this chapter, without additional appropriations therefore. A warrant for any such expenditures shall be drawn by the Clerk-Treasurer, upon receipt of a properly executed and completed claim as required by law. All money remaining in the town treasury to the credit of the Fund at the end of any calendar year shall remain in it and be available for all its uses, and shall not revert to the General Fund. The Council shall have the right to transfer any unneeded funds or parts thereof, as the end of any year, from the Parking Fund to the General Fund, or as otherwise provided by law.
(1995 Code, § 00-07-71-23)

§ 00-03-35-26 CRIME REWARD FUND.

(A) Established – There is hereby established and created a Crime Reward Fund ("Fund") to be maintained by the Town Clerk-Treasurer on behalf of the Cumberland Police Department.

(B) Source of Fund – The revenue for deposit into the Fund shall be:

(1) All contributions specifically transferred, donated, devised, or bequeathed to this fund from individuals, companies or other private entities, and/or as grants or other financial contributions from other governmental units or public agencies that have been designated by the contributor as being intended for the crime reward program; and

(2) All Town funds appropriated by the Town Council to the Fund.

(C) Use of Funds – Monies in the Fund shall be used by the Chief of Police for the payment of rewards under this Section. This Chief of Police shall retain the sole and exclusive authority to determine when and the amount of any reward paid under this Section to any person or persons for information leading to:

(1) The arrest of a specified person or persons convicted of or charged with any criminal offense; or

(2) The arrest and conviction of a person or persons committing a specific criminal offense.

Expenditures may be made at the discretion of the Chief of Police and without prior authorization of the Cumberland Town Council by a proper claim form duly submitted to the town Clerk-Treasurer.

(D) Non-Reverting Fund – This is a non-reverting fund.
(Ord. 2012-4, passed 2-15-2012)

§ 00-03-35-27 CRIMINAL INVESTIGATION PURCHASE MONEY FUND

(A) Established – There is hereby established and created a Criminal Investigation Purchase Money Fund ("Fund") to be maintained by the Town Clerk-Treasurer on behalf of the Cumberland Police Department.

(B) Source of Funds – The revenue for deposit into the Fund shall be:

(1) All contributions specifically transferred, donated, devised, or bequeathed to this fund from individuals, companies or other private entities, and/or as grants or other financial contributions from other governmental units or public agencies, including but not limited to equitably shared funds, that have been designated by the contributor as being intended for the Criminal Investigation Purchase Money program; and

(2) All Town funds appropriated by the Town Council to the Fund.

(C) Use of Funds – Funds withdrawn from said account shall be used only in official criminal investigations conducted by the Cumberland Police Department. Said funds may be used, with the approval of the Chief of Police, by undercover officers to establish a cover, to purchase drugs or stolen property, or may be used to pay informants for information that will lead to the arrest and conviction of criminals. Expenditures may be at the discretion of the Chief of Police and without prior authorization of the Cumberland Town Council by proper claim form duly submitted to the Town Clerk-Treasurer. A documentation procedure for recording and reporting of confidential expenditures will be followed by the Chief of Police.

(D) Before the end of the fiscal year in which the Criminal Investigation Purchase Money was taken out by the police department, the police department, under signature of the Chief of Police, shall return any unused funds and shall make written account for such funds.

(E) Non-Reverting Fund. This is a non-reverting fund.
(Ord. 2012-6, passed 3-7-2012)

§ 00-03-35-28 POLICE PENSION FUND

(A) Establishment of Fund. There is established and created the Cumberland Police

Pension Fund.

(B) Source of Funds. The source of money in this fund will be payroll deductions for the employer's share and employee's share of pension benefits required by participation in the 1977 Police Pension Fund and any other money appropriated by the Town Council for this fund.

(C) Use of Funds. The money in this fund will be used only for the transfer of money to the 1977 Police Officers' and Firefighter Pension and Disability Fund and other lawful purposes.

(D) Non-Reverting Fund. This is a non-reverting fund.
(Ordinance 2016-11, passed 6-21-2016)

§ 00-03-35-29 LAW ENFORCEMENT RECORDING FEE FUND

(A) Source of Funds. The Cumberland Town Council hereby establishes the Law Enforcement Recording Fee Fund. The fund shall consist of fees received by the Cumberland Police Department for copying law enforcement recordings.

(B) Use of Funds. All money deposited into the Law Enforcement Recording Fee Fund will be used, without appropriation, to purchase cameras and other equipment for use in connection with the Chief of Police's law enforcement recording program, for training on law enforcement recordings, and to defray the expenses of storing, producing, and copying law enforcement recordings.

(C) Non Reverting Fund. This is a non-reverting fund.

(Ord. 2016-20, passed 9-21-16)

CHAPTER 36: ORDINANCE VIOLATIONS BUREAU

Section

General Provisions

00-03-36-01 Creation
00-03-36-02 Administration; Clerk-Treasurer appointment

Procedure

00-03-36-20 Acceptance of written appearance, waivers of trial, and the like
00-03-36-21 Authority to issue complaints
00-03-36-22 Issuance of complaint; duty to appear or deliver
00-03-36-23 Acceptance of admission; late charge
00-03-36-24 Issuance of receipt
00-03-36-25 Legal proceedings; court costs
00-03-36-26 Challenges; legal proceedings

Violations

00-03-36-40 Other legal action; authority
00-03-36-41 Schedule

Cross-reference

Funds, see Chapter 35
Police Department, see Chapter 33

GENERAL PROVISIONS

§ 00-03-36-01 CREATION.

The Ordinance Violation Bureau ("Bureau") is established pursuant to IC. 33-6-3.

§ 00-03-36-02 ADMINISTRATION; CLERK-TREASURER APPOINTMENT.

The Cumberland Clerk-Treasurer is appointed and shall serve as the Violations Clerk, who administers the Bureau.
(Ord. 2002-05, passed 2-6-2002)

PROCEDURE

§ 00-03-36-20 ACCEPTANCE OF WRITTEN APPEARANCE, WAIVERS OF TRIAL, AND THE LIKE.

The Clerk-Treasurer and his or her staff, as his or her agents, shall accept written appearances, waivers of trial, admissions of violations, and payment of civil penalties in the amount and for the violation as provided below at the Clerk-Treasurer's office during the hours specific on the complaint or summons issued under authority of this chapter.
(Ord. 2002-5, passed 2-6-2002)

§ 00-03-36-21 AUTHORITY TO ISSUE COMPLAINTS.

Any Cumberland police officer, or other Cumberland official or employee authorized by an ordinance of the town or state law to issue complaints for violations of ordinances, may issue complaints for the violation of Bureau ordinances.
(Ord. 2002-5, passed 2-6-2002)

§ 00-03-36-33 ISSUANCE OF COMPLAINT; DUTY TO APPEAR OR DELIVER.

Any person upon whom a complaint and summons is issued pursuant to this chapter shall:

(A) Appear at the Clerk-Treasurer's office to admit or deny the violation within seven days of the issuance of the complaint; or

(B) Have had delivered his or her admission and entire penalty payment or written denial to the Clerk-Treasurer's office within seven days of the issuance of the complaint.
(Ord. 2002-5, passed 2-6-2002)

§ 00-03-36-23 ACCEPTANCE OF ADMISSION; LATE CHARGE.

If a person, upon whom a complaint and summons is issued pursuant to this chapter, does not bring an admission of violation and payment of the civil penalty, or if a complaint for a violation of a Bureau ordinance issued pursuant to his chapter is not properly responded to in writing within seven days of the issuance of the complaint, the Bureau shall add a late charge of $5 per violation to the amount otherwise payable under § 00-03-36-41. After 30 days of the issuance of the complaint, the Bureau shall not accept admission of a violation or payment of the civil penalty without the consent of the Town Manager, who may withhold that consent if the violation has been referred to the town's Ordinance Prosecutor for judicial resolution.
(Ord. 2002-5, passed 2-6-2002)

§ 00-03-36-24 ISSUANCE OF RECEIPT.

Upon payment of any sum of money into the Ordinance Violations Bureau, as provided by this chapter, the Clerk-Treasurer shall issue a receipt to the person so paying. The Clerk-Treasurer shall keep a record of all payments and shall account for all sums paid to the Bureau under this chapter as required by statute. The Clerk-Treasurer shall provide the Town Council with a monthly report of the Bureau's activities, showing the total number of complaints and summonses issued pursuant to this chapter during the preceding monthly period, including their dates of issuance and the number of such cases referred to the town's Ordinance Prosecutor.
(Ord. 2002-5, passed 2-6-2002)

§ 00-03-36-25 LEGAL PROCEEDINGS; COURT COSTS.

(A) If a person, upon whom a complaint and summons is issued pursuant to this chapter, fails to deny or admit a violation within 30 days, the town's Ordinance Prosecutor may bring legal proceedings in a court of competent jurisdiction.

(B) Under such circumstances, if a judgment is rendered in favor of the town, court costs will be assessed in addition to any fine or other relief provided.
(Ord. 2002-5, passed 2-6-2002)

§ 00-03-36-26 CHALLENGES; LEGAL PROCEEDINGS.

(A) If a person, upon whom a complaint and summons is issued pursuant to this chapter, wants to challenge this ticket and assure that it will be kept under the jurisdiction of the Cumberland Ordinance Violations Bureau, he or she must go to the Clerk-Treasurer's office and expressly deny the violation or send a signed, written statement indication of his or her denial to the Clerk-Treasurer within 30 days of the issuance of the complaint and summons.

(B) Under such circumstances, the town's Ordinance Prosecutor will initiate legal proceedings in a court of competent jurisdiction for the alleged violation.
(Ord. 2002-5, passed 2-6-2002)

VIOLATIONS

§ 00-03-36-40 OTHER LEGAL ACTION; AUTHORITY.

The identification in § 00-03-36-41 of a Cumberland ordinance, or code of ordinance provisions as a Bureau ordinance, does not preclude the town from taking other legal action to enforce the ordinance or code provision, in lieu of issuing a complaint under the authority of this chapter seeking the civil penalty prescribed in § 00-03-36-41, if the Cumberland ordinance or code provision provides for other enforcement options, including, but not limited to, injunctive relief and recovery of abatement costs or of damages.
(Ord. 2002-5, passed 2-6-2002)

§ 00-03-36-41 SCHEDULE.

Cumberland's ordinances and Code of Ordinances provisions identified in the schedule in this section (each hereinafter referred to as "Bureau ordinance") shall be within the jurisdiction of the Bureau, subject to the civil penalties listed to the right of each Bureau ordinance. For some Bureau ordinances, second and any additional violations, admissions, or judgment of violations of that ordinance, occurring within 12 months of any other violation, admission, or judgment of violation, will be subject to a greater civil penalty. Where applicable, those greater penalties for second and additional violations and admissions or judgments are listed to the right of the penalty that applies to the first violation, admission, or judgment of violation.

Ordinance or Code of Ordinance Provisions	***Civil Penalty***
Alarms	
Excessive false alarms	$25/$50
Prolonged externally sounding alarms	$50
Animals	
Animals creating a nuisance	$35/$50
Awarding live animals as prizes	$35/$50
Confinement of cats and dogs	$35/$50
Curbing of animals required	$50/$75
Enticing animals to fight	$50/$75
Failure to confine dog or cat in heat	$35/$50
Failure to permanently identify dogs or cats	$35/$50
Failure to stop for vehicle collision with animals	$35/$50
Failure to vaccinate dog or cat	$35/$50
Keeping of farm animals	$35/$50
Keeping of wild animals	$50/$75
Unlawful disposal of animals	$35/$50
Unlawful enticing of animals	$35/$50
Use of animals in crime	$35/$50
Motor Vehicles	
Improper parking; exceeding 12 inches from curb	$12/$20
Parking where prohibited	$12/$20
Parking where prohibited – limited parking	$12/$20
Prohibited stopping, standing, and parking - § 00-07-71-05(A)(1) through (A)(5)	$25/$50
Prohibited stopping, standing, and parking - § 00-07-71-05(A)(6) through (A)(8), (B), (C)(4), and (C)(5)	$12/$20
Prohibited stopping, standing, and parking - § 00-07-71-05(C)(1) through (C)(3)	$25/$35

Unlawful loading and unloading	$25/$35
Ordinance or Code of Ordinance Provisions	***Civil Penalty***
Unlawful parking – emergency situation	$50/$100
Unlawful parking – loading and unloading zones	$25/$35
Unlawful parking – meter violation	$12/$20
Unlawful parking – obstruction of traffic	$12/$20
Unlawful parking – oversized vehicle	$50/$1000
Unlawful stopping, standing, and parking – bus stops and taxicab stands	$12/$20
Unlawful storing of motor vehicles on private property	$10
Unsafe opening of car door	$12/$20
Nuisance	
Maintaining a health hazard – nuisance	$75/$100
Maintaining an offensive premises – nuisance	$75/$100
Permitting structures or things to become detrimental to health and safety – nuisance	$75/$100
Recreational Facilities	
Failure to adhere to park rules	$25/$50
Failure to adhere to tennis facilities rules	$25/$50
Title IX Violations	
Violations of the provisions of Title IX, Chapter 95 – Streets; Sidewalks; Bridges	$95
Title XI Violations	
Violation of the provisions of XI, Chapter 111 – Peddlers and Solicitors	$95
Unlawful Conduct	
Unlawful causing of noise	$50/$75
Unlawful congregating	$25/$35
Unlawful discharging of firearms	$100
Unlawful dumping or burning	$25/$35
Unlawful littering	$25/$35
Violation of building and construction provisions	$95
Violation of recreational vehicles and recreational vehicles parks	$95
Violation of the flood damage prevention provisions	$95
Violation of the zoning provisions	$95

(Ord. 2002-5, passed 2/6/2002)

CHAPTER 37: TOWN COURT

Section

00-03-37-01 Establishment
00-03-37-02 Eligibility for election of Judge
00-03-37-03 Election and term of Judge; bond
00-03-37-04 Powers and duties of Judge
00-03-37-05 Jurisdiction
00-03-37-06 Town Court seal
00-03-37-07 Location
00-03-37-08 Special Judge
00-03-37-09 Compensation
00-03-37-10 Prosecutor
00-03-37-11 Service of process
00-03-37-12 Not a court of record
00-03-37-13 Appeals
00-03-37-14 Clerk of Court

§ 00-03-37-01 ESTABLISHMENT.

There is hereby established the Town Court of Cumberland. The court shall come into existence January 1, 2012. The Judge shall be first elected in 2011.
(Ord. 2010-2, passed 3-3-2010)

§ 00-03-37-02 ELIGIBILITY FOR ELECTION OF JUDGE.

In order to be eligible for election as Judge of the Town Court, a person must reside in the town and satisfy all other statutory qualifications of a Town Court Judge.
(Ord. 2010-2, passed 3-3-2010)

§ 00-03-37-03 ELECTION AND TERM OF JUDGE; BOND.

The Judge shall be elected pursuant to I.C. § 3-10-6 by voters of the town. The term of office shall be four years, beginning at noon on January 1 following the election and continuing thereafter until a successor is elected and qualified. Before beginning the duties of office, the Judge shall, in the manner prescribed by I.C. 5-4-1, execute a bond with a good and sufficient surety in the peal sum of $15,000 conditioned upon the faithful performance of the duties of the office. This bond must be approved by the Town Council and filed with the Clerk-Treasurer.
(Ord. 2010-2, passed 3-3-2010)

§ 00-03-37-04 POWERS AND DUTIES OF JUDGE.

The Judge of the Town Court may adopt rules for conducting the business of the court and has all power incident to a court of record in relation to the attendance of witnesses, the punishment of contempt, the enforcement of its orders and the issuing of commissions for taking depositions in cases pending in the court. He or she may administer oaths and give all necessary certificates for the authentication of records and proceedings.
(Ord. 2010-2, passed 3-3-2010)

§ 00-03-37-05 JURISDICTION.

The Town Court shall have exclusive jurisdiction of all violations of ordinances of the town. The Town Court shall also have jurisdiction of all misdemeanors and infractions.
(Ord. 2010-2, passed 3-3-2010)

§ 00-03-37-06 TOWN COURT SEAL.

The Judge shall provide, at the expense of the town, a seal for the court that must contain on the fact thereof the words: "Town Court of Cumberland, Indiana." A description of the seal, together with an impression of it, shall be affixed to the records of the court.
(Ord. 2010-2, passed 3-3-2010)

§ 00-03-37-07 LOCATION.

The Judge of the Town Court shall hold sessions for the Town Court as the business or the court demands at a place to be provided and designated by the Town Council.
(Ord. 2010-2, passed 3-3-2010)

§ 00-03-37-08 SPECIAL JUDGE.

If the Judge is temporarily absent or unable to act, he or she shall appoint a reputable practicing attorney, licensed to practice in the state, to preside in his or her absence. The special judge has all the powers and rights, and shall perform all the duties of the judge of the court as fully as the regular judge appointing him or her. Special judges are entitled to the compensation allowed special judges by the circuit court, to be paid from the town treasury on the certification of the regular judge and the warrant of the Clerk-Treasurer.
(Ord. 2010-2, passed 3-3-2010)

§ 00-03-37-09 COMPENSATION.

The Judge of the Town Court is entitled to receive compensation as established by Town Council.
(Ord. 2010-2, passed 3-3-2010)

§ 00-03-37-10 PROSECUTOR.

An attorney, licensed to practice in the town, shall be authorized and deputized to prosecute ordinance violations on behalf of the town.
(Ord. 2010-2, passed 3-3-2010)

§ 00-03-37-11 SERVICE OR PROCESS.

The Town Marshal or a Deputy Marshal shall serve all process issuing from the Town Court.
(Ord. 2010-2, passed 3-3-2010)

§ 00-03-37-12 NOT A COURT OF RECORD.

The Town Court is not a court of record.
(Ord. 2010-2, passed 3-3-2010)

§ 00-03-37-13 APPEALS.

Appeals from a judgment of the Town Court may be taken to the superior or circuit courts of Marion or Hancock Counties within 30 days of the rendition of the judgment.
(Ord. 2010-2, passed 3-3-2010)

§ 00-03-37-14 CLERK OF COURT.

The Clerk is an officer of the Town Court. The Judge may act as Clerk or appoint a Clerk. If the Judge appoints a Clerk, the Clerk shall receive compensation as prescribed by the Town Council. If the Judge neither serves as Clerk nor appoints a Clerk the Town's Clerk-Treasurer shall perform the duties of Clerk.
(Ord. 2010-2, passed 3-3-2010)

TITLE V: PUBLIC WORKS

Chapter

50. SANITARY SEWER SERVICES

51. STORM WATER MANAGEMENT

52. STREET LIGHTS

53. WATER UTILITY

Appendix

Utility Fee Schedule

CHAPTER 50: SANITARY SEWER SERVICES

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Cumberland - Public Works

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Cross-reference: *Storm Water Management, see Chapter 51*

GENERAL PROVISIONS

§ 00-05-50-001 AUTHORITY OF TOWN.

(A) The town shall make and enforce bylaws and regulations as may be deemed necessary for the safe, economical, and efficient management of the town's sewage collection system, pumping stations, and sewage treatment works, for the construction and use of house sewers and connections to the sewage collection system, and for the regulations, collection, rebating, and refunding of the rates and charges.

(B) The town is hereby authorized to prohibit dumping of wastes into the town's sewage collection system, which, in its discretion, is deemed harmful to the operation of the sewage treatment works, or to require methods affecting pretreatment of the wastes to comply with the pretreatment standards included in the National Pollutant Discharge Elimination System (NPDES) permit issued to the town for its sewage treatment plant.
(1995 Code, § 00-05-51-001) (Ord. 1988-9, passed 8-25-1988)

(C) This Chapter, its references, and any associated construction standards shall apply to all sanitary sewer districts and territories owned and/or operated by the Town of Cumberland. For purposes of this Chapter, all rules, regulations and ordinances apply to the Cumberland sanitary system, GEM sanitary system, and any other sanitary system, owned and/or operated by the Town of Cumberland.

§ 00-05-50-002 DEFINITIONS.

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

APARTMENT. a family dwelling unit in a building containing three or more family dwelling units or an accessory family dwelling unit in a building that has primary use other than as a residence.

BASE UNIT. Each single-family house and each residence or dwelling unit in a multi-family building or building complex, including each individual apartment or condominium. For purposes of assessing the sanitary sewer tap/connection charges and interceptor charges, each base unit shall be counted as an ***EQUIVALENT DWELLING UNIT*** or ***EDU.***
(Ord. 2001-9, passed 6-6-2001)

B.O.D. or ***BIOCHEMICAL OXYGEN DEMAND.*** The quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter (mg/1).
(Ord. 1988-8, passed 8-25-1988)

BUILDINGS SEWER. The extension from the building drain to the public sewer or other place of disposal.
(Ord. 1988-8, passed 8-25-1988)

COLLECTOR AND BRANCH LINES. Sewers that receive sewage from individual house and building sewers and transport the flows to a trunk line or sewer interceptor.
(Ord. 2001-9, passed 6-6-2001)

CONNECTION CHARGE. A one-time charge levied upon a sewer user for a single connection by that user to the sewer system at a specified site.
(Ord. 1988-9, passed 8-25-1988)

DEBT SERVICE COSTS. The average annual principal and interest payments on all outstanding revenue bonds or other long-term debt.
(Ord. 1988-9, passed 8-25-1988)

DWELLING. Any house or place used or intended to be used by human occupants as a place of residence.
(Ord. 1988-8, passed 8-25-1988)

EQUIVALENT DWELLING UNIT or ***EDU.*** A unit value used in the determination of sanitary sewer tap/connection charges and interceptor charges, with each unit equal to the average amount of daily sanitary sewage flow from an average single-family residence, which amount has been determined to be 310 gallons per day. By dividing the expected sanitary sewage flow from any building or part of a building that is not used as a residence, a determination shall be made of the number of EDUs attributable to that building.
(Ord. 2001-9, passed 6-6-2001)

EQUIVALENT RESIDENTIAL UNIT or ***ERU.*** A unit value used in the determination of storm water charges, with each unit equal to the average amount of ground surface area impervious to storm water for a single-family residential property in the Town of Cumberland.
(Ord. 2001-9, passed 6-6-2001)

EXCESSIVE STRENGTH SURCHARGES. An additional charge which is billed to users for treating sewage wastes with an average strength in excess of normal domestic sewage.
(Ord. 1988-9, passed 8-25-1988)

FOUNDATION DRAIN. That portion of a building drainage system provided to drain ground water from the outside of the foundation or under the basement floor, not including any sewage.
(Ord. 1988-8, passed 8-25-1988)

GARBAGE. Solid waste from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.
(Ord. 1988-8, passed 8-25-1988)

HEALTH OFFICER. The Health Officer of the state, county, and town. (Ord. 1988-8, passed 8-25-1988)

INDUSTRIAL WASTE.

(1) The liquid wastes from industrial manufacturing processes, trade, or business, as distinct from sanitary sewage.

(Ord. 1988-8, passed 8-25-1988)

(2) The wastewater discharges from industrial, trade, or business processes, as distinct from employee wastes or wastes from sanitary conveniences.

(Ord. 1988-9, passed 8-25-1988)

INSPECTION PERMIT FEE. A fee paid by the person requesting a required inspection of a connection.

(Ord. 1988-9, passed 8-25-1988)

INSPECTOR. The person duly authorized by the town, through the Town Council, to inspect and approve the installation of building sewers, private sewer systems, and/or their connection to the public sewer system.

(Ord. 1988-8, passed 8-25-1988)

INTERCEPTOR. A sewer that intercepts trunk and collector lines and transports the sewage flows from those lines to the sewage treatment plant.

(Ord. 2001-9, passed 6-6-2001)

INTERCEPTOR CHARGE. A one-time charge levied upon a person seeking connection to the town's sanitary sewer system to pay on a pro-rata basis for the cost of constructing the sewer interceptor line that will serve the person who will connect to the sewer system.

(Ord. 2001-9, passed 6-6-2001)

LIMITING LAYER. Any layer of soil within a stabilized percolation rate exceeding 60 minutes for the water to fall one inch.

(Ord. 1988-8, passed 8-25-1988)

MONTHLY RATE. A charge levied on users of the wastewater treatment works for the cost of operation and maintenance, capital replacement, and debt service of the works.

(Ord. 1988-9, passed 8-25-1988)

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

(Ord. 1988-8, passed 8-25-1988)

NEW CONSTRUCTION. A building, either under construction or completed, and connected or to be connected to the Cumberland sanitary system, GEM sanitary system, or any sanitary system owned and/or operated by the Town of Cumberland, which following issuance of a sewer permit and a building permit, has not been occupied.

(Ord. 2014-13, passed _____)

NORMAL DOMESTIC SEWER. For the purpose of determining surcharges, *NORMAL DOMESTIC SEWAGE* is wastewater or sewage with average daily concentration of *B.O.D. (BIOCHEMICAL OXYGEN DEMAND)* of not more than 220 mg/land SS of not more than 240 mg/l. (Ord. 1988-9, passed 8-25-1988)

NPDES (THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM). The ***NPDES*** permit is the permit issued by the Indiana Department of Environmental Management for discharges of wastewater to waters of the United States pursuant to 22 U.S.C. §§ 402, 466.
(Ord. 1988-9, passed 8-25-1988)

OCCUPIED. A building, or a unit of a double residence connected to the Cumberland sanitary system, GEM sanitary system, or any sanitary system owned and/or operated by the Town of Cumberland.
(Ord. 2014-13, passed _____)

OPERATION AND MAINTENANCE COSTS. All costs, including replacement, direct and indirect, necessary to provide adequate wastewater collection, transport, and treatment on a continuing basis and produce discharges to receiving waters that conform with all related federal, state, and local requirements.
(Ord. 1988-9, passed 8-25-1988)

OTHER SERVICE CHARGES. Inspection permit fees, connection charges, area charges, and other identifiable charges, other than user charges, debt service charges, and excessive strength surcharges. (Ord. 1988-9, passed 8-25-1988)

PERSON.

(1) Any individual, firm, company, association, society, corporation, or group. (Ord. 1988-8, passed 8-25-1988)

(2) Any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency, or other entity.

(Ord. 1988-9, passed 8-25-1988)

pH. The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter (g/l of solution. (Ord. 1988-8, passed 8-25-1988)

PRIVIES. Outside, open pit-type disposal systems. (Ord. 1988-8, passed 8-25-1988)

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking, and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in dimension. (Ord. 1988-8, passed 8-25-1988)

PUBLIC SEWER.

(1) Any sewer constructed, installed, maintained, operated, and owned by the town.

(2) A county drain, or any storm sewer, installed or used for the purpose of carrying surface water runoff and subsoil drainage shall not be considered nor used as a *PUBLIC SEWER.* (Ord. 1988-8, passed 8-25-1988)

REPLACEMENT COSTS. The expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the sewage

works to maintain the capacity and performance for which the works were designed and constructed.
(Ord. 1988-9, passed 8-25-1988)

RESIDENTIAL SEWAGE DISPOSAL SYSTEM.

(1) All equipment and devices necessary for proper conduction, collection, storage, treatment, and on-site disposal of sewage from a one- or two-family dwelling.

(2) *RESIDENTIAL SEWAGE DISPOSAL SYSTEM* includes, but is not limited to, building sewers, septic tanks, subsurface absorption fields, and privy vaults.
(Ord. 1988-8, passed 8-25-1988)

SANITARY BUILDING DRAIN. The part of the lowest horizontal piping of the sanitary drainage system inside the walls of any building, which receives and conveys the same to a point three feet outside the building walls where it connects with a building sewer.
(Ord. 1988-8, passed 8-25-1988)

SANITARY SEWER. A sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.
(Ord. 1988-8, passed 8-25-1988)

SEWAGE DISPOSAL SYSTEM. A system which is designed to receive sewage and transport the sewage to a proper sewage treatment system.
(Ord. 1988-8, passed 8-25-1988)

SEWAGE. A combination of the water-carried waste from residences, business buildings, institutions, and industrial establishments within the town and other areas.
(Ord. 1988-8, passed 8-25-1988)

SEWAGE TREATMENT PLANT. Any arrangement of devices and structures used for treating sewage.
(Ord. 1988-8, passed 8-25-1988)

SEWAGE WORKS. All facilities for collecting, pumping, treating, and disposing of sewage.
(Ord. 1988-8, passed 8-25-1988)

SEWER. A pipe and/or conductor for carrying sewage. (Ord. 1988-8, passed 8-25-1988)

SEWER UTILITY BOARD. The Cumberland Sanitary Board.
(Ord. 2014-13, passed _____)

SLUG. Any discharge of water, sewage, or industrial waste which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration of flows during normal operation.
(Ord. 1988-8, passed 8-25-1988)

SOIL PROFILE OBSERVATION. Observations of the physical characteristics of the soil horizons or layers to a depth of at least five feet.

(Ord. 1988-8, passed 8-25-1988)

STORM SEWER. A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.
(Ord. 1988-8, passed 8-25-1988)

SUBSURFACE ABSORPTION FIELD. Open-jointed or perforated pipes laid in a system of trenches into which the effluent from the distribution box is discharged for direct absorption into the soil. (Ord. 1988-8, passed 8-25-1988)

DIRECTOR. The person appointed as the Director of Public Works or a person authorized to act in the capacity pursuant to a contract with the Town Council.

SUSPENDED SOLIDS. Solids that either float on the surface of or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering.
(Ord. 1988-8, passed 8-25-1988)

TOWN. The area served by the town's waste treatment system in Marion and Hancock counties and the municipal government of Cumberland.
(Ord. 1988-9, passed 8-25-1988)

TRUNK LINE. A sewer that intercepts collector and branch lines and transports the sewage flows from those lines to a sewer interceptor or to the sewage treatment plant.
(Ord. 2001-9, passed 6-6-2001)

UNOCCUPIED. A building, or a unit of a double residence connected to the Cumberland sewer, that is unoccupied by any employee, tenant, homeowner, or other occupant and empty of all furniture and personal property for a continuous period of 30 days or longer, but which does not qualify as "new construction."
(Ord. 1990-13, passed 8-1-1990; Am. Ord. 1992-5, passed 6-3-1992; Am. Ord. 1993-3, passed 2-3-1993)

USER. The owner, lessee or occupant of property with a building or appurtenance that is connected to the sewer system.

USER CATEGORIES. The division of wastewater treatment customers by source, function, waste characteristics and process, or discharge similarities.

(1) ***COMMERCIAL USER.*** Any establishment involved in a commercial enterprise, business, or service which, based on a determination by the town, discharges primarily domestic wastes or wastes from sanitary conveniences. This category shall include apartments.

(2) ***INDUSTRIAL USER.*** Any manufacturing or processing facility that discharges industrial waste to a publicly owned treatment works.

(3) ***INSTITUTIONAL/GOVERNMENTAL USER.*** Any establishment involved in a social, charitable, religious, and/or educational function or federal, state, or local government which, based on a determination by the town, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

(4) ***RESIDENTIAL USER.*** A user whose premises are in a residential building that has one or two family dwelling units.
(Ord. 1988-9, passed 8-25-1988)

USER CLASS. From the user categories, there shall be two user classes: residential users and nonresidential users, which shall include the commercial, industrial and institutional/governmental users.

VACATION HOLD. The rate for a single-family residence, or unit of a double residence, that is not occupied by any employee, tenant, homeowner, or other occupant for 60 days or longer, but which does not qualify for "unoccupied" or "new construction."
(Am. Ord. 1993-3, passed 2-3-1993)

WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently.
(Ord. 1988-8, passed 8-25-1988)
(1995 Code, § 00-05-51-002)

§ 00-05-50-003 SUITABLE TOILET AND SEWAGE FACILITIES.

The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, including industrial or commercial business situated within the town and abutting any street, alley, or right-of-way in which there is now located, or may in the future be located, a public sanitary sewer of the town, shall:

(A) Install, at his or her expense, toilet and sewage facilities therein; and

(B) Connect them directly with the proper public sewer in accordance with the provisions of this chapter within 90 days after the date of official notice to do so, provided the public sewer is within 300 feet of the property line.
(1995 Code, § 00-05-51-003) (Ord. 1988-8, passed 8-25-1988) (Am. Ord. 1991-8, passed 10-2-1991) Penalty, see § 00-05-50-999

§ 00-05-50-004 DISPOSITION OF SEPTIC TANKS.

Disposition of existing septic tanks and rain fields shall be that the owner shall empty the septic tank of its contents, fill it with granular material, disconnect it from the house, and discontinue usage of it. (1995 Code, § 00-05-51-004) (Ord. 1988-8, passed 8-25-1988)

Penalty, see § 00-05-50-999

§ 00-05-50-005 CAUSING OR CONTRIBUTING TO POLLUTION OF STREAMS OR WATERS PROHIBITED.

No person shall throw, run, drain, seep, or otherwise dispose into any of the streams or waters of this state, or cause, permit, or suffer to be thrown, run, drained, allowed to seep, or otherwise dispose into the waters, any organic or inorganic matter that shall cause or contribute to a polluted condition of the water, unless a permit for that disposal has been obtained as authorized by I.C. 13-1-3 or I.C. 13-7. (1995 Code, § 00-05-51-005) (Ord. 1988-8, passed 8-25-1988) Penalty, see § 00-05-50-999

§ 00-05-50-006 PERMIT REQUIRED TO UNCOVER, CONNECT, ALTER, USE, OR DISTURB SEWER OR APPURTENANCES.

It shall be unlawful to uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a permit or other written permission from the town.
(1995 Code, § 00-05-51-006) (Ord. 1988-8, passed 8-25-1988) Penalty, see § 00-05-50-999

§ 00-05-50-007 COMPLIANCE OF RESIDENTIAL SEWER LATERALS.

The design, construction, installation, location, maintenance, and operation of residential sewer laterals shall comply with the provisions of this chapter and its incorporated regulations.
(1995 Code, § 00-05-51-008) (Ord. 1988-8, passed 8-25-1988) Penalty, see § 00-05-50-999

§ 00-05-50-008 APPROVAL OF PLANS AND SPECIFICATIONS.

Material alterations in any sanitary sewer lines or other sewage works that are currently connected to the town's sanitary sewer system, and construction of new sanitary sewer lines or other sewage works which are in the future to be connected to the town's sanitary sewer system, shall be done in accordance with the sanitary sewer design and construction standards established by the Town Council.
(1995 Code, § 00-05-51-009) (Ord. 1988-8, passed 8-25-1988; Am. Ord. 2005-07, passed 9-7-2005) Penalty, see § 00-05-50-999

§ 00-05-50-009 DENIAL OF PERMITS.

The town may refuse to issue any permit required by this chapter and not allow use of or connection to the town's sanitary sewer system if town officials determine that the requirements of the town's sanitary sewer design and construction standards or provisions of this chapter have not or cannot be met. (1995 Code, § 00-05-51-010) (Ord. 1988-8, passed 8-25-1988; Am. Ord. 2005-07, passed 9-7-2005)

§ 00-05-50-010 TOWN'S RESPONSIBILITY FOR MAINTENANCE; EXCEPTION.

Maintenance of the sewer system shall be the responsibility of the town, except for the portions of the sewer laterals, which shall be located on property not owned by the town.
(1995 Code, § 00-05-51-011) (Ord. 1988-8, passed 8-25-1988)

§ 00-05-50-011 ACCESSIBILITY.

(A) The Director, Inspector, and other duly authorized employees of the town shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter. The Director, or the Director's representatives, shall have authority to inquire into any processes, including metallurgical, chemical, oil refining, ceramic, paper, or other industries having a direct bearing on the kind and source of discharge to the sewers, waterways, or facilities for waste treatment, and the owner or custodian of the property shall have a duty to supply the information as may be reasonably requested.

(B) The Director and other duly authorized employees of the town shall be permitted to enter all private property through which the town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within the easement.
(1995 Code, § 00-05-51-012) (Ord. 1988-8, passed 8-25-1988) Penalty, see § 00-05-50-999

§ 00-05-50-012 PERMITS.

(A) The permittee shall notify the Town when the work is ready for final inspection and before any underground portions are covered. The provisions of this permit for the construction of a residential sewage disposal system shall not be considered fulfilled until the installation is completed to the satisfaction of the town or its agent.

(B) The town, or its agent, shall be permitted to enter upon all properties at the proper time for purposes of inspection, observation, measurement, sampling, and testing necessary to carry out the provisions of this regulation.

(1995 Code, § 00-05-51-013) (Ord. 1988-8, passed 8-25-1988) Penalty, see § 00-05-50-999

§ 00-05-50-013 DISCONNECTION FROM SYSTEM; PERMIT AND FEE REQUIRED.

(A) Prior to a residence, building, or structure connected to the sanitary sewer system of the town being disconnected from such system, the owner, or his or her agent, shall notify the Department of Public Works and pay the disconnection fee.

(B) Disconnection shall be made at the point of connection of the sewer lateral to the town sewer system. Upon disconnection from the sanitary sewer, the owner shall, at the owner's sole expense, properly seal the sewer at the point of disconnection in a good and workmanlike manner to make the sewer gas-tight and watertight. The seal shall be inspected and approved by the town upon completion of the disconnection and prior to the seal being covered.

(1995 Code, § 00-05-51-014) (Ord. 1993-7, passed 3-3-1993) (Ord. 2014-13, passed _____) Penalty, see § 00-05-50-999

§ 00-05-50-014 AVAILABLE TO PUBLIC.

The town adopted the Indiana Sanitary Sewer Design and Construction Standards dated August 2005 setting forth requirements of the town regarding sanitary sewers. The document and its requirements may in the future be amended by the Town Council without adoption of a new ordinance. The document shall be available for public purchase for $15 per printed copy and $10 for a version on a compact disk. (Ord. 2005-07, passed 9-7-2005)

ADMINISTRATION AND ENFORCEMENT; APPEALS

§ 00-05-50-025 NOTICE OF VIOLATION.

Any person found violating any provision of this chapter may be served by the town, or the town's duly appointed agent, with a written order stating the nature of the violation and providing a time limit for satisfactory correction thereof; but not more than ten days will be provided to remove the violation. (1995 Code, § 00-05-51-025) (Ord. 1988-8, passed 8-25-1988; Am. Ord. 1991-8, passed 10-2-1991)

§ 00-05-50-026 APPEALS.

1

(A) If an applicant is refused a permit, the town shall, upon request, afford the applicant a fair hearing.

(B) The town may, after reasonable notice and opportunity for fair hearing, revoke a permit authorizing the construction of a sewage disposal system if it finds the holder of the permit has failed to comply with any provision of this regulation.
(1995 Code, § 00-05-51-026) (Ord. 1988-8, passed 8-25-1988)

BUILDING SEWERS; CONNECTIONS

§ 00-05-50-040 SEPARATE SEWERS REQUIRED FOR EACH BUILDING.

A separate and independent building sewer shall be provided for every building. (1995 Code, § 00-05-51-050) (Ord. 1988-8, passed 8-25-1988) Penalty, see § 00-05-50-999

§ 00-05-50-041 OLD SEWERS USED WITH NEW BUILDINGS.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the town, to meet all requirements of this chapter. (1995 Code, § 00-05-51-051) (Ord. 1988-8, passed 8-25-1988) Penalty, see § 00-05-50-999

§ 00-05-50-042 SPECIFICATION REQUIREMENTS.

(A) The building sewer shall be PVC SDR35, meeting with ASTM D3034 specifications;

PVC SDR21 ASTM D3034 bell and spigot joint with elastomeric seals meeting ASTM D3212 specifications and gaskets meeting ASTM F-477 specifications or other suitable material approved by the town.

(B) Any part of the building sewer that is located within ten feet of a water service pipe shall be constructed of PVC SDR21 ASTM D3034, bell and spigot joint with elastomeric seals meeting ASTM D3212 specifications and gaskets meeting ASTM F-477 specifications.

(C) If installed in filled or unstable ground, the building sewer shall be of ductile iron pipe meeting ANSI/ASTM A746 class 50 specifications with push-on joints meeting ANSI A21.11/AWWA C111 specifications, except that PVC pipe may be accepted if laid on a suitable concrete bed or cradle as approved by the Inspector.
Penalty, see § 00-05-50-999

§ 00-05-50-043 SIZE; SLOPE; DIAMETER.

The size and slope of the building sewer shall be subject to the approval of the town, but in no event shall the diameter be of less than six inches. The slope of the pipe shall be not less than one-eighth inch per foot. For additional information, refer to the ASTM and WPCF Manual of Practice, No. 9.
(1995 Code, § 00-05-51-053) (Ord. 1988-8, passed 8-25-1988) Penalty, see § 00-05-50-999

§ 00-05-50-044 ELEVATIONS; LIFT.

(A) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor.

(B) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by the building drain shall be lifted by an approved means and discharged to the building sewer by the owner of the building.
(1995 Code, § 00-05-51-054) (Ord. 1988-8, passed 8-25-1988) Penalty, see § 00-05-50-999

§ 00-05-50-045 CONNECTIONS OF ROOF DOWN SPOUTS, EXTERIOR FOUNDATION DRAINS, AND THE LIKE.

No person shall make or allow to continue the connection of roof down spouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which, in turn, is connected directly or indirectly to a public sanitary sewer.
(1995 Code, § 00-05-51-055) (Ord. 1988-8, passed 8-25-1988; Am. Ord. 1991-8, passed 10-2-1991) Penalty, see § 00-05-50-999

§ 00-05-50-046 COMPLIANCE WITH REGULATIONS; RESISTANCE TO GAS AND WATER.

The connection of the building sewer to the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the town, or the procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9. All connections shall be made gas-tight and watertight.

Any deviation from the prescribed procedures and materials must be approved by the town or its certified representative before installation.
(1995 Code, § 00-05-51-056) (Ord. 1988-8, passed 8-25-1988) Penalty, see § 00-05-50-999

§ 00-00-50-047 INSPECTION.

The applicant for the building sewer shall notify the town when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the Director of the town or its agent.
(1995 Code, § 00-05-51-057) (Ord. 1988-8, passed 8-25-1988) Penalty, see § 00-05-50-999

§ 00-05-50-048 EXCAVATION; RESTORATION.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town or county.
(1995 Code, § 00-05-51-058) (Ord. 1988-8, passed 8-25-1988) Penalty, see § 00-05-50-999

§ 00-05-50-049 DISTANCE FROM WATER SUPPLY WELLS.

The building sewer shall be located at least 100 feet from any water supply well or pump suction line serving a residence. Sewers constructed of waterworks grade cast iron having mechanical or push-type joints or of waterworks grade pressure-type plastic with an SDR rating of 26, having gasket or push-type joints, may be located within the 50-foot distance, but not closer than 50 feet to dug and bored wells and not closer than 50 feet to drilled and driven wells of underground pump suction lines or requirements of SE-13.

(1995 Code, § 00-05-51-059) (Ord. 1988-8, passed 8-25-1988) Penalty, see § 00-05-50-999

§ 00-05-50-050 ACCESS.

Access may be provided to all parts of septic tanks where necessary to enable adequate inspection, operation, and maintenance.
(1995 Code, § 00-05-51-060) (Ord. 1988-8, passed 8-25-1988)

WASTEWATER

§ 00-05-50-065 DISCHARGE REGULATIONS; PROHIBITED SUBSTANCES.

(A) No user of the Utility's System, a Publicly Owned Treatment Works (POTW) as defined by the Federal Water Pollution Control Act (also known as the Clean Water Act, as amended, 33 U.S.C. §1251 et seq.) will allow the introduction of the following into the utility's treatment system:

(1) a pollutant from any source of nondomestic wastewater that could pass through or cause interference with the operation or performance of the system;

(2) a pollutant that could create a fire or explosion hazard in the system, including waste streams with a closed cup flashpoint of less than one hundred forty (140) degrees Fahrenheit (60° Celsius) using the test methods articulated in 40 CFR 261.21;

(3) a pollutant that could cause corrosive structural damage to the system, including a discharge with pH lower than five (5.0);

(4) a solid or viscous pollutant in an amount that could cause obstruction to the flow in a sewer or other interference with the operation of the system;

(5) a pollutant, including an oxygen demanding pollutant (such as biochemical oxygen demand) released in a discharge at a flow rate or pollutant concentration that could cause interference in the system;

(6) Heat in an amount that could

(a) inhibit biological activity in the system and result in interference or damage to the system; or,

(b) exceed forty (40) degrees Celsius or one hundred four (104) degrees Fahrenheit at the system treatment plant.

(7) Petroleum, oil, non-biodegradable cutting oil, or products of mineral oil origin in an amount that could cause interference or pass through;

(8) a pollutant that could result in the presence of toxic gases, vapors, or fumes within the system in a quantity that may cause acute worker health and safety problems;

(9) a trucked or hauled pollutant, except:

(a) with the written permission of the Public Works Director; and,

(b) when introduced to the system at a discharge point designated by the Public Works Director.

(10) Any substances, materials, waters or wastes if it appears likely, in the opinion of the Director, that the same can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream or otherwise endanger life or public property or constitute a nuisance.

(11) Any water or waste containing fats, grease, wax or oils, whether or not emulsified, in excess of 100 mg/l, or containing substances which may solidify or become viscous at temperatures between 32 degrees F (0 degrees C) and 150 degrees F (65 degrees C);

(12) Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions, whether neutralized or not;

(13) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances or wastes exerting an excessive chlorine requirement, to the degree that any material received in the composite sewage at the sewage treatment works exceeds the limits established by the town for the materials;

(14) Any waters or wastes containing phenols or other taste- or odor-producing substances, in concentrations exceeding limits which may be established by the town as necessary after treatment of the composite sewage, to meet the requirements of the state, federal, or other public agencies of jurisdiction for the discharge to the receiving waters;

(15) Any radioactive wastes or isotopes of a half-life or concentration as may exceed limits established by the town in compliance with applicable state or federal regulations;

(16) Materials which exert or cause:

(a) Unusual concentrations of inert, suspended solids, such as, but not limited to, Fuller's earth, lime slurries, and lime residues, or of dissolved solids, such as, but not limited to, sodium chloride and sodium sulfate;
(b) Excessive discoloration, such as, but not limited to, dye wastes and vegetable tanning solutions;
(c) Unusual B.O.D., chemical oxygen demand, or chlorine requirements in quantities as to constitute a significant load on the sewage treatment works; and/or
(d) Unusual volume of flow or concentration of wastes constituting slugs.

(17) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas, known or unknown as such;

(18) Any waters or wastes containing toxic or poisonous substances, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant;

(19) Any waters or wastes having a pH lower than 5.5 or greater than nine, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works;

(20) Solid or viscous substances in quantities or of size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, underground garbage, whole blood, paunch manure, hair and fleshings, entrails, plastic or paper dishes, cups, milk containers, and the like, either whole or ground by garbage grinders; and/or

(21) Waters or wastes containing substances which:

(a) Are not amenable to treatment or reduction by the sewage treatment processes employed; or

(b) Are amenable to treatment only to the degree that the sewage treatment plant effluent discharge cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(B) The following may be introduced into the utility's treatment system, under the conditions stated:

(1) Storm water and all other unpolluted drainage shall be discharged to the sewers specifically designated as storm sewers, or to a natural outlet approved by written permit of the town. Industrial cooling water or unpolluted process waters may be discharged, on written approval of the town and all other applicable authorities, to a storm sewer or natural outlet.

(C) In order to administer these prohibitions, and to limit a pollutant contributed by an industrial user that has caused or is likely to cause interference or pass through at the receiving system and to limit the recurrence of the contributed pollutant's effect on the system, no user will exceed the specific limits listed in appendix A.

(D) In order to administer and enforce these prohibitions, the Utility has the authority to:

(1) develop and enforce specific limits on prohibited substances;

(2) enter the premises of any industrial user in order to conduct inspections, surveillance, record, review, and or monitor, as necessary, to determine compliance with the SUO and, if applicable, any effective industrial waste water pre-treatment permit;

(3) accept or deny any new or increased discharges from any indirect discharger;

(4) immediately halt or prevent any discharge of pollutants to the system which reasonably appears to present an imminent endangerment to the health or welfare of the public, the environment, and/or which threatens to interfere with the operation of the system;

(5) require compliance with all pretreatment standards and requirements by indirect dischargers;

(6) impose fees, if necessary, to offset the cost incurred by the Utility for administering the pretreatment program requirements established in its permit; and,

(7) impose a fine under Section 50-999 for users not subject to the pre-treatment program or, for users subject to the pre-treatment program, impose a fine of not more than $2,500 per day, per violation for a first violation nor more than $7,500 per day, per violation for subsequent violations, in accordance with Indiana Code §36-1-3-8(a) (10) (B).

(1995 Code, § 00-05-51-070) (Ord. 1988-8, passed 8-25-1988; Am. Ord 2017-23, passed - - - 2017) Penalty, see § 00-05-50-999

§ 00-05-50-066 TOWN'S AUTHORITY TO REJECT WASTE; PROCEDURE.

(A) If any wastes, or wastes are discharged, or are proposed to be discharged to the public sewers, which wastes contain the substances or possess the characteristics enumerated in § 00-05-50-065 and which, in the judgment of the town, may have a deleterious effect on the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the town shall, upon written notice:

(1) Reject the wastes;

(2) Require pretreatment to an acceptable condition for discharge to the public sewers;

(3) Require control of the quantities and rates of discharge; and/or

(4) Require payment to cover the added cost of handling and treating the wastes not covered by existing sewer charges or revenues.

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

(C) (1) Grease, oil, and sand interceptors shall be provided when, in the opinion of the town, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients.

(2) All interceptors shall be of a type and capacity approved by the town and shall be located as to be readily and easily accessible for cleaning and inspection.

(D) Where preliminary treatment or flow-equalizing facilities are provided for any water

or waste, they shall be maintained continuously in satisfactory and effective operation by and at the owner's expense.

(1995 Code, § 00-05-51-071) (Ord. 1988-8, passed 8-25-1988)

INDUSTRIAL SITES

§ 00-05-50-080 DISCHARGE PERMITS REQUIRED; APPLICATION; FEE.

(A) Permit for Pretreatment Program. If the Public Works Director determines, based upon the requirements of the Utility's permit, Indiana law, or Federal Law that a user is required to participate in a pretreatment program, the user must apply for and obtain a permit from the Indiana Department of Environmental Management;

(B) Monitoring Discharges. The Utility has adopted and implemented a program of monitoring the discharge of all Significant Industrial Users (SIUs) in accordance with the terms and conditions of its permit. Not less than twice per calendar year, the Utility will measure the volume of the flow and sample and analyze the discharge from each SIU for all parameters contained in the industrial wastewater pretreatment (IWP) permit issued to SIUs, with the exception of Total Toxic Organics (TTOs), which will be sampled and analyzed no less than once per calendar year.

(C) Enforcement Response Plan. The Utility has adopted and implemented an Enforcement Response Plan (ERP). All industrial users, including but not limited to industrial users issued an Industrial Wastewater Pretreatment (IWP) Permit, are subject to the ERP as a condition of their permit. The ERP is a guidance document and is not incorporated into the Code. The ERP does not preclude the Utility from taking any, all or any combination of actions against any non-compliant user.

(D) No unauthorized person shall uncover, make any connection with, or opening to use, alter, or disconnect from any public sewer or appurtenance thereof without first having obtained a permit from the town.

(1995 Code, § 00-05-51-085) (Ord. 1988-8, passed 8-25-1988; Am. Ord. 1991-8, passed 10-2-1991; Am. Ord. 1993-7, passed 3-3-1993; Am. Ord 2017-23, passed - -2017) Penalty, see § 00-05-50-999

§ 00-05-50-081 RESPONSIBILITY OF OWNER; TOWN INDEMNIFIED.

(A) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner.

(B) The owner shall indemnify the town from any loss or damage that, directly or indirectly, may be occasioned by the installation of the building sewer.
(1995 Code, § 00-05-51-086) (Ord. 1988-8, passed 8-25-1988) Penalty, see § 00-05-50-999

§ 00-05-50-082 CONTROL MANHOLE.

(A) As required by the town, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole, together with the necessary meters and other appurtenances, in the building sewer to facilitate observation, sampling, and measurement of the wastes.

(B) The manhole, when required, shall be accessible by authorized town personnel and safely located, and shall be constructed in accordance with the plans approved by the town.

(C) The manhole shall be installed and maintained by the owner so as to be safe and accessible at all times.
(1995 Code, § 00-05-51-087) (Ord. 1988-8, passed 8-25-1988) Penalty, see § 00-05-50-999

§ 00-05-50-083 STANDARDS FOR MEASUREMENTS, TESTS, AND ANALYSES.

(A) All measurements, tests, and analyses of the characteristics of water and waste to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole.

(B) In the event no special manhole has been required, the control manhole shall be considered the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

(C) Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property.

(D) (1) The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample(s) should be taken.

(2) Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all outfalls where pHs are determined from periodic grab samples.
(1995 Code, § 00-05-51-088) (Ord. 1988-8, passed 8-25-1988) Penalty, see § 00-05-50-999

§ 00-05-50-084 SPECIAL AGREEMENTS AND ARRANGEMENTS.

No statement contained in this subchapter shall be construed as preventing any special agreement or arrangement between the town and any industrial concern, whereby an industrial waste of unusual strength or character may be accepted by the town for treatment, subject to payment therefor by the industrial concern.
(1995 Code, § 00-05-51-089) (Ord. 1988-8, passed 8-25-1988)

§ 00-05-50-085 SAFETY RULES.

(A) While performing the necessary work on industrial properties, the duly authorized employees of the town shall observe all reasonable safety rules applicable to the premises established by the company.

(B) The town shall indemnify the company against loss or damage to its property by town employees and against liability claims for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required and except as may be established otherwise.
(1995 Code, § 00-05-51-090) (Ord. 1988-8, passed 8-25-1988)

RATES AND CHARGES

§ 00-05-50-100 CHARGE FOR SERVICE REQUIRED; USER CLASSES ESTABLISHED.

(A) Every person whose premises are served by the sewage works shall be charged for the services. These charges are established by each user class and are levied to defray the cost of operation and maintenance (including replacement and debt service) of the treatment works.

(B) User charges are subject to the rules and regulations adopted by the Indiana Department of Environmental Management.

(C) Users of the sewage works shall be classified as:

(1) Residential;

(2) Commercial;

(3) Industrial; or,

(4) Institutional or Government.

(1995 Code, § 00-05-51-100) (Ord. 1988-9, passed 8-25-1988; Am. Ord 2017-23, passed - - 2017) Penalty, see § 00-05-50-999

§ 00-05-50-101 RATES AND CHARGES TO BE COLLECTED; BILLING PROCEDURE.

(A) Rates and charges shall be prepared, billed, and collected by the town in the manner provided by law and ordinance.

(B) Rates and charges for all users shall be prepared and billed monthly.

(C) (1) Rates and charges shall be billed to the owner of the real estate as established and reflected by the last recorded instrument or document of title to each parcel of real estate, and not to any lessee, tenant, contract purchaser, or non-owner occupant of the property. The records of the County Recorder or County Assessor shall serve to establish legal ownership of all parcels served by the town sewers.

(2) Charges may be billed to any lessee, tenant, contract purchaser, or non-owner occupant only upon receipt by the Director of Public Works of a form provided by the town and executed by the property owner.

(3) Any charges unpaid for more than 45 consecutive days may, at the option of the Clerk-Treasurer, thereafter be billed to the property owner. At the further option of the Director of Public Works, no further billings may be made to the nonpaying lessee, tenant, contract purchaser, or non-owner occupant.

(4) That nothing contained herein shall operate to release or discharge or relieve the owner of the subject real estate from liability for payment of all sewer use charges for the real estate, and the owner of the real estate shall at all times be and remain fully liable for and responsible for payment of such sewer use charges.

(5) The owners of properties served, which are occupied by lessees, tenants, contract purchasers, or non-owner occupants, shall have the right to examine the collection records of the town for the purpose of determining the payment status of the bills, provided that the examination shall be made at the office at which the records are kept during normal business hours.

(1995 Code, § 00-05-51-102) (Ord. 1988-9, passed 8-25-1988; Am. Ord. 1994-9, passed 8-3-1994) (Ord. 2014-13, passed _____) Penalty, see § 00-05-50-999

§ 00-05-50-102 RATE DETERMINATION.

Users are required to provide the Director of Public Works' office with all information necessary to make an accurate determination of the appropriate rate to be charged for their sewer service. The amount of charges billed a user will be considered as the correct amount owed by the user for sewer service, unless an error is discovered and reported to the Director of Public Works' office within 12 months of the billing date. When errors are attributable to a user's failure to provide the Clerk-Treasurer's office with any information necessary to make an accurate determination of the appropriate rate to be charged for their sewer service, and when such errors have resulted in the payment of sewer fees less than the amount that should have been paid, the Clerk-Treasurer's office may charge the user for the fees that should have been billed without limitation on the chargeable time period.
(Ord. 97-2, passed 3-18-1997) Penalty, see § 00-05-50-999

§ 00-05-50-103 NON-RESIDENTIAL USERS OF WATER FROM SOURCES OTHER THAN CITIZENS WATER.

Non-residential users/customers who obtain water service or their water supply from sources other than the public water supply system must arrange to have all their water consumption metered on approved equipment with readings reported pursuant to a schedule established by the public water supply system or the town. For purposes of the application of the non-residential customer usage-based rate charge of § 50.123, these water meter readings shall be used to determine the user's monthly sewer charges in the same way as if the user were receiving their water service from the public water supply system. The non-residential users must allow the public water supply system or the town, as determined by the town, to make periodic inspections of their water meters to verify the accuracy of the readings being used for sewer billing purposes.
(Ord. 2000-2, passed 5-3-2000) Penalty, see § 00-05-50-999

§ 00-05-50-104 SCHEDULE OF RATES AND CHARGES.

(A) For the use of and service rendered by the sewage works, rates and charges shall be collected from the owners of each and every lot, parcel of real estate, or building connected with the town's sanitary sewer system or that otherwise discharges sanitary sewage, industrial waste, water, or other liquids, either directly or indirectly, into the sanitary sewer system of the town. These rates and charges include user charges, debt service costs, connection charges, connection permit fees, sewer interceptor charges, excessive strength surcharges, and other service charges, which rates and charges, whether listed in this section or elsewhere in Chapter 50, shall be payable as set forth in this chapter:

(B) *Summer Service Credit.* In recognition that many residences use significant amounts of water during the summer months that are not discharged into the sanitary sewer system, residential users may have that part of their sewer bill which is based on water usage reported on their four bills for the billing months of June, July, August, and September be determined on their water usage amounts reported on their 12 bills for the billing months of January through December for the prior year, in accordance with rules established by the Sewer Utility Board for the Summer Service Credit. If the residential user has not resided in the residence for at least 12 months, the credit will be calculated using the water usage of the previous resident of the residence during the 12 month period the residence was occupied. Residents of new homes will not be entitled to a credit until they have occupied the residence continuously for a 12-month period.

(C) *User monitoring costs.* If the Sewer Utility Board determines that it is necessary to monitor a user's discharges into the town's sanitary sewer system in order to assure compliance with the requirements of Chapter 50, the user shall be charged the actual costs to the town for the monitoring. (Ord. 2001-9, passed 6-6-2001; Am. Ord. 2001-13, passed 8-1-2001; Am. Ord. 2002-07, passed 5-1-2002; Am. Ord. 2002-15, passed 6-5-2002; Am. Ord. 2002-16, passed 9-19-2002; Am. Ord. 2011-5, passed 5-18-2011; Ord. 2014-13, passed _____; Am. Ord. 2017-23, passed - -2017)

§ 00-05-50-105 SEWER INTERCEPTOR COSTS.

(A) Costs for the extension of the town's sewer collection system to make available sewer service to areas not receiving such service shall be recovered by monies collected from sewer interceptor charges. No connection shall be to the town's sewer system to be served by sewer interceptor or sewer trunk line until a permit is obtained and payment, or satisfactory surety for payment, has been made to the town's Interceptor Expansion Fund, which shall be a depository for all sewer interceptor charges collected.

(B) (1) The sewer interceptor charge is intended to cover the engineering, easement acquisition, construction, project administration, inspection, and legal costs of new sewer interceptor and trunk line projects. These project costs are to be allocated among all the projected new and future users of the interceptor or trunk line based on the amount of their expected use of the capacity of the new interceptor or trunk line.

(2) For each sewer interceptor or trunk line project, the Sewer Utility Board shall arrange for the Town Engineer to prepare a report identifying the proposed route of the interceptor or trunk line, the area it will serve, its capacity, and the anticipated costs. The information in the Engineer's report shall be utilized by the Sewer Utility Board to calculate the sewer interceptor charge to be paid by each developer or owner of property to be served by the interceptor or trunk line on the basis of the number of Equivalent Dwelling Units (EDU) identified for that new user. The interceptor or trunk line's EDU capacity shall be determined by dividing the Engineer's projection for the interceptor or trunk line's daily sewage flow capacity by the daily sewage flow rate attributed for each EDU. Each new user shall have its sewer interceptor charge based on the number of EDUs attributed to the buildings they are connecting to the sewer system that will be served by the interceptor or trunk line, with each EDU assigned an interceptor charge equal to the Engineer's calculation of the anticipated interceptor or trunk line cost divided by the interceptor or trunk line capacity.

(C) (1) If a person pays an interceptor charge that is based on the Town Engineer's projected costs, and if the actual costs for a sewer interceptor or trunk line project are more than 10% less than the projected costs, that person shall receive a refund of the charges paid in an amount sufficient to make the charge paid based on the actual cost of the interceptor or trunk line project.

(2) If a person pays an interceptor charge prior to the completion of the interceptor or trunk line project, and the interceptor or trunk line project is terminated without being completed, or the interceptor or trunk line is not constructed within three years of that person's payment of the interceptor fee, that person shall be entitled to a full refund of the interceptor charge paid.

(3) If an interceptor or trunk line is constructed after a refund has been made, the owner of the property for which the refund was provided shall be assessed a charge for the cost of the interceptor or trunk line based on the actual project cost of the interceptor or trunk line.

(D) If a person pays for and/or constructs a sewer interceptor or trunk line with the approval of the Sewer Utility Board, that person's expenditures for the line shall serve as payment in lieu of the sewer interceptor charge. A person paying for and/or constructing a

sewer interceptor or trunk line may arrange with the Sewer Utility Board to receive payment of interceptor charges collected in the future from other persons connecting to that interceptor or trunk line and/or other payment from the town to compensate for part of the cost of the interceptor or trunk line.

(E) In the event that a sewer interceptor or trunk line is not in place to sufficiently serve a connection a person is seeking to the town's sewer system, and the Town Engineer has determined that a new connection should not be made without some improvement to the sewer collection system to facilitate the new connection, the Sewer Utility Board may require that person to pay for the improvements the Town Engineer has determined are needed to facilitate that person's connection to the sewer system.

(Ord, 2001-9, passed 6-6-2001; Am. Ord 2017-23, passed - -2017) Penalty, see § 00-05-50-999

§ 00-05-50-107 WAIVER OF APPLICABLE FEES.

(A) The Town Council may waive the requirement of this chapter that no sewer installation permit shall be issued until the applicable sewer tap fee and permit fee have been fully paid (§ 00-05-50-104), subject to the following conditions.

(1) The sewer connection is to an existing single-family residential building that has relied on a septic system to handle its sanitary wastes.

(2) The residential building is located on property within the corporate limits of the town, or the owner has made a binding commitment to support the town's annexation of his or her property at the time the town initiates annexation and throughout the annexation process.

(3) The owner of the residential building enters into a written agreement prepared by the town to pay the applicable sewer tap fee and permit fee by making equal installment payments in each month over a 12-month period, with the first payment to be made prior to the connection being made to the town's sewers.

(Ord. 1998-6, passed 6-3-1998)

(B) The Town Council may waive the requirement for a sewer service application and the sewer service application review fee for sewer connection sought for property outside the town boundaries when it determines that a formal and detailed review process is not needed by the town.

§ 00-05-50-108 SURCHARGES.

(A) **(1)** The town shall require the user to determine the strength and content of all sewage and wastes discharged, either directly or indirectly, into the sanitary sewage system in the manner and method the town deems practicable, in light of the conditions attending circumstances of the case, in order to determine the proper charge.

(2) The user shall furnish a central sampling point available at any time to the town.

(B) Normal domestic waste strength should not exceed a biochemical oxygen demand of 220 mg/1 of fluid or suspended solids in excess of 220 mg/1 of fluid. Additional charges for treating stronger than normal domestic waste shall be made on the following basis when applicable.

(1) *Rate surcharge based upon suspended solids.* There shall be an additional charge per pound of suspended solids for suspended solids received in excess of 220 mg/1 of fluid, which shall relate reasonably to the incremental cost of treatment and disposal thereof.

(2) *Rate surcharge based upon B.O.D.* There shall be an additional charge, per pound of biochemical oxygen demand for B.O.D. received in excess of 220 mg/1 of fluid, which shall be reasonably related to the incremental cost of treatment and disposal thereof.

(3) *Rate surcharge based upon ammonia.* There shall be an additional charge per pound for ammonia in excess of 10 mg/l of fluid, which charge shall be reasonably related to the incremental cost of treatment and disposal.

(C) The determination of suspended solids and five-day B.O.D. contained in the waste shall be in accordance with the latest copy of "Standard Methods for the Examination of Water, Sewage, and Industrial Wastes," as written by the American Public Health Association, the American Waterworks Association, and the Water Pollution Control Federation, and in compliance with "Guidelines Establishing Test Procedures for Analysis of Pollutants," Regulation C.F.R. pt. 136, published in the Federal Register on October 16, 1973.
(1995 Code, § 00-05-51-101) (Ord. 1988-9, passed 8-25-1988) Penalty, see § 00-05-50-999

§ 00-05-50-109 DELINQUENCY CHARGE.

Payment for all charges for sewer use shall be due upon user's receipt of their billing notice, and users' accounts shall be considered delinquent if full payment is not received at the payment office identified in the billing notice by the due date specified in the billing notice. In the event that a mailed payment, properly addressed to the billing office, for the full amount of the bill, is postmarked at least five days prior to the due date specified in the billing notice, no delinquent penalty shall apply if payment is received by the billing office within ten days of the due date specified in the billing notice. A penalty in the amount of 10% of the delinquent fee shall be charged to the user. The Clerk-Treasurer shall have the authority to negotiate repayment plans for delinquent accounts and to correct erroneous billing, and he or she may waive late penalties, not to exceed the sum of $400 for any user, if the Clerk-Treasurer, in his or her sole discretion, believes that such a waiver is appropriate under the circumstances.
(Am. Ord. 2011-14, passed 12-7-2011)

§ 00-05-50-110 DISHONORED PAYMENT CHARGE.

A fee in the amount of $25 shall be charged to any person or entity presenting a check, draft or order for payment of sewer use fees or shall be charged the person for whose benefit the instrument was given, which instrument is returned to the town's agent for collecting sewer use fees marked "unpaid" or otherwise dishonored by the institution upon which it was drawn. This charge shall be imposed for each returned or dishonored instrument in addition to any other charges made by the institution upon which it was drawn and by other utility service providers that were entitled to any part of the payment from the returned or dishonored instrument.
(Ord. 2003-2, passed 7-16-2003)

SUPPLEMENTAL PROVISIONS TO PREVENT ILLEGAL DISCHARGES

§ 00-05-50-120 PROOF OF COMPLIANCE; GRANT OF INSPECTION.

A user of the town's sanitary sewer system may avoid the imposition or levy of any fines, fees, charges, or penalties with regard to such use and utilization by presentation of proof of compliance and continued compliance with the provisions of the town's ordinance, together with any amendments thereto, which proof shall consist of and include compliance with the following procedures and conditions as to each building and/or appurtenance connected thereto.

(A) Upon request by a sewage official or one of the town's designated employees, either in writing or by personal contact, each user utilizing the system shall, within ten business days after such request, execute a "grant of inspection" to the town to permit entry upon the property served by the system upon which the building or appurtenance is located to inspect and/or perform such test as may be deemed necessary by the town to verify and prove compliance with the provisions of the town's ordinance, as set forth herein, together with any amendments thereto.

(B) The grant of inspection shall be deemed to include the right of periodic inspections and/or tests thereafter as may be reasonably determined to be necessary by the town to maintain, monitor, and ensure continued compliance with the provisions of the town's ordinance, as set forth herein, and any amendments thereto.

(C) Once a grant of inspection has been executed, it shall be deemed to be an ongoing authorization without termination as provided for herein. Once a grant of inspection has been executed, it may not be revoked by the original grantor.

(D) Reasonable written notice at least 24 hours in advance shall be given by the town officials, or their designated employee or employees, to the user of the time and place at which the inspections and/or tests provided for herein are to be made and conducted.

(E) No fees shall be charged for any inspections and/or tests conducted and performed by the town's designated representatives.

(F) In the event a user utilizing the system executes a grant of inspection and the town

determines that the buildings and/or appurtenances are in compliance, no surcharge, fines, or other penalties shall be imposed or levied upon the user; provided, however, that the town shall have the right and authority, pursuant to the grant of inspection executed as required herein and the terms of this subchapter, together with any amendments thereto, to conduct additional inspections and/or tests at a later date to determine that compliance continues to exist.

(G) (1) In the event a user utilizing the system fails, declines, or refuses to execute a grant of inspection to the district for the purposes provided herein, a surcharge of $50 per month shall be imposed in addition to all other charges authorized and imposed under any of the applicable ordinances of the town, commencing at the beginning of the next billing period following the date of the failure and refusal to execute the grant of inspection to the town.

(2) If the user continues to refuse to execute a grant of inspection after a period of 60 days from the date of first request, the surcharge shall be raised and increased to $100 per month beginning on the sixty-first day.

(H) In the event a user utilizing the system executes a grant of inspection and the town inspects, conducts tests, and determines that the buildings and/or appurtenances of the user are not in compliance, then, and in such event, the town, by its designated employee, shall provide written notice of the results of the inspection and tests to the user, who shall be required to permanently comply with the applicable provisions of all relevant ordinances, together with all amendments thereto within 45 days of the date of the notice.

(I) In the event that the building and/or appurtenances of the user are determined not to be in compliance with the provisions set forth herein, together with any amendments thereto, and the time period referred to herein for corrective work expires, and the user has failed to bring the building or appurtenances into compliance with this subchapter, a surcharge of $100 per month per billing account for the user shall be imposed, in addition to all other charges authorized and imposed under any applicable ordinance of the town, commencing the next billing period immediately following the date of inspection or testing wherein the noncompliance was first determined, as and for fine and penalty for allowing and permitting the violation to continue to exist.

(J) The surcharge referred to herein shall be removed only upon the following conditions:

(1) The user utilizing the system executes a grant of inspection to the town and takes the required corrective action to bring about compliance;

(2) The town inspects and/or performs such additional tests of the buildings and/or appurtenances connected to the system and determines the buildings and/or appurtenances so connected are fully in compliance; and

(3) The payment in full of all the surcharges billed to the user utilizing the system until such time as the building and/or appurtenances in question are determined to be in compliance.

(K) The failure or refusal by the user utilizing the system to execute a grant of inspection or to cause his or her buildings and/or appurtenances not to be in compliance after being determined by the agents of the town not to be in compliance, within the statutory guidelines from the date of failure, refusal, or notice of noncompliance, shall cause the town, by its agents, to prepare a notice of violation of the ordinance of the town and to file the notice for recording in the office of the Recorder of the county in which the real estate is located.
(1995 Code, § 00-05-51-121) (Ord. 1994-4, passed 4-7-1994)

§ 00-05-50-121 CONDITION OF NONCOMPLIANCE.

In the event a user is found to be in compliance but subsequent inspections and/or tests determine a condition of noncompliance currently exists, the aforesaid relevant provisions of § 00-05-50-120 and its appropriate divisions shall be deemed applicable, except that, in addition to the surcharge therein required, the user shall be liable for payment of a sum equal to the. sum of the months since the original determination of compliance was made multiplied by the monthly surcharge provided for in § 00-05-50-120, in the event town agents determine the user knowingly, willfully, and/or intentionally created or permitted such violation to commence and continue.
(1995 Code, § 00-05-51-122) (Ord. 1994-4, passed 4-7-1994)

§ 00-05-50-122 USER LIABLE FOR EXPENSES UPON VIOLATION.

Any user violating any of the provisions of this subchapter, or any amendments thereto, shall be liable to the town for any expenses, costs, and fees, including, but not limited to, reasonable court costs and attorney fees, including recording and filing fees, occasioned or caused to the town in seeking enforcement of the provisions of the ordinances against the violator, as well as for any losses or damages occasioned or caused to the town by reason of the violation.
(1995 Code, § 00-05-51-123) (Ord. 1994-4, passed 4-7-1994) Penalty, see § 00-05-50-999

§ 00-05-50-123 ENFORCEMENT AUTHORITY.

(A) The Town Council, and its sewage utility, shall have full power and authority to invoke any and all legal, equitable, or special remedies for the enforcement of this subchapter, including, but not limited to, prohibitory or mandatory injunctive relief to prevent or discontinue any violations of this subchapter and to ensure compliance with the provisions hereof.

(B) The Council may authorize its attorney to institute any proceedings deemed necessary on behalf of the town in the appropriate court of the county in which the offending real estate shall be located. (1995 Code, § 00-05-51-124) (Ord. 1994-4, passed 4-7-1994)

§ 00-05-50-124 SUBCHAPTER DEEMED SUPPLEMENTAL.

This subchapter shall be deemed supplemental to all other ordinances and provisions thereof for enforcement and compliance purposes and shall not be deemed to

amend, alter, or rescind any other such ordinances; further that any fines, fees, charges, or penalties levied, assessed, or imposed pursuant to this subchapter shall be in addition to any fines, fees, charges, or penalties levied or imposed pursuant to any other ordinance or any of the provisions thereof.
(1995 Code, § 00-05-51-125) (Ord. 1994-4, passed 4-7-1994)

§ 00-05-50-125 DETERMINATION OF REASONABLE MEASURES.

The Town Council, by passage hereof, has determined that the measures herein above set out are reasonable means of ensuring compliance with the provisions as set forth herein together with any amendments thereto.
(1995 Code, § 00-05-51-126) (Ord. 1994-4, passed 4-7-1994)

§ 00-05-50-126 PERMIT REQUIRED TO DISTURB CONNECTIONS.

No person, firm, or corporation shall uncover or make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a permit from the town. (1995 Code, § 00-05-51-127) (Ord. 1994-4, passed 4-7-1994) Penalty, see § 00-05-50-999

§ 00-05-50-127 DISCHARGE OF STORM OR UNPOLLUTED WATER TO SANITARY SEWER.

No person, firm, or corporation shall discharge or cause or permit to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process water to any sanitary sewer.
(1995 Code, § 00-05-51-128) (Ord. 1994-4, passed 4-7-1994) Penalty, see § 00-05-50-999

§ 00-05-50-128 LEGAL REMEDIES; LIEN; COSTS OF COLLECTION.

(A) Any fines, fees, charges, or penalties levied or made against any property for violation of any of the terms herein, in addition to the legal remedies set forth above, shall:

(1) Constitute a lien upon the real estate of the owners; and

(2) The Director of Public Works may utilize a collection agency to pursue repayment of outstanding fines, fees, etc. Additionally, the Town reserves the right to pursue all other legal remedies available to itself.

(B) In addition to any fines or penalties imposed, any person, firm, or corporation, developer, contractor, or subcontractor liable for or owing the fine or cost shall pay, in addition to the fines imposed herein, all costs of collection, including filing and recording fees, reasonable attorneys fees, and any other costs incurred in connection with the levy or collection of all sums due.
(1995 Code, § 00-05-51-129) (Ord. 1994-4, passed 4-7-1994) (Ord. 2014-13, passed _____)

§ 00-05-50-999 PENALTY.

(A) Other than as provided in Section 00-05-50-065(c)(7), any person, firm, or corporation, developer, contractor, or subcontractor violating any provision of this chapter shall, upon conviction or true finding of violation, be fined not more than $1,000 for the first offense, not more than $2,500 for any second offense, and not more than $5,000 for the third and each offense subsequent thereto. The expiration of the time specified for abating the violation shall constitute a separate offense.

(B) In addition to any fines or penalties imposed, any person, firm, or corporation, developer, contractor, or subcontractor liable for or owning such fine or cost shall pay, in addition to the fines imposed herein, all costs of collection, including filing and recording fees, reasonable attorneys fees and any other costs incurred in connection with the levy or collection of all sums due.
(1995 Code, § 00-05-51-999) (Ord. 1988-8, passed 8-25-1988; Am, Ord. 1991-8, passed 10-2-1991; Am. Ord. 1994-5, passed 4-7-1994; Am. Ord. 2017-23, passed - -2017)

CHAPTER 51: STORM WATER MANAGEMENT

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Enforcement

00-05-51-100 Compliance with this chapter
00-05-51-101 Stop work order
00-05-51-102 Failure to comply or complete
00-05-51-103 Suspension of access to the storm drain system
00-05-51-104 Corrective action
00-05-51-105 Appeals

00-05-51-999 Penalty

GENERAL PROVISIONS

§ 00-05-51-001 AUTHORITY AND TITLE.

(A) This chapter is adopted in accordance with statutory authority granted under code authorizing jurisdiction over storm system, and further is required by Phase II of the National Pollution Discharge Elimination System program (FR Doc. 99-29181) authorized by the 1972 amendments to the Clean Water Act, the Indiana Department of Environmental Management's Rule 5 (327 IAC 15-5). Based on this authority and these requirements, this chapter regulates:

(1) Discharges of prohibited non-stormwater flows into the storm drain system.

(2) Stormwater drainage improvements related to development of lands located within town.

(3) Drainage control systems installed during new construction and grading of lots and other parcels of land.

(4) Erosion and sediment control systems installed during new construction and grading of lots and other parcels of land.

(5) The design, construction, and maintenance of stormwater drainage facilities and systems.

(6) The design, construction, and maintenance of stormwater quality facilities and systems.

(B) This chapter shall be known and may be cited as the Town of Cumberland Stormwater Management Ordinance.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-002 APPLICABILITY AND EXEMPTIONS.

(A) This chapter shall regulate all development and redevelopment occurring within town. No building permit shall be issued and no land disturbance started for any construction in a development, as defined in § 00-05-51-007, until the plans required by this chapter for such construction have been accepted in writing by the Stormwater Board and/or the permitting officer. With the exception of the requirements of §§ 00-05-51-015 et seq. and §§ 00-05-51-073, single-family dwelling houses in accepted subdivisions, new buildings or cumulative building additions) with less than 500 square feet of area, and land-disturbing activities affecting less than 10,000 square feet of area shall be exempt from the requirements of this chapter. Also exempt from this chapter shall be the agricultural land-disturbing activities.

(B) Town of Cumberland Projects shall be exempt from obtaining permit, but are expected to meet all applicable technical requirements of this chapter and the Stormwater Technical Standards Manual.

(C) Any construction project which has had its final drainage plan accepted by the Stormwater Board and/or the permitting officer within a two-year period prior to the effective date of this chapter shall be exempt from all requirements of this chapter that are in excess of the requirements of ordinances in effect at the time of acceptance. Such an exemption is not applicable to the requirements detailed in §§ 00-05-51-015 et seq.

(D) The Stormwater Board and/or the permitting officer has the authority to modify, grant exemptions, and/or waive any and all the requirements of this chapter and its associated technical standards document. A pre-submittal meeting with the Stormwater Board and/or the permitting officer may be requested by the applicant to discuss the applicability of various provisions of the chapter and its associated technical standards document with regards to unique or unusual circumstances relating to a project. However, any initial determination of such applicability shall not be binding on future determinations of the Stormwater Board and/or the permitting officer that may be based on the review of more detailed information and plans.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-003 BACKGROUND.

On December 8, 1999, Phase II of the National Pollutant Discharge Elimination System (NPDES) permit program, was published in the Federal Register. The NPDES program, as authorized by the 1972d amendments to the Clean Water Act, controls water pollution by regulating point sources that discharge pollutants into waters of the United States. Phase II of the NPDES requires permit coverage for stormwater discharges from regulated small municipal

separate storm sewer systems (MS4s) and for small construction activity that results in the disturbance of equal to or greater than one acre. This federal regulation went into effect March 10, 2003. In response to Phase II of NPDES, the Indiana Department of Environmental Management enacted Rule 12 (327 IAC 15-13) and revised Rule 5 (327 IAC 15-5). Under these new state and federal regulations, the won is required to establish a regulatory mechanism for regulating stormwater quality management.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-004 FINDINGS.

The town Storm Water Board finds that:

(A) Water bodies, roadways, structures, and other property within and downstream of town are at times subjected to flooding.

(B) Flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the region.

(C) Land development alters the hydrologic response of watersheds, resulting in increased stormwater runoff rates and volumes, increased flooding, increased stream channel erosion, and increased sediment transport and deposition.

(D) Soil erosion resulting from land-disturbing activities causes a significant amount of sediment and other pollutants to be transported off-site and deposited I ditches, streams, wetlands, lakes and reservoirs.

(E) Increased stormwater runoff rates and volumes, and the sediments and pollutants associated with stormwater runoff from future development projects within town will, absent reasonable regulation and control, adversely affect the town's water bodies and water resources.

(F) Pollutant contributions from illicit discharges within the town will, absent reasonable regulation, monitoring, and enforcement, adversely affect the town's water bodies and water resources.

(G) Stormwater runoff, soil erosion, non-point source pollution, and illicit sources of pollution can be controlled and minimized by the regulation of stormwater management.

(H) Adopting the standards, criteria, and procedures contained and referenced in this chapter and implementing the same will address many of the deleterious effects of stormwater runoff and illicit discharges.

(I) Adopting this chapter is necessary for the preservation of the public health, safety, and welfare, for the conservation of our natural resources, and for compliance with state and federal regulations.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-005 PURPOSE.

(A) The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of town through the regulation of stormwater and non-storwmater discharges to the storm drainage system and to protect, conserve and promote the orderly development of land and water resources within town. This chapter establishes methods for managing the quantity and quality of stormwater entering into the storm drain system in order to comply with state and federal requirements.

(B) The objective of this chapter are:

(1) To reduce the hazard to public health and safety caused by excessive stormwater runoff.

(2) To regular the contribution of pollutants to the storm drain system from construction site runoff.

(3) To regular the contribution of pollutants to the storm drain system from runoff from new development and re-development.

(4) To prohibit illicit discharges into the storm drain system.

(5) To establish legal authority to carry out all inspection, monitoring, and enforcement procedures necessary to ensure compliance with this chapter.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-006 ABBREVIATIONS.

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

BMP	Best Management Practice
COE	United States Army Corps of Engineers
CWA	Clean Water Act
EPA	Environmental Protection Agency
GIS	Geographical Information System
IDEM	Indiana Department of Environmental Management
MS4	Municipal Separate Storm Sewers
NRCS	USDA-Natural Resources Conservation Service
NPDES	National Pollution Discharge Elimination System
POTW	Publicly Owned Treatment Works
SWCD	Soil and Water Conservation District

SWPPP	Stormwater Pollution Prevention Plan
USDA	United Stated Department of Agriculture
USFWD	United States Fish and Wildlife Service

(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-007 DEFINITIONS.

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

***AGRICULTURAL LAND DISTURBING ACTIVITY*.** Tillage, planting, cultivation, or harvesting operations for the production of agricultural or nursery vegetative crops. The term also includes pasture renovation and establishment, the construction of agricultural conservation practices, and the installation and maintenance of agricultural drainage tile. For purposes of this rule, the term does not include land disturbing activities for the construction of agricultural related facilities, such as barns, buildings to house livestock, roads associated with infrastructure, agricultural waste lagoons and facilities, lake and ponds, wetlands; and other infrastructure.

***BASE FLOW*.** Stream discharge derived from groundwater sources as differentiated from surface runoff. Sometimes considered to include flows from regulated lakes or reservoirs.

***BEST MANAGEMENT PRACTICES*.** Design, construction, and maintenance practices and criteria for stormwater facilities that minimize the impact of stormwater runoff rates and volumes, prevent erosion, and capture pollutants.

***BUFFER STRIP*.** An existing, variable width strip of vegetated land intended to protect water quality and habitat.

***CAPACITY (OF A STORM DRAINAGE FACILITY)*.** The maximum flow that can be conveyed or stored by a storm drainage facility without causing damage to public or private property.

***CATCH BASIN*.** A chamber usually built at the curb line of a street for the admission of surface water to a storm drain or subdrain, having at its base a sediment sump designed to retain grit and detritus below the point of overflow.

***CHANNEL*.** A portion of a natural or artificial watercourse which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water. It has a defined bed and banks which serve to confine water.

***COMPREHENSIVE STORMWATER MANAGEMENT*.** A comprehensive stormwater program for effective management of stormwater quantity and quality throughout the community.

***CONSTRUCTED WETLAND*.** A manmade shallow pool that creates growing conditions suitable for wetland vegetation and is designed to maximize pollutant removal.

CONSTRUCTION ACTIVITY. Land disturbing activities, and land disturbing activities associated with the construction of infrastructure and structures. This term does not include routine ditch or road maintenance or minor landscaping projects.

CONSTRUCTION SITE ACCESS. A stabilized stone surface at all points of ingress or egress to a project site, for the purpose of capturing and detaining sediment carried by tires of vehicles or other equipment entering o exiting the project site.

CONTIGUOUS. Adjoining or in actual contact with.

CONTOUR. An imaginary line on the surface of the earth connecting points of the same elevation.

CONTOUR LINE. Line on a map which represents a contour or points of equal elevation.

CONTRACTOR OR SUBCONTRACTOR. An individual or company hired by the project site or individual lot owner, their agent, or the individual lot operation to perform services on the project site.

CONVEYANCE. Any structural method for transferring stormwater between at least two points. The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains, and roadways.

CROSS SECTION. A graph or plot of ground elevation across a stream valley or a portion of it, usually along a line perpendicular to the stream or direction of flow.

CULVERT. A closed conduit used for the conveyance of surface drainage water under a roadway, railroad, canal or other impediment.

DECHLORINATED SWIMMING POOL DISCHARGE. Chlorinated water that has either sat idle for seven days following chlorination prior to discharge to the MS4 conveyance, or, by analysis, does not contain detectable concentrations (less than five-hundredths (9.95) milligram per liter) of chlorinated residual.

DESIGN STORM. A selected storm event, described in terms of the probability of occurring once within a given number of years, for which drainage or flood control improvements are designed and built.

DETENTION. A facility constructed or modified to restrict the flow of storm water to a prescribed maximum rate, and to detain concurrently the excess waters that accumulate behind the outlet.

DETENTION STORAGE. The temporary detaining of storage of stormwater in storage facilities, on rooftops, in streets, parking lots, school yards, parks, open spaces or other areas under predetermined and controlled conditions, with the rate of release regulated by appropriately installed devices.

DETENTION TIME. The theoretical time required to displace the contents of a tank or unit at a given rate of discharge (volume divided by rate of discharge).

DETRITUS. Dead or decaying organic matter; generally contributed to stormwater as fallen leaves and sticks or as dead aquatic organisms.

DEVELOPER. Any person financially responsible for construction activity, or an owner of property who sells or leases, or offers for sale or lease, any lots in a subdivision.

DISCHARGE. Usually the rate of water flow. A volume of fluid passing a point per unit time commonly expressed as cubic feet per second, cubic meters per second, gallons per minute, or millions of gallons per day.

DISPOSAL. The discharge, deposit, injection, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that the solid waste or hazardous waste, or any constituent of the waste, may enter the environment, be emitted into the air, or be discharged into any waters, including ground waters.

DRAINAGE AREA. The area draining into a stream at a given point. It may be of different sizes for surface runoff, subsurface flow and base flow, but generally the surface runoff area is considered as the drainage area.

DRY WELL. A type of infiltration practice that allows stormwater runoff to flow directly into the ground via a bored or otherwise excavated opening the ground surface.

DURATION. The time period of a rainfall event.

ENVIRONMENT. The sum total of all the external conditions that may act upon a living organism or community to influence its development or existence.

ERODIBILITY INDEX (EI). The soil erodibiity index (EI) provides a numerical expression of the potential for a soil to erode considering the physical and chemical properties of the soil and the climatic conditions where it is located. The higher the index, the greater the investment needed to maintain the sustainability of the soil resource base if intensively cropped. It is defined to be the maximum of (RxKxLS)/T (from the Universal Soil Loss Equation) and (Cxl)/T (from Wind Erosion Equation), where R is a measure of rainfall and runoff, K is a factor of the susceptibility of the soil to water erosion, LS is a measure of the combined effects of slope length and steepness, C is a climatic characterization of windspeed and surface solid moisture and I is a measure of the susceptibility of the soil to wind erosion. **ERODIBILITY INDEX** scores equal to or greater than 8 are considered highly erodible land.

EROSION. The wearing away of the land surface by water, wind, ice, gravity, or other geological agents. The following terms are used to describe different types of water erosion:

(1) *Accelerated erosion.* Erosion much more rapid than normal or geologic erosion, primarily as a result of the activities of man.

(2) *Channel erosion.* An erosion process whereby th3e volume and velocity of flow wears away the bed and/or banks of a well-defined channel.

(3) *Gully erosion.* An erosion process whereby runoff water accumulates in narrow channels and, over relatively short periods, removes the soil to considerable depths, ranging from one to two feet to as much as 75-100 feet.

(4) *Rill erosion*. An erosion process in which numerous small channels only several inches deep are formed; occurs mainly on recently disturbed and exposed soils (see ***RILL***).

(5) *Splash erosion*. The spattering of small soil particles caused by the impact of raindrops on wet soils, the loosened and spattered particles may or may not be subsequently removed by surface runoff.

(6) *Sheet erosion*. The gradual removal of a fairly uniform layer of soil from the land surface by runoff water.

EROSION AND SEDIMENT CONTROL. A practice, or a combination of practices, to minimize sedimentation by first reducing or eliminating erosion at the sourced and then as necessary, rapping sediment to prevent it from being discharged from or within a project site.

FILTER STRIP. Usually a long, relatively narrow area (usually, 20-75 feet wide) of undisturbed or planted vegetation used near disturbed or impervious surfaces to filter stormwater pollutants for the protection of watercourses; reservoirs, or adjacent properties.

FLOATABLE. Any solid waste that will float on the surface of the water.

FLOOD (or FLOOD WATERS). A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

FLOODPLAIN. The channel proper and the areas adjoining the channel which have been or hereafter may be covered by the regulatory or 100-year flood. Any normally dry land area that is susceptible to being inundated by water fro any natural source. The floodplain includes both the floodway and the floodway fringe districts.

FLOODWAY. The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flow of the regulatory flood of any river or stream.

FLOODWAY FRINGE. That portion of the flood plain lying outside the floodway, which is inundated by the regulatory flood.

FOOTING DRAIN. A drain pipe installed around the exterior of a basement wall foundation to relieve water pressure caused by high groundwater elevation.

GARBAGE. All putrescible animal solid, vegetable solid, and semisolid wastes resulting from the processing, handling, preparation, cooking, serving, or consumption of food or food materials.

GASOLINE OUTLET. An operating gasoline or diesel fueling facility whose primary function is the resale of fuels. The term applies to facilities that create 5,000 or more square feet of impervious surfaces, or generate an average daily traffic count of 100 vehicles per 1,000 square feet of land area.

GEOGRAPHICAL INFORMATION SYSTEM. A computer system capable of assembling, soring, manipulation, and displaying geographically referenced information. This technology can be used for resource management and development planning.

GRADE.

(1) The inclination or slope of a channel, canal, conduit, and the like, or natural ground surface usually expressed in terms of the percentage the vertical rise (or fall) bears to the corresponding horizontal distance.

(2) The finished surface of a canal bed, roadbed, top of embankment, or bottom of excavation; any surface prepared to design elevation for the support of construction, such as paving or the laying of a conduit.

(3) To finish the surface of a canal bed, roadbed, top of embankment, or bottom of excavation, or other land area to a smooth, even condition.

GRADING. The cutting and filling of the land surface to a desired slope or elevation.

GRASS. A member of the botanical family Graminae, characterized by blade-like leaves that originate as a sheath wrapped around the stem.

GROUNDWATER. Accumulation of underground water, natural or artificial. The term does not include manmade underground storage or conveyance structures.

HABITAT. The environment in which the life needs of a plant or animal are supplied.

HIGHLY ERODIBLE LAND (HEL). Land that has an erodibility index of eight or more.

HYDROLOGY. The science of the behavior of water in the atmosphere, on the surface of the earth, and underground. A typical hydroiogic study is undertaken to compute flow rates associated with specified flood events.

ILLICIT DISCHARGE. Any discharge to a conveyance that is not composed entirely of stormwater except naturally occurring floatables, such as leaves or tree limbs.

IMPAIRED WATERS. Waters that do not or are not expected to meet applicable water quality standards, as included on IDEM's CWA Section 303(d) List of Impaired Waters.

IMPERVIOUS SURFACE. Surfaces, such as pavement and rooftops, which prevent the infiltration of stormwater into the soil.

INDIVIDUAL BUILDING LOT. A single parcel of land within a multi-parcel development.

INDIVIDUAL LOT OPERATOR. A contractor or subcontractor working on an individual lot.

INDIVIDUAL LOT OWNER. A person who has financial control of construction activities for an individual lot.

INFILTRATION. Passage or movement of water into the soil. Infiltration practices include any structural BMP designed to facilitate the percolation of run-off through the soil to groundwater. Examples include infiltration basins or trenches, dry wells, and porous pavement.

INLET. An opening into a storm drain system for the entrance of surface storm water runoff, more completely described as a storm drain inlet.

LAND-DISTURBING ACTIVITY. Any man-made change of the land surface, including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting and grading.

LAND PERMITTING OFFICER. A person licensed under the laws of the State of Indiana to practice land purveying.

LARGER COMMON PLAN OF DEVELOPMENT OR SALE. A plan, undertaken by a single project site owner or a group of project site owners acting in concert, to offer lots for sale or lease; where such land is contiguous, or is known, designated, purchased or advertised as a common unit or by a common name, such land shall be presumed as being offered for sale or lease as a part of a larger common plan. The term also includes phased or other construction activity by a single entity for its own use.

LOWEST ADJACENT GRADE. The elevation of the lowest grade adjacent to a structure, where the soil meets the foundation around the outside of the structure (including structural members such as basement walkout, patios, decks, porches, support posts or piers, and rim of the widow well.)

LOWEST FLOOR. Refers to the lowest of the following:

(1) The top of the basement floor.

(2) The top of the garage floor, if the garage is the lowest level of the building.

(3) The top of the first floor of buildings constructed on a slab or of buildings elevated on pilings or constructed on a crawl space with permanent openings; or

(4) 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 opening (in addition to doorways and windows) having a total area of one square foot for every two square feet of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one foot above grade.

(b) Such enclosed space shall be usable only for the parking of vehicles or building access.

MANHOLE. Storm drain structure through which a person may enter to gain access to an underground storm drain or enclosed structure.

MEASURABLE STORM EVENT. A precipitation event that results in a total measured precipitation accumulation equal to, or greater than, one-half inch of rainfall.

MULCH. A natural or artificial layer of plant residue or other materials covering the land surface which conserves moisture, hold soil in place, aids in establishing plant cover, and minimizes temperature fluctuations.

MUNICIPAL SEPARATE STORM SEWERS. An MS4 meets all the following criteria:

(1) Is a conveyance or system of conveyances owned by the state, county, city, town, or other public entity:

(2) Discharges to waters of the U.S.;

(3) Is designed or used for collecting or conveying stormwater:

(4) Is not a combined sewer; and

(5) Is not part of a Publicly Owned Treatment Works (POTW).

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM. A permit developed by the U.S. EPS through the Clean Water Act. In Indiana, the permitting process has been delegated to IDEM. This permit covers aspects of municipal stormwater quality.

NATURAL DRAINAGE. The flow patterns of stormwater run-off over the land in its pre-development state.

NUTRIENT(S).

(1) A substance necessary of the growth and reproduction of organisms.

(2) In water, those substances (chiefly nitrates and phosphates) that promote growth of algae and bacteria.

OPEN DRAIN. A natural watercourse or constructed open channel that conveys drainage water.

OPEN SPACE. Any land area devoid of any disturbed or impervious surfaces crated by industrial, commercial, residential, agricultural, o other manmade activities.

OUTFALL. The point, location, or structure where a pipe or open drain discharges to a receiving body of water.

OUTLET. The point of water disposal from a stream, river, lake, tidewater, or artificial drain.

PEAK DISCHARGE (OR PEAK FLOW). The maximum instantaneous flow from a given storm condition at a specific location.

PERCOLATION. The movement of water through soil.

PERMANENT STABILIZATION. The establishment, at a uniform density of 70% across the disturbed area, of vegetative cover or permanent non-erosive material that will ensure the resistance of the soil to erosion, sliding, or other movement.

PERMITTING OFFICER. The Town Manager, unless the Town Council formally designates another official or employee of the town to have the title, authority and responsibilities of this position.

PERVIOUS. Allowing movement of water.

POINT SOURCE. Any discernible, confined, and discrete conveyance including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissures, or container from which pollutants are or may be discharged (P.L 92-500, Section 502[14]).

POROUS PAVEMENT. A type of infiltration practice to improve the quality and reduce the quantity of storm water run-off via the use of manmade, pervious pavement which allows run-off to percolate through the pavement and into underlying soils.

PROFESSIONAL ENGINEER. A person licensed under the laws of the State to practice professional engineering.

PROJECT SITE. The entire area on which construction activity is to be performed.

PROJECT SITE OWNER. The person required to submit a stormwater permit application, and required to comply with the terms of this chapter, including a developer or a person who has financial and operational control of construction activities, and project plans and specification, including the ability to make modifications to those plans and specifications.

RAIN GARDEN. A vegetative practice used to alter impervious surfaces, such as roofs, into pervious surfaces for absorption and treatment of rainfall.

RECEIVING STREAM, RECEIVING CHANNEL, or RECEIVING WATER. The body of water into which runoff or effluent is discharged. The term does not include private drains, unnamed conveyances, retention and detention basins, or constructed wetlands used as treatment.

RECHARGE. Replenishment of groundwater reservoirs by infiltration and transmission from the outcrop of an aquifer or from permeable soils.

REDEVELOPMENT. Alterations of a property that change a site or building in such a way that there is disturbances of one acre or more of land. The term does not include such activities as exterior remodeling.

REFUELING AREA. An operating gasoline or diesel fueling area whose primary function is to provide fuel to equipment or vehicles.

REGULATORY FLOOD. The discharge or elevation associated with the 100-year flood as calculated by a method and procedure which is acceptable to and accepted by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The ***REGULATORY FLOOD*** is also known as the ***BASE FLOOD.***

REGULARLY FLOODWAY. See ***FLOODWAY.***

RELEASE RATE. The amount of storm water release from a storm water control facility per unit of time.

RESERVOIR. A natural or artificially created pond, lake or other space used for storage, regulation or control of water. May be either permanent or temporary. The term is also used in the hydrologic modeling of storage facilities.

RETENTION. The storage of stormwater to prevent it from leaving the development site. May be temporary or permanent.

RETENTION BASIN. A type of storage practice, that has no positive outlet, used to retain storm water run-off for an indefinite amount of time. Runoff from this type of basin is removed only by infiltration through a porous bottom or by evaporation.

RETURN PERIOD. The average interval of time within which a given rainfall event will be equaled or exceeded once. A flood having a return period of 100 years has a 1% probability of being equaled or exceeded in any one year.

RIPARIAN ZONE. Of, on, or pertaining to the banks of a stream, river, or pond.

RIPARIAN HABITAT. A land area adjacent to a waterbody that supports animal and plant life associated with that waterbody.

RUNOFF. That portion of precipitation that flows from a drainage area on the land surface, in open channels, or in stormwater conveyance systems.

RUNOFF COEFFICIENT. A decimal fraction relating the amount of rain which appears as runoff and reaches the storm drain system to the total amount of rain falling. A coefficient of 0.5 implies that 50% of the rain falling on a given surface appears as storm water runoff.

SEDIMENT. Solid material (both mineral and organic) that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface.

SEDIMENTATION. The process that deposits soils, debris and other unconsolidated materials either on the ground surfaces or in bodies of water or watercourses.

SENSITIVE WATER. A waterbody in need of priority protection or remediation based on its:

(1) Providing habitat for threatened or endangered species;

(2) Usage as a public water supply intake;

(3) Relevant community value;

(4) Usage for full body contact recreation;

(5) Exceptional use classification as found in 327 I.A.C. 2-1-22(b), outstanding state resource water classification as found in 327 I.A.C. 2-1-2(3) and 327 I.A.C. 2-1.5-19(b).

SITE. The entire area included in the legal description of the land on which land disturbing activity is to be performed.

SLOPE. Degree of deviation of a surface from the horizontal, measured as a numerical ratio or percent. Expressed as a ratio, the first number is commonly the horizontal distance (run) and the second is the vertical distance "(rise)—e.g., 2;1 However, the preferred method for designation of slopes is to clearly identify the horizontal (H) and vertical (V) components (length (L) and Width (W) components for horizontal angles). Also note that according to international standards (metric), the slope are presented as the vertical or width component shown on the numerator-e.g., 1V:2H. Slope expressions in this chapter follow the common presentation of slopes—e.g., 2:1 with the metric presentation shown in parenthesis—e.g., (1V:2H). Slopes can also be expressed in "percents". Slopes given in percents are always expressed as (100*V/H) – e.g., a 2:1 (1V:2H) slope is a 50% slope.

SOIL. The unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.

SOIL AND WATER CONSERVATION DISTRICT. A public organization created under state law as a special-purpose district to develop and carry out a program of soil, water, and related resource conservation, use, and development within its boundaries. A subdivision of State government with a local governing body, established under I.C. 14-32.

SOLID WASTE. Any garbage, refuse, debris, or other discarded material.

SPILL. The unexpected, unintended, abnormal, or unapproved dumping, leakage, drainage, seepage, discharge, or other loss of petroleum, hazardous substances, extremely hazardous substances, or objectionable substances. The term does not include releases to impervious surfaces when the substance does not migrate off the surface or penetrate the surface and enter the soil.

STORM DURATION. The length of time that water may be stored in any stormwater control facility, computed from the time water first begins to be stored.

STORM EVENT. An estimate of the unexpected amount of precipitation within a given period of time. For example, a ten-year frequency, 24-hour duration storm event is a storm that has a 10% probability of occurring in any one year. Precipitation is measured over a 24-hour period.

STORM SEWER. A closed conduit for conveying collected storm water, while excluding sewage and industrial wastes. Also called a storm drain.

STORMWATER. Water resulting from rain, melting or melted snow, hail, or sleet.

STORMWATER POLLUTION PREVENTION PLAN. A plan developed to minimize the impact of storm water pollutants resulting from construction activities.

STORMWATER RUNOFF. The water derived from rains falling within a tributary basin, flowing over the surface of the ground or collected in channels or conduits.

STORMWATER QUALITY MANAGEMENT PLAN. A comprehensive written document that addresses stormwater runoff quality.

STORMWATER QUALITY MEASURE. A practice, or a combination of practices, to control or minimize pollutants associated with storm water runoff.

STORMWATER DRAINAGE SYSTEM. All means natural or man-made, used for conducting storm water to, through or from a drainage area to any of the following: conduits and appurtenant features, canals, channels, ditches, storage facilities, swales, streams, culverts, streets and pumping stations.

STRIP DEVELOPMENT. A multi-lot project where building lots front on an existing road.

SUBDIVISION. Any land that is divided or proposed to be divided into lots, whether contiguous or subject to zoning requirements, for the purpose of sale or lease as part of a large common plan of development or sale.

SUBSURFACE DRAIN. A pervious backfield trench, usually containing stone and perforated pipe, for intercepting groundwater or seepage.

SURFACE RUNOFF. Precipitation that flows onto the surfaces of roofs, streets, the ground, and the like, and is not absorbed or retained by that surface but collects and runs off.

SWALE. An elongated depression in the land surface that is at least seasonally wet, is usually heavily vegetated, and is normally without flowing water. Swales conduct stormwater into primary drainage channels and may provide some groundwater recharge.

TEMPORARY STABILIZATION. The covering of soil to ensure its resistance to erosion, sliding, or other movement. The term includes vegetative cover, anchored mulch or other non-erosive material applied at a uniform density of 70% across the disturbed area.

TILE DRAIN. Pipe made of perforated plastic, burned clay, concrete, or similar material, laid to a designed grade and depth, to collect and carry excess water from the soil.

TOPOGRAPHIC MAP. Graphical portrayal of the topographic features of a land area, showing both the horizontal distances between the features and their elevations above a given datum.

TOPOGRAPHY. The representation of a portion of the earth's surface showing natural and man-made features of a give locality such as rivers, streams, ditches, lakes, roads, building and most importantly, variations in ground elevations for the terrain of the area.

TRAINED INDIVIDUAL. An individual who is trained and experienced in the principles of storm water quality, including erosion and sediment control as may be demonstrated by state registration, professional certification, experience, or completion of courseware that enable the individual to make judgments regarding storm water control or treatment and monitoring.

URBAN DRAIN. A drain defined as ***URBAN DRAIN*** in Indiana Drainage Code.

URBANIZATION. The development, change or improvement of any parcel of land consisting of one or more lots for residential, commercial, industrial, institutional, recreational or public utility purposes.

VEGETATED SWALE. A type of vegetative practice used to filter stormwater runoff via a vegetated, shallow-channel conveyance.

WATER QUALITY. A term used to describe the chemical, physical, and biological characteristics of water, usually in respect to its suitability for a particular purpose.

WATER RESOURCES. The supply of groundwater and surface water in a given area.

WATERBODY. Any accumulation of water, surface, or underground, natural or artificial, excluding water features designed and designated as water pollution control facilities.

WATERCOURSE. Any river, stream, creek, brook, branch, natural or man-made drainageway in or into which stormwater runoff or floodwaters flow either continuously or intermittently.

WATERSHEDS. The region drained by or contributing water to a specific point that could be along a stream, lake or other stormwater facilities. ***WATERSHEDS*** are often broken down into subareas for the purposes of hydroiogic modeling.

WATERSHED AREA. All land and water within the confines of a drainage divide. See also ***WATERSHED.***

WETLANDS. Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-008 RESPONSIBILITY FOR ADMINISTRATION.

The Stormwater Board and/or the permitting officer shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by Stormwater Board and/or the permitting officer to qualified persons or entities acting in the beneficial interest of or in the employ of Stormwater Board and/or the permitting officer.
(Ord. 2004-12, passed 1-5-2005)

PROHIBITED DISCHARGES AND CONNECTIONS

§ 00-05-51-015 APPLICABILITY AND EXEMPTIONS.

(A) This chapter shall apply to all discharges, including illegal dumping, entering the storm drain system under the control of the Stormwater Board and/or the permitting officer, regardless of whether the discharge originates from developed or undeveloped lands, and regardless of whether the discharge is generated from an active construction site or a stabilized site. These discharges include flows from direct connections to the storm drain system, illegal dumping, and contaminated runoff.

(B) Stormwater runoff from agricultural, timber harvesting, and mining activities is exempted from the requirements of this chapter unless determined to contain pollutants not associated with such activities or in excess of standard practices. Farm residences are not included in this exemption.

(C) Any non-stormwater discharge permitted under an NPDES permit, waiters, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written acceptance has been granted for the subject discharge to the storm drain system, is also exempted from this chapter.

§ 00-05-51-016 PROHIBITED DISCHARGES AND CONNECTIONS.

(A) No person shall discharge to a MS4 conveyance, watercourse, or waterbody, directly or indirectly, any substance other than stormwater or an exempted discharge. Any person discharging stormwater shall effectively minimize pollutants from also being discharged with the stormwater, though the use of best management practices (BMPs).

(B) The Stormwater board and/or the permitting officer is authorized to require dischargers to implement pollution prevention measures, utilizing BMPs, necessary to prevent or reduce the discharge of pollutants into the town's stormwater drainage system.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-017 EXEMPTED DISCHARGES AND CONNECTIONS

Notwithstanding other requirements in this chapter, the following categories of non-stormwater discharges or flows are exempted from the requirements of this chapter:

(A) Water line flushing:

(B) Landscape irrigation;

(C) Diverted streamflows:

(D) Rising ground waters;

(E) Uncontaminated groundwater infiltration;

(F) Uncontaminated pumped ground water;

(G) Discharges from potable water sources;

(H) Foundation drains:

(I) Air conditioning condensation;

(J) Irrigation water;

(K) Springs:

(L) Water from crawl space pumps;

(M) Footing drains;

(N) Lawn watering;

(O) Individual residential car washing;

(P) Flows from riparian habitats and wetlands;

(Q) Dechlorinated swimming pool discharges:

(R) Street wash water.

(S) Discharges from firefighting activities;

(T) Naturally introduced detritus (e.g. leaves and twigs);

(U) Dye-testing authorized by the Town Council.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-018 STORAGE OF HAZARDOUS OR TOXIC MATERIAL.

Strata or stockpiling of hazardous or toxic material within any watercourse, or in its associated floodway or floodplain, is strictly prohibited. Storage or stockpiling of hazardous or toxic material, including sewage treatment plant stockpiles, on active construction sites must include adequate protection and/or containment so as to prevent any such materials from entering any temporary or permanent stormwater conveyance or watercourse.
(Ord. 2004-12, passed 15-2005)

§ 00-05-51-019 PRIVATE PROPERTY MAINTENANCE DUTIES.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse located within their property boundaries, free of trash, debris, excessive vegetation, and or the obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.
(Ord. 200412, passed 1-5-2005)

§ 00-05-51-020 SPILL REPORTING.

(A) Any discharger who discharges into a waterbody any substance other than stormwater or an exempted discharge shall immediately inform the office of the Town Manager, and if that office is not open the Police Department concerning the discharge. A written report concerning the discharge shall be filed with the permitting officer's office and IDEM, by the discharges, within five days. The written report shall specify:

(1) The composition of the discharged and the cause thereof;

(2) The date, time, and estimated volume of the discharge;

(3) All measures taken to clean up the accidental discharge and all measured proposed to be taken to prevent any recurrence:

(4) The name and telephone number of the person making the report, and the name and telephone number of a person who may be contacted for additional information on the matter.

(B) A properly reported accidental discharge shall be an affirmative defense to a civil infraction proceeding brought under this chapter against a discharger for such discharge. It shall not however, be a defense to a legal action brought to obtain an injunction, to obtain recovery of costs or to obtain other relief because of or arising out of the discharge. A discharge shall be considered properly reported only if the discharger complies with all the requirements of this section This requirement does not relive discharge from notifying other entities as required by state or federal regulations.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-021 INSPECTIONS AND MONITORING.

(A) *Storm drainage system.* The Stormwater Board and/or the permitting officer has the authority to periodically inspect the portion of the storm drainage system under the town's control, in an effort to detect and eliminate illicit connections and discharges into the system. This inspection will include a screening of discharges from outfalls connected to the system in order to determine if prohibited flows are being conveyed into the storm drainage system. It could also include spot testing of waters contained in the storm drainage system itself to detect the introduction of pollutants into the system by means other than a defined outfall, such as dumping or contaminated sheet runoff.

(B) *Potential polluters*. If, as a result of the storm drainage system inspection, a discharger is suspected of an illicit discharge, the Stormwater Board and/or the permitting officer may inspect and/or obtain stormwater samples from stormwater runoff facilities of the subject discharger, to determine compliance with the requirements of this chapter. Upon request, the discharger shall allow the Stormwater Board and/or the permitting officer's properly identified representative to enter upon the premises of the discharger at all hours necessary for the purposes of such inspection or sampling. The Stormwater Board and/or the permitting officer or its properly identified representative may place on the discharger's property the equipment or devices used for such sampling or inspection. Identified illicit connections or discharges shall be subject to enforcement action as described in §§ 00-05-51-100 et seq.

(C) *New development and re-development*. Following the final completion of construction and the receipt of as-built drawings by the town permitting officer's office, the Stormwater Board and/or the permitting officer has the authority to inspect new development and re-development sites to verify that all on-site stormwater conveyances and connections to the storm drainage system are in compliance with this chapter.
(Ord. 2004-12, passed 1-5-2005)

STORMWATER QUANTITY MANAGEMENT

§ 00-05-51-030 APPLICABILITY AND EXEMPTIONS.

The storage and controlled release rate of excess stormwater runoff shall be required for all new business, commercial and industrial developments, residential subdivisions, planned development, rural estate subdivisions, and any redevelopment or other new construction located within town. Additional exemptions regarding the detention requirements are provided under § 00-05-51-031(A)(5).
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-031 POLICY ON STORMWATER QUANTITY MANAGEMENT.

(A) *Detention policy*. It is recognized that most streams and drainage channels serving town do not have sufficient capacity to receive and convey stormwater runoff resulting from continued urbanization. Accordingly, except for situations provided in divisions (A)(3) and (A)(4), the storage and controlled release of excess stormwater runoff shall be required for all developments and redevelopments (as defined in § 00-05-51-007) located within town.

(1) *General release rates*. In general, the post-development release rates for developments up to and including the ten-year return period storm may not exceed 0.1 cfs per acre of development. The post-development release rate for developments for the 11 through 100-year return period storms shall not exceed 0.3 cfs per acre of development. For sites where the pre-develo0ped area has more than one outlet, the release rate should be computed based on pre-developed discharge to edh outlet point. The computed release rate for each outlet point shall not be exceeded at the respective outlet point even if the post developed conditions would involves a different arrangement of outlet points.

(2) *Site-specific release rates for sites with depressional storage.*

(a) For sites where depressional storage exists, the general release rates provided above may have to be further reduced. If depressional storage exists at the site, site-specific release rates must be calculated according to methodology described in the Stormwater Technical Standards Manual, accounting for the depressional storage by modeling it as a pond whose outlet is a weir at an elevation that stormwater can currently overflow the depressional storage area. Post developed release rate for sites with depressional storage shall be the two-year pre-developed peak runoff rate for the post-developed ten-year storm and ten-year pre-developed peak runoff rate for the post-developed 100-yar storm. In no case shall the calculated site-specific release rates be larger than general release rates provided above.

(b) Also note that for determining the post-developed peak runoff rate, the depressional storage must be assumed to be filled unless the Stormwater Board and/or the permitting officer can be assured, through dedicated easement, that the noted storage will be preserved in perpetuity.

(3) *Management of off-site runoff.*

(a) Runoff from all upstream tributary areas (off-site land areas) may be bypassed around the detention/retention facility without attenuation. Such runoff may also be bypassed through the detention/retention facility without attenuation, provided that a separate outlet system or channel is incorporated for the safe passage of such flows, i.e., not through the primary outlet of a detention facility. Unless the pond is being designed as a regional detention facility, the primary outlet structure shall be sized and the invert elevation of the emergency overflow weir determined according to the on-site runoff only. Once the size and location of primary outlet structure and the invert elevation of the emergency overflow weir are determined by considering o-site runoff, the 100-year pond elevation is determined by routing the entire inflow, on-site and off-site, through the pond.

(b) Note that the efficiency of the detention/retention facility I controlling the on-site runoff may be severely affected if the off-site area is considerably larger than the on-site area. As a general guidance, on-line detention may not be effective in controlling on-site runoff where the ration of off-site area to on-site area is larger than 5:1. Additional detention (above and beyond that required for on-site area) may be required by the Stormwater Board and/or the permitting officer when the ratio of off-site area to on-site area is larger than 5:1.

(4) *Downstream restrictions.*

(a) In the event the downstream receiving channel or storm sewer system is inadequate to accommodate the post-developed release rate provided above, then the allowable release rate shall be reduced to that rate permitted by the capacity of the receiving downstream channel or storm sewer system. Additional detention, as determined by the Stormwater Board and/or the permitting officer, shall be required to store that portion of the runoff exceeding the capacity of the receiving sewers or watercourses. When such downstream restrictions are suspected, the Stormwater Board and/or the permitting officer may require additional analysis to determine the receiving system's limiting downstream capacity.

(b) If the proposed development makes up only a portion of the undeveloped watershed upstream of the limiting restriction, the allowable release rate for the development shall be in direct proportion to the ratio of its drainage area to the drainage area of the entire watershed upstream of the restriction.

(5) *Exemptions for detention requirements.* Detention will not be required for the following:

(a) Notwithstanding the requirements for an individual lot plot plan permit in this chapter, land alterations where the primary basis on which a stormwater drainage permit is required is the construction, enlargement, or location (on a permanent foundation) of a one-family dwelling, two-family dwelling, or accessory structure appurtenant to either a one- or two-family dwelling.

(b) Accepted fill area or one-time addition to existing commercial buildings that do not increase the amount of impervious area on-site by more than a total of 0.5 acres, provided the existing runoff patterns and flow capacity within the property will not be altered by the filling operations.

(c) Notwithstanding the provisions of division (4), those site developments where the stormwater management system has been designed such that:

1. After combining flows from both the off-sties and on-site drainage areas, there will be no increase in the total peak discharge from the developing site during the two-, ten-, and 100-year storm events; and

2. The volume of runoff for each project site outlet has not been increased for the two-, ten- and 100-year storm events; and

3. The flow width and velocity at the property boundary line of each sub-basin is less than or equal to that flow width and velocity which existed prior to the development for the two-, ten-, and 100-year storm events.

(B) *Grading and building pad elevations.*

(1) Maximum yard slopes are 3:1 where soil has been disturbed during construction processes. Finished floor elevation must be no less than 15 inches above finished grade and a minimum of 15 inches above an adjacent road elevation unless a written variance is granted by the Stormwater Board and/or the permitting officer.

(2) For all structures located in the special flood hazards area (SFHA) as shown on the FEMA maps, the lowest floor elevations of all residential, commercial, or industrial buildings, shall be such that Lowest Floor elevation, including basement, shall be at the flood protection grade and therefore have two feet of freeboard above the 100-year flood elevation.

(3) The Lowest Adjacent Grade for residential, commercial, or industrial buildings outside a FEMA or IDNR designated floodplain shall have two feet of freeboard above the flooding source's 100-yer flood elevation under proposed conditions, unless the flooding source is a rear-yard swale. When the flooding is a rear—yard swale, the lowest adjacent grade for residential, commercial, or industrial buildings shall have wo feet of freeboard above the 100-year flood elevation under proposed conditions or be separated by a minimum distance of 50 feet from the proposed-condition 100-year flood boundary.

(4) For areas outside a FEMA or IDNR designated floodplain, the lowest adjacent grade (including walkout basement floor elevation) for all residential, commercial, or industrial

buildings adjacent to ponds shall be set a minimum of two feet above the 100-year pond elevation or two feet above the emergency overflow weir elevation, whichever is higher. In addition to the lowest adjacent grade requirements, any basement floor must be at least a foot above the permanent water level (normal pool elevation).

(5) The 100-year flow paths throughout the development, whether shown on FEMA maps or not, must be shown as hatched area on the plans and 30 feet along the centerline of the flow path contained within permanent drainage easements. No fences or landscaping can be constructed within the easement areas that may impede the free flow of stormwater. These areas are to be maintained by the property owners or be designated as common areas that are to be maintained by the homeowners association. The lowest adjacent grade for all residential, commercial, or industrials buildings shall be set a minimum of one foot above the noted overflow path/ponding elevation.

(6) It shall be the property owners' responsibility to maintain the natural features on their lots and to take preventive measures against any and all erosion and/or deterioration of natural or manmade features on their lots.

(C) *Acceptable outlet and adjoining property impacts policies.*

(1) Design and construction of the stormwater facility shall provide for the discharge of the stormwater runoff from off-site land areas as well as the stormwater from the area being developed (on-site land areas) to be acceptable outlet(s) (as determined by the Stormwater Board and/or the permitting officer) having capacity to receive upstream (off-site) and on-site drainage. The flow path from the development outfall(s) to a regulated drain or natural watercourse (as determined by the Stormwater Board and/or the permitting office) shall be provided on an exhibit that includes topographic information. Any existing field tile encountered during the construction shall also be incorporated into the proposed stormwater drainage system or tied to an acceptable outlet.

(2) Where the outfall from the stormwater drainage system of any development flows through real estate owned by others prior to reaching a regulated drain or watercourse, no acceptance shall be granted for such drainage system until all owners of real estate crossed by the outfall consent in writing to the use of their real estate through a recorded easement. In addition, no activities conducted as part of the development shall be allowed to obstruct the free flow of flood waters from an upstream property. If an adequate outlet is not located on site, then off-site drainage improvements may be required. Those improvements may include, but are not limited to, extending storm sewers, clearing, dredging and/or removal of obstructions to open drains or natural water courses, and the removal or replacement of undersized culver pipes as required by the Stormwater Board and/or the permitting officer.

(D) *No net loss floodplain storage policy.*

(1) Floodplains exist adjacent to all natural and man-made streams, regardless of contributing drainage area or whether they have been previously identified or mapped. Due to potential impacts of floodplain loss of peak flows in streams and on the environment, disturbance to floodplains should be avoided. When the avoidance of floodplain disturbance is not practical, the natural functions of floodplain should be preserved to the extent possible.

(2) In an attempt to strike a balance between the legitimate need for economic development within town and the need to preserve the natural functions of floodplains to the

extent possible, compensatory excavation equivalent to the floodplain storage lost shall be required for all activities within floodplain of streams located in town where drainage area of the stream is equal or larger than one square mile. This requirement shall be considered to be above and beyond the minimum requirements provided I the applicable flood hazard areas ordinance currently in effect in town. The Stormwater Board and/or the permitting officer may alter the compensation ratio, based on extenuating circumstances, for a specific project.

(3) Note that by definition, compensatory storage is the replacement of the existing floodplain and, in rare exceptions, the floodway storage lost due to fill. Compensatory storage is required when a portion of the floodplain is filled, occupied by a structure or when as a result of a project a change in the channel hydraulics occurs that reduces the existing available floodplain storage. The compensatory storage should be located adjacent or opposite the placement of the fill and maintain an unimpeded connection to an adjoining floodplain area.

(4) Computations must show no net loss of floodplain storage for two-year, ten-year, 50-year, and 100-year storm events. That is, the post-development two-year floodplain storage along a stream shall be the same as two-year pre-development floodplain storage along the stream within the property limits, the post-development ten-year floodplain storage along a stream shall be the same as ten-year pre-development floodplain storage along the stream within the property limits, and so on.

(5) Calculations for floodplain volume shall be submitted I tabular form showing calculations by cross-section. The volume of floodplain storage under the without-project conditions and the with-project conditions should be determined using the average-end-area method with plotted cross-sections at a horizontal to vertical ratio of between 5:1 and 10:1, with two though 100-year flood elevations noted on each cross section. The scale chosen should be large enough to show the intent of proposed grading. Cross-sections should reflect both the existing and proposed conditions on the same plot. The location and extent of the compensatory storage area as well as the location and orientation of cross-sections should be shown on the grading plan.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-032 CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS.

The calculation methods as well as the type, sizing, and placement of all stormwater facilities shall meet the design criteria, standards, and specifications outlined in the Stormwater Technical Standards Manual. The methods and procedures in the Stormwater Technical Standards Manual are consistent with the policy stated above.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-033 DRAINAGE EASEMENT REQUIREMENTS.

(A) There shall be no trees or shrubs planted, nor any structures or fences erected in any drainage easement, unless otherwise accepted by the Stormwater Board and/or permitting officer.

(B) All stormwater systems, including detention or retention basins, conveyance systems, structures and appurtenance, located outside of the right-of-way may be incorporated

into the town's system at the discretion of the town Stormwater Board and/or the permitting officer. The developer shall petition to incorporate the storm system into the town's system. The stormwater management permit shall not be approved until such petition is submitted in a form accepted by the Stormwater Board and/or the permitting officer.

(1) The following specific areas shall be included in a petition:

(a) All new channels, drain tiles equal to or greater than eight inches in diameter, inlet and outlet structures of detention and retention ponds, and appurtenances thereto as required by this chapter, that are installed in subdivisions requiring a stormwater management permit from the town shall be petitioned to become incorporated into the town's system upon completion, proper inspection, and acceptance by the Stormwater Board and/or the permitting officer. New drain tiles refer to all sub-surface stormwater piping, tubing, tiles, manholes, inlets, catch basins, risers, and the like.

(b) New drain tile, eight inches to 24 inches in diameter, shall be placed in a minimum 20-foot easement (ten feet from centerline on each side) and shall be designated on the record plat as 20-foot drain easement Pipes that are 24 inches or larger in diameter shall be placed in a 30-foot easement (15 feet from centerline on each side) and shall be designated on the record plat as 30-foot regulated drain easement. Wider easements may be required by Stormwater Board and/or the permitting officer when the depth of pipe is greater than six to ten feet, depending on the pipe size.

(c) A minimum of 25 feet from top of the bank on each side of a new channel shall be designated on the record plat as a drain easement.

(d) Rear-yard swales and emergency overflow paths associated with detention ponds shall not be included in petition for incorporation. However, a minimum of 30 feet width (15 feet from centerline on each side) needs to be designated as drainage easement.

(e) A minimum of 30 feet beyond the actual footprint (top of the bank) of stormwater detention facilities shall be designated as drainage easement. A minimum 30-foot width easement shall also be required as access easement, unless the pond is immediately next to a public right-of-way.

(f) An annual maintenance assessment shall be set up on each new drain established in a new subdivision. The amount of the assessment will be determined by the Stormwater Board and/or the permitting officer and so certified.

(g) Where the Stormwater Board and/or the permitting officer is responsible for maintenance of the drainage system, drainage easements of 75 feet from the top of bank on each side of the channel or each side of the tile centerline must be dedicated to town. In addition, a minimum of 25-foot-width of vegetative filter strip must be provided and maintained along top-of-bank, on each side, by the applicant within these easements.

(2) Municipalities and schools. All new channels, swales, drain tiles, inlet and outlet structures of detention and retention ponds, an appurtenance thereto as required by this chapter, that are installed on the municipal or school property will be maintained, repaired, and constructed by the entity and will not become town drains. The design must meet the standards of the town Stormwater Management Ordinance for sizing and installation. Any off-side portion

of the drainage system must be within easements and have clearly defined maintenance agreements.
(Od. 2004-12, passed 1-5-2005)

§ 00-05-51-034 PLACEMENT OF UTILITIES.

No utility company may disturb existing storm drainage facilities without the consent of the Stormwater Board and/or the permitting officer, whose decision may be appealed to the Town Council. All existing drainage facilities shall have senior rights and damage to said facilities shall result in penalties as prescribed in § 00-05-51-999.
(Org. 2004-12, passed 1-5-2005)

§ 00-05-51-035 STRUCTURES NEAR REGULATED DRAINS.

For regulated drains not located in platted subdivisions, unless otherwise accepted by the Stormwater Board and/or the permitting officer, no permanent structures (including fences) shall be erected within 75 feet measured at right angles from:

(A) The existing top edge of each bank of a regulated open drain, as determined by the Stormwater Board and/or the permitting officer; or

(B) The center line of a tiled regulated drain.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-036 INSPECTION, MAINTENANCE, RECORD KEEPING, AND REPORTING.

(A) After the approval of the stormwater management permit by the town Stormwater Board and the commencement of construction activities, the Stormwater Board and/or the permitting officer has the authority to conduct inspections of the work being done to insure full compliance with the provisions of this chapter, the Stormwater Technical Standards Manual, and the terms and conditions of the approved permit.

(B) Following construction completion, operation, maintenance, and inspection of stormwater quantity facilities shall be the long-term responsibility of the owner of the stormwater quantity facilities. The Stormwater Board and/or the permitting officer also has the authority to perform or require inspections of all public or privately owned stormwater quantity facilities. The owner of stormwater quantity facilities shall be responsible for inspections that evaluate physical conditions, available storage capacity, and the operational condition of key facility elements. Stormwater quantity facilities shall be maintained in good condition, in accordance with the terms and conditions of the approved stormwater management permit, and shall not be subsequently altered, revised or replaced except in accordance with the approved stormwater permit, or in accordance with approved amendments or revisions to the permit. If deficiencies are found during the inspection, the owner of the facility will be notified by Stormwater Board and/or the permitting officer and will be required to take all necessary measures to correct such deficiencies. If the owner fails to correct the deficiencies within the allowed time period, as specified in the notification letter, the Stormwater Board and/or the

permitting officer will undertake the work and collect from the owner using lien rights if necessary.

(C) Assignment of responsibility for maintaining facilities serving more than one lot or holding shall be documented by appropriate covenants to property deeds, unless responsibility is formally accepted by a public body, and determined before the final stormwater permit is approved. Stormwater detention/retention basins may be donated to the town or other unit of government designated by the Stormwater Board and/or the permitting officer, for ownership and permanent maintenance providing the Stormwater Board and/or the permitting officer or other governmental unit is willing to accept responsibility.
(Ord. 2004-12, passed 1-5-2005)

STORMWATER POLLUTION PREVENTION FOR CONSTRUCTION SITES

§ 00-05-51-04 APPLICABILITY AND EXEMPTIONS.

(A) The Stormwater Board and/or the permitting officer will require a Stormwater Pollution Prevention Plan (SWPPP), which includes erosion and sediment control measures and materials handling procedures, to be submitted as part of the construction plans and specifications. Any project located within town that includes clearing, grading, excavation, and other land disturbing activities, resulting in the disturbance of one acre or more of total land area, is subject to the requirements of this chapter. This includes both new development and re-development. This chapter also applies to disturbances of less than one acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one or more acres of land, within the MS4 area. Section 00-05-51-047 provides guidelines for calculating land disturbance. Projects meeting the coverage requirements of 327 I.A.C 15-5 (Rule 5) shall also be in compliance with 327 I.A.C. 15-5.

(B) The requirements under this chapter do not apply to the following activities:

(1) Agricultural land disturbing activities; or

(2) Forest harvesting activities.

(C) The requirements under this chapter do not apply to the following activities, provided other applicable state permits contain provisions requiring immediate implementation of soil erosion control measures:

(1) Landfills that have been issued a certification of closure under 329 I.A.C. 10.

(2) Coal mining activities permitted under I.C. 14-34.

(3) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 I.A.C. 10 that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

(D) For an individual lot where land disturbance is expected to be one acre or more, the individual lot owner must complete their own notice of intent letter, apply for a stormwater permit from the Stormwater Board, and ensure that a sufficient construction and stormwater

pollution prevention plan is completed and submitted in accordance with §§ 00-05-51-070 et seq.; regardless of whether the individual lot is part of a larger permitted project site.

(E) An individual lot with land disturbance less than one acre, located within a larger permitted project site, is considered part of the larger permitted project site, and the individual lot operator must comply with the terms and condition of the stormwater permit approved for the larger project site. The stormwater permit application for the larger project site must include detailed erosion and sediment control measures for individual lots. In addition these individual lots are required to submit Individual lot plot plan permit applications prior to receiving a building permit. Details of the permitting process are contained in §§ 00-05-51-070 et seq.

(F) It will be the responsibility of the project site owner to complete a stormwater permit application and ensure that a sufficient construction plan is completed and submitted to Stormwater Board and/or the permitting officer in accordance with §§ 00-05-51-070 et seq. It will be the responsibility of the project site owner to ensure compliance with this chapter during the construction activity and implementation of the construction plan, and to notify the Stormwater Board and/or the permitting officer with a sufficient notice of termination letter upon completion of the project and stabilization of the site. However, all persons engaging in construction and land disturbing activities on a permitted project site meeting the applicability requirements must comply with the requirements of this chapter and this chapter.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-046 POLICY ON STORMWATER POLLUTION PREVENTION.

(A) Effective stormwater pollution prevention on construction sites is dependent on a combination of preventing movement of soil from its original position (erosion control), intercepting displaced soil prior to entering a waterbody (sediment control), and proper on-site materials handling.

(B) The developer must submit to the Stormwater Board and/or the permitting officer, a SWPPP with detailed erosion and sediment control plans as well as a narrative describing materials handling and storage, and construction sequencing.

(C) The following principles apply to all land-disturbing activities and should be considered in the preparation of a Stormwater Pollution Prevention Plan within town.

(1) Minimize the potential for soil erosion by designing a development that fits the topography and soils of the site. Deep cuts and fills in areas with steep slopes should e avoided wherever possible, and natural contours should be followed as closely as possible.

(2) Existing natural vegetation should be retained and protected wherever possible. Areas immediately adjacent (within 35 feet of top of bank) to watercourses and lakes also should be left undisturbed wherever possible. Unvegetated or vegetated areas with less than 70% cover that are scheduled or likely to be left inactive for 15 days or more must be temporarily or permanently stabilized with measures appropriate for the season to reduce erosion potential. Alternative measures to site stabilization may be acceptable if the project site owner or their representative can demonstrate they have implemented and maintained erosion and sediment control measures adequate to prevent sediment discharge from the inactive area.

(3) All activities on a site should be conducted in a logical sequence so that the smallest practical area of land will be exposed for the shortest practical period of time during development.

(4) The length and steepness of designed slopes should be minimized to reduce erosion potential. Drainage channels and swales must be designed and adequately protected so that their final gradients and resultant velocities will not cause erosion in the receiving channel or at the outlet. Methods for determining acceptable velocities are included Stormwater Technical Standards Manual.

(5) Sediment-laden water which otherwise would flow from the project site shall be treated by erosion and sediment control measures appropriate to minimize sedimentation. A stable construction site access shall be provided at all points of construction traffic ingress and egress to the project site.

(6) Appropriate measures shall be implemented to prevent wastes or unused building materials, including, garbage, debris, packaging material, fuels and petroleum products, hazardous materials or wastes, cleaning wastes, wastewater, concrete truck washout, and other substances from being carried from a project site by runoff or wind. Identification of areas where concrete truck washout is permissible must be clearly posted at appropriate areas of the site. Wastes and unused building materials shall be managed and disposed of in accordance with all applicable State statutes and regulations. Proper storage and handling of materials such as fuels or hazardous wastes, and spill prevention and cleanup measures shall be implemented to minimize the potential for pollutants to contaminate surface or ground water or degrade soil quality.

(7) Public or private roadways shall be kept cleared of accumulated sediment that is a result of runoff or tracking. Bulk cleaning of accumulated sediment shall not include flushing the area with water. Cleared sediment shall be redistributed or disposed of in a manner that is in accordance with all applicable statues and regulations.

(8) Collected runoff leaving a project site must be either discharged directly into a well-defined, stable receiving channel, or diffused and released to adjacent property without causing an erosion or pollutant problem to the adjacent property owner.

(9) Natural features, including wetlands, shall be protected from pollutants associated with stormwater runoff.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-047 CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS.

(A) In calculating the total area of land disturbance, for the purposes of determining applicability of this chapter to the project, the following guidelines should be used:

(1) Off-site construction activities that provide services (for example, road extensions, sewer, water, and other utilities) to a land disturbing project site, must be considered as a part of the total land disturbance calculation for the project site, when the activity is under the control of the project site owner.

(2) Strip developments will be considered as one project site and must comply with this chapter unless the total combined disturbance on all individual lots is less than one acre and is not part of a larger common plan of development or sale.

(3) To determine if multi-lot project sites are regulated by this rule, the area of land disturbance shall be calculated by adding the total area of land disturbance for improvements, such as roads, utilities, or common areas, and the expected total disturbance on each individual lot, as determined by the following:

(a) For a single-family residential project site where the lots are on-half acre or more, one-half acre of land disturbance must be used as the expected lot disturbance.

(b) For a single-family residential project site where the lots are less than one-half acre in size, the total lot must be calculated as being disturbed.

(c) To calculate lot disturbance on all other types of project sites, such as industrial and commercial projects project sites, a minimum of one acre of land disturbance must be used as the expected lot disturbance, unless the lots are less than one acre in size, in which case the total lot must be calculated as being disturbed.

(B) The calculation methods as well as the type, sizing, and placement of all stormwater pollution prevention measures for construction sites shall meet the design criteria, standards, and specifications outlined in the "Indiana Stormwater Quality Manual or the Town of Cumberland Stormwater Technical Standards Manual. The methods and procedures included in these two references are in keeping with the above stated policy and meet the requirements if IDEM's Rule 5.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-048 INSPECTION, MAINTENANCE, RECORD KEEPING, AND REPORTING.

(A) Following approval of the stormwater management permit by the Stormwater Board and commencement of construction activities, the Stormwater Board and/or the permitting officer has the authority to conduct inspections of the site to ensure full compliance with the provisions of this chapter, the Indiana Stormwater Quality Manual, and the terms and conditions of the approved permit.

(B) A self-monitoring program must be implemented by the project site owner to ensure the stormwater pollution prevention plan is working effectively. A trained individual, acceptable to Stormwater Board and/or the permitting officer, shall perform a written evaluation of the project site by the end of the next business day following each measurable storm event. If there are no measurable storm events within a given week, the site should be monitored at least once in that week. Weekly inspections, and evaluations following measurable storm events, by the trained individual shall continue until the entire site has been stabilized and a notice of termination of new facility monitoring has been issued. The trained individual should look at the maintenance of existing stormwater pollution prevention measures, including erosion and sediment control measures, drainage structures, and construction materials storage/containment facilities, to ensure they are functioning properly. The trained individual should also identify additional measure, beyond those originally identified in the stormwater

pollution prevention plan, necessary to remain in compliance with all applicable statutes and regulations.

(C) The resulting evaluation reports must include the name of the individual performing the evaluation, the date of the evaluation, problems identified at the project site, and details of maintenance, additional measures, and corrective actions recommended and completed.

(D) The stormwater pollution prevention plan shall serve as a guideline for stormwater quality, but should not be interpreted to be the only basis for implementation of stormwater quality measures for a project site. The project site owner is responsible for implementing, in accordance with this chapter, all measures necessary to adequately prevent polluted stormwater runoff. Recommendations by the trained individual for additional stormwater quality measures should be implemented, unless a written report explaining why the measure are not feasible is prepared and attached to the trained individual's recommendation report.

(E) Although self-monitoring reports do not need to be submitted to Stormwater Board and/or the permitting officer, the Stormwater Board and/or the permitting officer has the right to request complete records of maintenance and monitoring activities involving stormwater pollution prevention measures. All evaluation reports for the project site must be made available to Stormwater Board and/or the permitting officer, in an organized fashion, within 48 hours upon request.
(Ord. 2004-12, passed 1-5-1005)

STORMWATER QUALITY MANAGEMENT FOR POST-CONSTRUCTION

§ 00-05-51-060 APPLICABILITY AND EXEMPTIONS.

(A) In addition to the requirements of §§ 00-05-51-048 et seq. the stormwater pollution prevention plan, which is to be submitted to the Stormwater Board and/or the permitting officer as part of the stormwater management permit application, must also include post-construction stormwater quality measures. These measures are incorporated as a permanent feature into the site plan and are left in place following completion of construction activities to continuously treat stormwater runoff from the stabilized site. Any project located within town that includes clearing, grading, excavation, and other land disturbing activities, resulting in the disturbance of one acre or more of total land area, is subject to the requirements of this chapter. This includes both new development and re-development, and disturbances of less than one acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one or more acres of land, within the MS4 area.

(B) The requirements under this chapter do not apply to the following activities:

(1) Agricultural land disturbing activities;

(2) Forest harvesting activities;

(3) Construction activities associated with a single family residential dwelling disturbing less than five acres, when the dwelling is not part of a larger common plan of development or sale;

(4) Single family residential developments consisting of four or less lots;

(5) A single-family residential strip development where the developer offers for sale or lease without land improvements and the project is not part of a larger common plan of development of sale; or

(6) Individual building lots within a larger permitted project.

(C) The requirements under this chapter do not apply to the following activities, provided other applicable state permits contain provisions requiring immediate implementation of soil erosion control measures:

(1) Landfills that have been issued a certification of closure under 329 IAC 10.

(2) Coal mining activities permitted under I.C 14-34.

(3) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 IAC 10 that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

(D) It will be the responsibility of the project site owner to complete a stormwater permit application and ensure that a sufficient construction plan is completed and submitted to the Stormwater Board and/or the permitting officer in accordance with §§ 00-05-51-070 et seq. It will be the responsibility of the project site owner to ensure proper construction and installation of all stormwater BMPs in compliance with this chapter and with the approved stormwater management permit, and to notify the Stormwater Board and/or the permitting officer with a sufficient notice of termination letter upon completion of the project and stabilization of the site. However, all eventual property owners of stormwater quality facilities meeting the applicability requirements must comply with the requirements of this chapter and this chapter.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-061 POLICY ON STORMWATER QUALITY MANAGEMENT

(A) It is recognized that developed areas, as compared to undeveloped areas, generally have increased imperviousness, decreased infiltration rates, increased runoff rates, and increased concentrations of pollutants such as fertilizers, herbicides, greases, oil, salts and other pollutants. As new development and re-development continues in town, measures must be taken to intercept and filter pollutants from stormwater runoff prior to reaching regional creeks, streams, and rivers. Through the use of Best Management Practices (BMP) stormwater runoff will be filtered and harmful amounts of sediment, nutrients, and contaminants will be removed. The town has adopted a policy that the control of Stormwater quality will be based on the management of Total Suspended Solids (TSS).

(B) The project site owner must submit to the Stormwater Board and/or the permitting officer, a Storm Water Pollution Prevention Plan (SWPPP) that would show placement of appropriate BMP(s) from a pre-approved list of BMPs specified in the Stormwater Technical Standards Manual. The noted BMPs must be designed, constructed, and maintained according to guidelines provided or referenced in the Stormwater Technical Standards Manual. Practices other than those specified in the pre-approved list may be utilized. However, the burden of

proof, as to whether the performance (minimum 80% TSS removal) and ease of maintenance of such practices will be according to guidelines provided in the Stormwater Technical Standards Manual, would be placed with the applicant. Details regarding the procedures and criteria for consideration of acceptance of such BMPs are provide in the Stormwater Technical Standards Manual.

(C) Gasoline outlets and refueling areas must install appropriate practices to reduce lead, copper, zinc, and hydrocarbons in stormwater runoff. These requirements will apply to all new facilities and existing facilities that replace their tanks.
(Ord. 2004-12 passed 1-5-2005)

§ 00-05-51-062 CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS.

(A) Calculation of land disturbance should follow the guidelines discussed in § 00-05-51-047.

(B) The calculation methods as well as the type, sizing, and placement of all stormwater quality management measures, or BMPs shall meet the design criteria, standards, and specifications outlined in the Indiana Stormwater Quality Manual or the Stormwater Technical Standards Manual. The methods and procedures included in these two references are in keeping with the above stated policy and meet the requirements of IDEM's Rule 13.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-063 EASEMENT REQUIREMENTS.

All stormwater quality management systems, including detention or retention basins, filter strips, pocket wetlands, in-line filters, infiltration systems, conveyance systems, structures and appurtenances located outside of the right-of-way shall be incorporated into permanent easements.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-064 INSPECTION, MAINTENANCE, RECORD KEEPING, AND REPORTING.

(A) After the approval of the stormwater management permit by the Stormwater Board and the commencement of construction activities, the Stormwater Board and/or the permitting officer has the authority to conduct inspections of the work being done to ensure full compliance with the provisions of this chapter, the Stormwater Technical Standards Manual, and the terms and conditions of the approved permit.

(B) Following construction completion, operation, maintenance, and inspection of stormwater quality facilities shall be the long-term responsibility of the owner of the stormwater quality facilities. The Stormwater Board and/or the permitting officer also has the authority to perform or require inspections of all public or privately owned stormwater quality facilities. The owner of stormwater quantity facilities shall be responsible for inspections that evaluate physical conditions, available treatment capacity, and the operational condition of key facility elements. Stormwater quality facilities shall be maintained in good condition, in accordance

with the terms and conditions of the approved stormwater management permit, and shall not be subsequently altered, revised or replaced except in accordance with the approved stormwater permit, or in accordance with approved amendments or revisions to the permit. If deficiencies are found during the inspection, the owner of the facility will be notified by Stormwater Board and/or the permitting officer and will be required to take all necessary measures to correct such deficiencies. If the owner fails to correct the deficiencies within the allowed time period, as specified in the notification letter, the Stormwater Board and/or the permitting officer will undertake the work and collect from the owner using lien rights if necessary.

(C) Assignment of responsibility for maintaining facilities serving more than one lot or holding shall be documented by appropriate covenants to property deeds, unless responsibility is formally accepted by a public body, and determined before the final stormwater permit is approved. Stormwater detention/retention basins may be donated to the Town of Cumberland or other unit of government designated by the Stormwater Board and/or the permitting officer, for ownership and permanent maintenance providing the Stormwater Board and/or the permitting officer or other governmental unit is willing to accept responsibility.
(Ord. 2004-12, passed 1-5-2005)

PERMIT REQUIREMENTS AND PROCEDURES

§ 00-05-51-070 CONCEPTUAL DRAINAGE PLAN REVIEW.

(A) In order to gain an understanding of the drainage requirements for a specific project, a developer may submit conceptual drainage plans and calculations for review by the Stormwater Board and/or the permitting officer.

(B) The direction provided by the Stormwater Board and/or the permitting officer during such a review is based on preliminary data and shall not be construed as an approval or binding on either party.

(C) The following is a general listing of minimum data requirements for the review of conceptual drainage plans:

(1) Two complete sets of conceptual plans showing general project layout, including existing and proposed drainage systems (plan sheets must be larger than 11 inches by 17 inches, but not to exceed 24 inches by 36 inches.)

(2) General description of the existing and proposed drainage systems in narrative form.

(3) Watershed Boundaries with USGS Contours or best information possible.

(4) Exiting watercourse or regulated drains.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-071 PERMIT PROCEDURES.

(A) This section applies to all development, or re-development of land, that results in land disturbance of one acre or more.

(B) Individual lots with land disturbance less than one acre that are developed within a larger permitted project site, should refer to § 00-05-51-073 for plan review requirements and procedures.

(1) The project site owner shall submit an application for a stormwater management permit to the Stormwater Board and/or the permitting officer. The application will include a notice of intent letter (NOI) that would also act as permit application form, proof of public notice, construction plan sheets, stormwater drainage technical report, a stormwater pollution prevention plan, and any other necessary support information. Specific information not be included in the application can be found in § 00-05-51-072. Four copies of each application must be submitted to the Stormwater Board and/or the permitting officer. Additionally, a digital copy of the construction plans is required in a format accepted by the Stormwater Board and/or the permitting officer.

(2) After the Stormwater Board and/or the permitting officer receipt of the application, the applicant will be notified as to whether their application was complete or insufficient. The applicant will be asked for additional information if the application is insufficient. If the application is complete, the Stormwater Board and/or the permitting officer will forward one copy of the application to the Soil and Water Conservation District (SWCD) for its review and comment within a ten-day period. The remaining three copies will be reviewed in detail by the Stormwater Board and/or the permitting officer and/or its plan review consultant(s). Once all comments have been received and review completed, the Stormwater Board and/or the permitting officer will either accept the project, request modifications, or place the project on the agenda of the next scheduled meeting of the Stormwater Board. If the project must go through a scheduled meeting, the Stormwater Board and/or the permitting officer will furnish the applicant a complete list of comments and objections to the plans and accompanying data prior to the scheduled meeting. After the scheduled meeting, the Stormwater Board will either issue a permit, or request modifications to the construction plans.

(3) The project site owner must notify the Stormwater Board and/or the permitting officer and IDEM 48 hours before beginning construction. Notification shall be in the form of an updated IDEM NOI form. Once a permit has been issued and the update NOI submitted to the Stormwater Board and/or the permitting officer and IDEM 48 hours before beginning construction, construction may commence. Once construction starts, the project owner shall monitor construction activities and inspect all stormwater pollution prevention measures in compliance with this chapter and the terms and conditions of the approved permit. Upon completion of construction activities, as-built plans must be submitted to the Stormwater Board and/or the permitting officer once the construction site has been stabilized and all temporary erosion and sediment control measures have been removed. The Stormwater Board and/or the permitting officer, or representative, shall inspect the construction site to verify the requirements for an NOT have been met. Once the applicant receives a “verified” copy of the NOT, they must forward a copy to IDEM. Permits issued under this scenario will expire five years from the date of issuance. If construction is not completed within five years, the NOI must be resubmitted at least 90 days prior to expiration. No Rule 5 (327 IAC 15-5) permit is required from IDEM for projects, within the MS4 area boundary, since the Stormwater Board is the permitting authority. (Ord. 204-12, passed 1-5-2005)

§ 00-05-51-072 INFORMATION REQUIREMENTS.

(A) Specific projects or activities may be exempt from all or part of the information requirements listed below. Exemptions are detailed in the "applicability and exemptions" in §§ 00-05-51-001, 00-05-51-015, 00-05-51-030, 0-05-51-045, 00-05-51-060 of this chapter. If a project or activity is exempt from any or all requirements of this chapter, an application should be filed listing the exemption criteria met, in lieu of the information requirements listed below. This level of detailed information is not required from individual lots, disturbing less than one acre of land, developed within a larger permitted project site. Review and acceptance of such lots is covered under § 00-05-51-073.

(B) The different elements of a permit submittal include a notice of intent (NOI), proof of publication of a public notice, construction plans, a stormwater drainage technical report, a stormwater pollution prevention plan for active construction sites, a post-construction stormwater pollution prevention plan, and any other necessary supporting information. All plans, reports, calculations, and narratives shall be signed and sealed by a professional engineer or a licensed surveyor, registered in the state.

(1) *Notice of intent*. The NOI is a standard form developed by the Indiana Department of Environmental Management which requires general project information. The NOI form should be completed in full and accompanied by proof of publication in a newspaper of general circulations, in the affected area, that notified the public that a construction activity is to commence. The publication must include the following language:

> "(Company name, address) is submitting an NOI letter to notify the Town of Cumberland Stormwater Board and/or Town of Cumberland the permitting officer and the Indiana Department of Environmental Management of our intent to comply with the requirements of the Town of Cumberland Stormwater Management Ordinance, as well as the requirements of 327 IAC 15-5 and 327 IAC 15-13, to discharge stormwater from construction activities for the following project: (name of the construction project, address of the location of the construction project. Run-off from the project site will discharge to (stream(s) receiving the discharge(s))."

(2) *Construction plans*. Construction plan sheets (not to exceed 24 inches by 36 inches in size0 and an accompanying narrative report shall describe and depict the existing and proposed conditions. Construction plans need to include the following detailed items:

(a) Project narrative and supporting documents, including the following information:

1. An index indicating the location, in the construction plans, of all information required by this subsection.

2. Description of the nature and purpose of the project.

3. A copy of a legal boundary survey for the site, performed in accordance with Rule of Title 865 of the Indiana Administrative Code or any applicable and subsequently adopted rule or regulation for the subdivision limits, including all drainage easements and wetlands.

4. Soil properties, characteristics, limitations, and hazards associated with the project site and the measures that will be integrated into the project to overcome or minimize adverse soil conditions.

5. General construction sequence of how the project site will be built, including phases of construction.

6. Fourteen-digit watershed hydrologic unit code.

7. A reduced plat or project site map showing the lot numbers, lot boundaries, easements, and road layout and names. The reduced map must be legible and submitted on a sheet or sheets no large than 11 inches by 17 inches for all phases or sections of the project site.

8. A topographic map of the land to be developed and such adjoining and whose topography may affect the layout or drainage of the development. The contour intervals shall be one foot when slopes are less than or equal to 2% and shall be two feet when slopes exceed 2%. All elevations shall be given in North American Vertical Datum of 1988 (NAVD). The horizontal datum of topographic map shall be based on Indiana State Plane Coordinates, NAD83. The map will contain a notation indicating these datum information.

a. If the project site is less than or equal to two acres in total land area, the topographic map shall include all topography of land surrounding the site to a distance of at least 100 feet.

b. If the project site is greater than two acres in total land area, the topographic map shall include all topography of land surrounding the site to a distance of at least 200 feet.

9. Identification of any other state or federal water quality permits that are required for construction activities associated with the owner's project site.

(b) Vicinity map depicting the project site location in relationship to recognizable local landmarks, towns, and major roads, such as a USGS topographic quadrangle map, or county or municipal road map.

(c) An existing project site layout that must include the following information:

1. Location, name, and normal water level of all wetlands, lakes, ponds, and water courses on, or adjacent to, the project site.

2. Location of all existing structures on the project site.

3. One hundred year floodplains, floodway fringes, and floodways. Please note if none exists.

4. Soil map of the predominant soil types, as determined by the United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) Soil Survey, or as determined by a soil scientist hydroiogic classification for soils should be shown when hydroiogic methods requiring soils information are used. A soil legend must be included with the soil map.

5. Identification and delineation of vegetative cover such as grass, weeds, brush, and trees on the project site.

6. Location of storm, sanitary, combined sewer, and septic tank systems and outfalls.

7. Land use of all adjacent properties.

8. Identification and delineation of sensitive areas.

9. Existing topography at a contour interval appropriate to indicate drainage patterns.

10. The location of regulated drains, farm drains, inlets and outfalls, if any of record.

11. Location of all existing cornerstones within the proposed development and a plan to protect and preserve them.

(d) Final project site layout, including the following information:

1. Location of all proposed site improvements, including roads, utilities, lot delineation and identification, proposed structures, and common areas.

2. One hundred-year floodplains, floodway fringes, and floodways. Please note if none exists.

3. Proposed final topography, at a contour interval appropriate to indicate drainage patterns.

(e) A grading plan, including the following information:

1. Delineation of all proposed land disturbing activities, including off-site activities that will provide services to the project site.

2. Location of all soil stockpiles and borrow areas.

3. Information regarding any off-site borrow, stockpile, or disposal areas that are associated with a project site, and under the control of the project site owner.

4. Existing and proposed topographic information.

(f) A drainage plan, including the following information:

1. An estimate of the peak discharge, based on the ten-year storm 24-hour event, of the project site for post-construction conditions.

2. The proposed 100-year and ten-year release rates determined for the site, showing the methodology used to calculate them and detailing considerations given to downstream restrictions (if any) that may affect the calculated allowable release rates.

3. Calculation showing peak runoff rate after development for the 10-year and 100-year return period 24-hour storms do not exceed the respective allowable release runoff rates.

4. Location, size, and dimensions of all existing streams to be maintained, and new drainage systems such as culverts, bridges, storm sewers, conveyance channels, and 100-year overflow paths, ponding areas shown as hatched acres, along with all associated easements.

5. Locations where stormwater may be directly discharged into groundwater, such as abandoned wells or sinkholes. Please note if none exists.

6. Locations of specific points where stormwater discharge will leave the project site.

7. Name of all receiving waters. If the discharge is to a separate municipal storm sewer, identify the name of the municipal operator and the ultimate receiving water.

8. Location, size, and dimensions of features such as permanent retention or detention facilities, including natural or constructed wetlands, used for the purpose of stormwater management. Include existing retention or detention facilities that will be maintained, enlarged or otherwise altered and new ponds or basins to be built and the basis of their design.

9. The estimated depth and amount of storage required by design of the new ponds or basins.

10. One or more typical cross sections of all existing and proposed channels or other open drainage facilities carried to a point above the 100-year high water and showing the elevation of the existing land and the proposed changes, together with the high water elevations expected from the 100 year storm under the controlled conditions called for by this chapter, and the relationship of structures, streets, and other facilities.

11. Any other information required by Stormwater Board and/or the permitting officer in order to thoroughly evaluate the submitted material.

(3) *Stormwater Drainage Technical Report*. A written stormwater drainage technical report must contain a discussion of the steps taken in the design of the stormwater drainage system. The technical report needs to include the following detailed items:

(a) A summary report, including the following information:

1. The significant drainage problems associated with the project;

2. The analysis procedure used to evaluate these problems and to propose solutions;

3. Any assumptions or special conditions associated with the use of these procedures, especially the hydrologic or hydraulic methods;

4. The proposed design of the drainage control system; and

5. The results of the analysis of the proposed drainage control system showing that it does solve the project's drainage problems. Any hydrologic or hydraulic calculations or modeling results must be adequately cited and described in the summary description. If hydrologic or hydraulic models are used, the input and output files for all necessary runs must be included in the appendices. A map showing any drainage area subdivisions used in the analysis must accompany the report.

(b) A Hydrologic/hydraulic analysis, consistent with the methodologies and calculation included in the Stormwater Technical Standards Manual, and including the following information:

1. A hydraulic report detailing existing and proposed drainage patterns on the subject site. The report should include a description of present land use and proposed land use. Any off-site drainage entering the site should be addressed as well. This report should be comprehensive and detail all of the steps the engineer took during the design process.

2. All hydrologic and hydraulic computations should be included in the submittal. These calculations should include, but are not limited to: runoff curve numbers and runoff coefficients, runoff calculations, stage-discharge relationships, times-of-concentration and storage volumes.

3. Copies of all computer runs. These computer runs should include both the input and the outputs. Electronic copies of the computer runs with input files must also be included.

4. A set of exhibits should be included showing the drainage sub-areas and a schematic detailing of how the computer models were set up.

5. A conclusion which summarizes the hydraulic design and details how this design satisfies this chapter.

(4) *Stormwater pollution prevention plan for construction sites.* A stormwater pollution prevention plan associated with construction activities must be designed to, at least, meet the requirements of this chapter and must include the following:

(a) Location, dimensions, detailed specifications, and construction details of all temporary and permanent stormwater quality measures.

(b) Temporary stabilization plans and sequence of implementation.

(c) Permanent stabilization plans and sequence of implementation.

(d) Temporary and permanent stabilization plans shall include the following:

1. Specifications and application rates for soil amendments and seed mixtures.

2. The type and application rate for anchored mulch.

(e) Construction sequence describing the relationship between implementation of stormwater quality measures and stages of construction activities.

(f) A typical erosion and sediment control plan for individual lot development.

(g) Self-monitoring program including plan and procedures.

(h) A description of potential pollutant sources associated with the construction activities, which may reasonably be expected to add a significant amount of pollutants to stormwater discharges.

(i) Material handling and storage associated with construction activity shall meet the spill prevention and spill response requirements in 327 IAC 2-6.1.

(j) Name, address, and telephone number of the trained individual in charge of the mandatory stormwater pollution prevention self-monitoring program for the project site.

(5) *Post-Construction Storm Water Pollution Prevention Plan*. The post-construction storm water pollution prevention plan must include the following information:

(a) A description of potential pollutant sources from the proposed land use, which may reasonably be expected to add a significant amount of pollutants to stormwater discharges.

(b) Location, dimensions, detailed specifications, and construction details of all post-construction stormwater quality measures.

(c) A description of measures that will be installed to control pollutants in stormwater discharges that will occur after construction activities have been completed. Such practices include infiltration of run-off, flow reduction by use of open vegetated swales and natural depressions, buffer strip and riparian zone preservation, filter strip creation, minimization of land disturbance and surface imperviousness, maximization of open space, and stormwater retention and detention ponds.

(d) A sequence describing when each post-construction stormwater quality measure will be installed.

(e) Stormwater quality measures that will remove or minimize pollutants from stormwater run-off.

(f) Stormwater quality measures that will be implemented to prevent or minimize adverse impacts to stream and riparian habitat.

(g) A narrative description of the maintenance guidelines for all post-construction stormwater quality measures to facilitate their proper long term function. This narrative description shall be made available to future parties who will assume responsibility for the operation and maintenance of the post-construction stormwater quality measures.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-073 REVIEW OF INDIVIDUAL LOTS WITHIN A PERMITTED PROJECT.

(A) For individual lots disturbing less than one acre, developed within a larger permitted project, a formal review and issuance of an individual lot plot plan permit will be required before a building permit can be issued. All stormwater management measures necessary to comply with this chapter must be implemented in accordance with permitted plan for the large project.

(B) The following information must be submitted to the town Stormwater Board and/or the permitting officer, for review and acceptance, by the individual lot operator, whether owning the property or acting as the agent of the property owner, as part of a request for review and issuance of an individual lot plot plan permit that must be obtained prior to the issuance of a building permit.

(1) A site layout for the subject lot and all adjacent lots showing building pad location, dimensions, and elevations, and the drainage patterns and swales.

(2) Erosion and sediment control plan that, at a minimum, includes the following measures.

(a) Installation and maintenance of a stable construction site access.

(b) Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.

(c) Minimization of sediment discharge and tracking from the lot.

(d) Clean-up of sediment that is either tracked or washed onto roads. Bulk cleaning of sediment shall not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner that is in compliance with all applicable statutes and rules.

(e) Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.

(f) Self-monitoring program including plan and procedures.

(3) Certification of compliance stating that the individual lot plan is consistent with the stormwater management permit, as approved by the Stormwater board, for the larger project.

(4) Name, address, and telephone number of the trained individual in charge of the mandatory stormwater pollution prevention self-monitoring program for the project site.

(C) The individual lot operator is responsible for installation and maintenance of all erosion and sediment control measures until the site is stabilized.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-074 CHANGES TO PLANS

Any changes or deviations in the detailed plans and specifications after approval of the applicable stormwater management permit shall be filed with, and accepted by, the Stormwater Board and/or the permitting officer prior to the land development involving the change. Copies of the changes, if accepted, shall be attached to the original plans and specifications.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-075 FEE STRUCTURE.

Current rates and charges are found in the Utility Fee Schedule. The Storm Water Board and Permitting Officer shall have the right to not accept the drainage improvements or the advancement of any project for which the applicable fees have not been paid.
(Ord. 2014-04, passed _____)

§ 00-05-51-076 REQUIRED ASSURANCES.

As a condition of approval and issuance of the permit, the Stormwater Board and/or the permitting officer shall require the applicant to provide assurance in form of an irrevocable letter of credit or a bond when the stormwater management plan has been accepted, all applicable fees paid, and before construction begins. Said assurance will guarantee a good faith execution of the stormwater drainage plan, the stormwater pollution prevention plan, the stormwater quality management plan, and any permit conditions. The assurance shall be for an amount equal to 120% of the total costs of all stormwater management measures for the entire project. The above mentioned costs shall be based on an estimate as prepared by a registered engineer or land the permitting officer. Said costs shall be for the installation and ongoing monitoring and maintenance of erosion control measures and the construction and ongoing monitoring and maintenance of storm drainage infrastructure, detention/retention facilities, and stormwater quality BMPs, as regulated under this chapter, until the construction is completed, site is stabilized, and as-built plans are accepted by the Stormwater Board and/or the permitting officer. Assurances shall be for a minimum of $2,000. Local governmental jurisdictions may require additional performance and/or maintenance assurances. The intent of this assurance is not only to complete the installation of storm drain infrastructure for the project, but also to assure that adequate stormwater pollution prevention measures are properly installed and maintained. If adequate assurances are set aside by the project site owner for the overall project, proof of total assurance can be submitted in place of an individual stormwater assurance.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-077 TERMS AND CONDITIONS OF PERMITS.

(A) In granting a stormwater management permit, the Stormwater Board and/or the permitting officer may impose such terms and conditions as are reasonably necessary to meet the purposes of this chapter. The project site owner shall insure compliance with such terms and conditions. Non-compliance with the terms and conditions of permits will be subject to enforcement as described in §§ 00-05-51-100 *et seq*.

(B) The project site owner shall inform all general contractor, construction management firms, grading or excavating contractors, utility contractors, and the contractors that have primary oversight on individual building lots of the terms and conditions for the stormwater management permit and the schedule for proposed implementation.

(C) In the event that a project site is determined to impact or discharge to a sensitive area or is located in an impact drainage area, the Stormwater Board and/or the permitting officer may require more stringent stormwater quantity and quality measures than detailed in this chapter or in the Indiana Stormwater Quality Manual.

(1) *Determination of sensitive areas.* Sensitive areas include highly erodible soils, wetlands, threatened or endangered species habitat, outstanding waters, impaired waters, recreational waters, and surface drinking water sources. A listing of highly erodible soils, outstanding water, impaired water, recreation water and surface drinking water sources can be found in the Stormwater Technical Standards Manual. If wetlands are suspected on a site, a wetland delineation should be completed in accordance with the methodology established by the U.S. Army Corps of Engineers (COE). The presence of threatened or endangered species habitat will be determined by the Stormwater Board and/or the permitting officer during the permit review process. Special terms and conditions for development determined to impact or discharge to any sensitive area shall be included in the stormwater management permit.

(2) *Determination of impact drainage areas.*

(a) The Stormwater Board is authorized, but is not required, to classify certain geographical areas as impact drainage areas. In determining impact drainage areas, the Stormwater Board shall consider such factors as topography, soil type, capacity of existing drains, and distance from adequate drainage facility. The following areas shall be designated as impact drainage areas, unless good reason for not including them is presented to the Stormwater Board.

1. A floodway or floodplain as designated by the most updated town dealing with floodplain regulation.

2. Land within 75 feet of each bank of any ditch within the town's system.

3. Land within 75 feet of the centerline of any drain tile or enclosed conduit within the town's system.

(b) Land that does not have an adequate outlet, taking into consideration the capacity and depth of the outlet, may be designated as an impact drainage area b the Stormwater Board. Special terms and conditions for development within any impact drainage area shall be included in the stormwater management permit.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-078 CERTIFICATION OF AS-BUILT PLANS

(A) After completion of construction of the project and before final acceptance of the stormwater management plan, a professionally prepared and certified as-built set of plans shall be submitted to the Stormwater Board and/or the permitting officer for review. Additionally, a digital copy of the 'as-built' plans in a current version of AutoCad is required. These plans shall

include all pertinent data relevant to the completed storm drainage system and stormwater management facilities, and shall include:

(1) Pipe size and pipe material;

(2) Invert elevations;

(3) Top rim elevations;

(4) Pipe structure lengths;

(5) BMP types, dimensions, and boundaries/easements;

(6) “As-planted” plans for BMPs, as applicable;

(7) Data and calculations showing detention basin storage volume:

(8) Data and calculations showing BMP treatment capacity;

(9) Certified statement on plans stating the completed storm drainage system and stormwater management facilities substantially comply with construction plans and the stormwater management permit as approved by the Stormwater Board. (See certificate in Stormwater Technical Standards Manual).

(B) The property owner, developer, or contractor shall be required to file a five-year maintenance bond or other acceptable guarantee with the Stormwater Board and/or the permitting officer, prior to acceptance, in an amount of 25% of the cost of the stormwater drainage system located outside the public road right-of-ways, and in a form satisfactory to the town of drainage’s attorney in order to assure that such stormwater system installation was done according to standards of good workmanship, that the materials used in the construction and installation were of good quality and construction, and that such project was done in accordance with the accepted plans, and this chapter. The bond or other acceptable guarantee shall be in effect for a period of five years after the date of the final project acceptance by the Stormwater Board and/or the permitting office.

(C) Deflection tests shall be performed on all flexible pipes after the final backfill has been in place at least 30 days. No pipe shall exceed a vertical deflection of 5%. Deflection testing shall be performed using a mandrel pulled by hand. The mandrel (go/no-go) device shall be cylindrical in shape and constructed with nine or ten evenly spaced arms or prongs. Any sewer not passing the mandrel shall be uncovered, replaced and retested.

(D) The following are considered nonflexible pipes that do not require deflection tests:

(1) Vitrified clay pipe.

(2) Concrete pipe.

(3) Ductile iron pipe.

(4) Cast iron pipe.

(E) Visual recordings of all storm drainage conveyances shall be required before release of maintenance bonds. These visual recordings will be scheduled by the Stormwater Board and/or the permitting officer and paid for by the developer. Notices shall be provided to the Stormwater Board and/or the permitting officer within at least 60 days prior to the expiration date of the maintenance bond so that the noted recordings may be scheduled reports summarizing the results of the noted visual recordings shall be reviewed and accepted by the Stormwater Board and/or the permitting officer before maintenance bond would be recommended to be released.
(Ord. 2004-12, passed 1-5-2005)

STORM WATER UTILITY FEE

§ 00-05-51-090 STORM WATER UTILITY FEE.

(A) There is hereby established a monthly storm water utility fee for the use of and services provided by the storm water utility of the town.

(B) The monthly fee will be uniform for all residential properties which will be assigned one Equivalent Residential Unit (ERU). This acknowledges that all property owners of the town place demands on the storm water utility of the town and benefits from the storm water management activities of the town.

(C) The monthly fee for non-residential properties will be determined using an ERU multiplier which will be calculated by dividing the total impervious surface area within the property by the base ERU of 3,300 square feet. This method allows for the non-residential property user fee to be based upon the impervious surface area of the property as compared to the average impervious surface area of a residential property. The ERU for non-residential property shall not be less than one ERU. The ERU multiplier shall then be multiplied by the current fee for one ERU as established in division (E) to determine the actual user fee in dollars.

(D) The monthly user fee for combined residential/business properties user fees shall be determined by measuring the amount of impervious surface area that is used for business purposes. If 50% or greater of the total impervious surface area is used for business purposes, the property shall be billed as a non-residential property using the ERU multiplier as slated above. If the business use results in less than 50% of the total impervious surface area, then the property shall be billed as a residential property and will be assigned one ERU.

(E) The monthly user fee per ERU will be $9.25.

(F) The policies and procedures for determining impervious surface area, establishing the ERU and its multiplier, billing and collection procedures and the credit process are described in the Policy Manual, which Policy Manual is attached hereto as Appendix C to Ord. 207-11, passed 8-20-2008, incorporated herein by reference and is hereby approved.

(G) The monthly storm water utility fee as herein set forth shall be effective on the first full billing period occurring once the town's computer billing system for the storm water utility fees is operational.
(Ord. 2007-11, passed 8-20-2008 | Am. Ord 2017-29, passed 12-6-2017)

§ 00-05-51-091 STORM WATER FEE FUND.

(A) There shall be created a Storm Water Fee Fund. This fund shall be compromised of fees paid by users under this subchapter, penalties and assessments imposed in the collection of fees under this chapter, and other income generated from the operation of the Department.

(B) This shall be a non-reverting fund, and it shall be used to construct, reconstruct, repair and maintain storm water facilities, to pay for the operation of the storm water utility and storm water management activities, and to otherwise further the purposes of improving drainage and water quality in the town.
(Ord. 2007-11, passed 8-20-2008)

ENFORCEMENT

§ 00-05-51-100 COMPLIANCE WITH THIS CHAPTER.

In addition to the requirements of this chapter, compliance with the requirements set forth in the local Zoning Ordinances is also necessary. Compliance with all applicable ordinances of town as well as with applicable state statutes and regulations shall also be required. Unless otherwise stated, all other specifications referred to in this chapter shall e the most recent edition available. Violations of the requirements of this chapter are subject to the penalties listed below.
(Ord 2004-12, passed 1-5-2005)

§ 00-05-51-101 STOP WORK ORDER.

(A) In addition to the penalties listed above, if land disturbance activities are conducted contrary to the provisions of this chapter or accepted final stormwater management plans, the Stormwater Board and/or the permitting officer may order the work stopped by notice in writing served on any person engaged in the doing or causing of such work to be done, and any such persons shall forthwith stop such work until authorized by the Stormwater Board and/or the permitting officer to proceed with the work. The Stormwater Board and/or the permitting officer may also undertake or cause to be undertaken, any necessary or advisable protective measures to prevent violations of this chapter or to avoid or reduce the effects of noncompliance herewith. The costs of any such protective measures shall be the responsibility of the owner of the property upon which the work is being done and the responsibility of any person carrying out or participating in the work.

(B) Any person who neglects or fails to comply with a stop work order shall be subject to a fine of not less than $1,000, and such person shall also pay such costs as may be imposed in the discretion of the court. A permit reinstatement fee may be assessed by the Stormwater Board and/or the permitting officer.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-102 FAILURE TO COMPLY OR COMPLETE.

In addition to any other remedies, should any owner fail to comply with the provisions of this chapter, the Stormwater Board and/or the permitting officer may, after giving notice and opportunity for compliance, have the necessary work done, and the owner shall be required to promptly reimburse the Stormwater Board and/or the permitting officer for all costs of such work.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-103 SUSPENSION OF ACCESS TO THE STORM DRAIN SYSTEM.

(A) *Suspension due to emergency situations*. The Stormwater Board and/or the permitting officer may, without prior notice, suspend storm drain system discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm drain system or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, town may take such steps as deemed necessary to prevent or minimize damage to the storm drain system or waters of the United States, or to minimize danger to persons.

(B) *Suspension due to the detection of illicit discharge.* Any person discharging to the storm drain system in violation of this chapter may have their storm drain system access terminated if such termination would abate or reduce an illicit discharge. The Stormwater Board and/or the permitting officer will notify a violator of the proposed termination of its MS4 access. The violator may petition the Stormwater Board and/or the permitting officer for a reconsideration and hearing.
(Ord.2004-12, passed 1-5-2005)

§ 00-05-51-104 CORRECTIVE ACTION.

Nothing herein contained shall prevent the Stormwater Board and/or the permitting officer from taking such other lawful action as may be necessary to prevent or remedy any violation. All costs connected therewith shall accrue to the person or persons responsible. Costs include, but are not limited to, repairs to the storm drain system made necessary by the violation, as well as those penalties levied by the EPA or IDEM for violation of the town's NPDES permit, attorney fees, and other costs and expenses.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-105 APPEALS.

(A) Any person to whom any provision of this chapter has been applied may appeal in writing, not later than 30 days after the action or decision being appealed from, to the Stormwater Board the action or decision whereby any such provision was so applied. Such appeal shall identify the matter being appealed, and the basis for the appeal.

(B) The Stormwater Board shall consider the appeal and make a decision whereby it affirms, rejects or modifies the action being appealed. In considering any such appeal, the Stormwater Board may consider the recommendations of the Stormwater Board and/or the permitting officer and the comments of other persons having knowledge of the matter.

(C) In considering any such appeal, the Stormwater Board may grant a variance from the terms of this chapter to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

(1) The application of the chapter provisions being appealed will present or cause practical difficulties for a development or development site; provided; however, that practical difficulties shall not include the need for the developer to incur additional reasonable expenses in order to comply with the chapter; and

(2) The granting of the relief requested will not substantially prevent the goals and purposes of this chapter, nor result in less effective management of stormwater runoff.
(Ord. 2004-12, passed 1-5-2005)

§ 00-05-51-999 PENALTY.

(A) Any person found in violation of any provision of this chapter shall be responsible for a civil infraction and subject to a maximum fine of $2,500 for a first offense, and a maximum of $7,500 for a subsequent offense, plus costs, damages, and expenses. Each day such violation occurs or continues shall be deemed a separate offense and shall make the violator liable for the imposition of a fine for each day. The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law. An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this chapter.

(B) Any person who aids or abets a person in violation of this chapter shall be subject to the penalties provided in this section.

(C) For purposes of this section, “subsequent offense” means a violation of the provisions of this chapter committed by the same person within 12 months of a previous violation of the same provision of this chapter for which said person admitted responsibility or was adjudicated to be responsible.
(Ord. 2004-12, passed 1-5-2005)

CHAPTER 52: STREET LIGHTS

Section

00-05-52-001 Authority of town
00-05-52-002 Definitions
00-05-52-003 Payment for electric service to street lights
00-05-52-004 No payment for nonconforming street lights
00-05-52-005 Maintenance of street lights
00-05-52-006 Right to petition

§ 00-05-52-001 AUTHORITY OF TOWN.

(A) The Town has the authority under Indiana law to provide services which will promote the health, safety and welfare of its citizens.

(B) The town has provided street lights for many years in order to promote pedestrian and traffic safety and to deter crime.

(C) The town regulates new subdivisions by way of its Zoning Ordinance, Subdivision Control Ordinance, and other ordinances. As part of that regulation, the town and its agencies control the number, type and location of street lights constructed in new subdivisions.

(D) The town also has the authority under I.C. 36-9-9 to operate a street light utility. However, the town has not established such a utility and does not assess land owners for the cost of street lights.
(Ord. 2009-03, passed 4-15-2009)

§ 00-05-52-002 DEFINITIONS.

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

ELECTRIC SERVICE. Charges for electricity provided to the street lights, pole and equipment rental, taxes, and other charges and surcharges for the pole, fixture, and electricity charged by an electric utility.

STREET LIGHT. Only those polies and fixtures which are in their construction, design, condition and placement compliant with all laws, ordinances, resolutions, rules and orders of the town.
(Ord. 209-03, passed 4-15-2009)

§ 00-05-52-003 PAYMENT FOR ELECTRIC SERVICE TO STREET LIGHTS.

(A) It is the policy of the town that in order to promote pedestrian and traffic safety and to deter crime, the Clerk-Treasurer shall pay all of the monthly utility charges for electrical service provided to all existing street lights in the town.

(B) The Clerk-Treasurer shall pay for the electric service provided to the street lights in the town.

(C) In order to effectuate this policy as it relates to existing subdivisions which are billed directly by the electric utilities, the Clerk-Treasurer shall contact all developers or homeowners' associations, make all of the necessary arrangements with the electrical utilities which provide electric service to the street lights in the existing subdivisions of the twin to ensure that the invoices for these services are billed directly to the town, and pay the invoices in a timely manner.

(D) As new subdivisions are constructed in the town, the decision whether to pay for the electric service provided to the street lights in the new subdivisions shall be made on a case by case basis by resolution of the Town Council.
(Ord. 2009-03, passed 4-15-2009)

§ 00-05-52-004 NO PAYMENT FOR NONCONFORMING STREET LIGHTS.

(A) The town shall not pay for the electric service provided to street lights which are not in compliance with the town's laws, ordinances, resolutions, rules and orders.

(B) In the event that the town determines that a street light or lights are not in compliance, the Town Manager or his or her delegee shall send to the owner of the light or lights a notice of noncompliance. All charges for electric service provide to the noncompliant light or lights shall be the responsibility of the owner for the period of noncompliance.
(Ord. 2009-03, passed 4-15-2009)

§ 00-05-52-005 MAINTENANCE OF STREET LIGHTS.

(A) The town shall be responsible for maintenance of street lights it owns.

(B) Nothing in this chapter shall impose a duty on the town to maintain privately owned street lights.
(Ord. 2009-03, passed 4-15-2009)

§ 00-05-52-006 RIGHT TO PETITION.

This chapter shall not affect the right of landowners to petition the town for the construction, installation, maintenance and operation of a street light utility, as provided for in I.C. 36-9-9.
(Ord. 2009-03, passed 4-15-2009)

§ 00-05-52-007 PROHIBITED CONDUCT.

(A) It shall be unlawful for any person to place, attach or affix unauthorized signs, banners and other items to the Town's street lights, poles and fixtures.

(B) It shall be unlawful for any person to use the Town's street lights, poles and fixtures and park benches, landscaping and other site fixtures to secure items, including but not limited to bicycles, motorcycles, scooters, and vehicles.

(C) A person who violates this section shall pay a fine for each violation in the amount of $50. A person who violates this section commits a separate violation for each day that person allows the prohibited conduct to continue.

(D) The Town of Cumberland and its agents have the authority to remove from the Town's street lights, poles and fixtures and park benches, landscaping and other site fixtures any items secured thereto in violation of this Section, to store the items at the expense of the owner, and to add to any fine imposed by this section the expense of removing and storing the item. If the item is not retrieved by the owners within thirty (30) days after its removal, the items shall be deemed abandoned and disposed of by the Town in accordance with Indiana law.
(Ord. 2011-11, passed 10-19-2011)

CHAPTER 53: WATER UTILITY

Section

00-05-53-001 Authority & Water Board
00-05-53-002 Waterworks System
00-05-53-003 Rates and Charges
00-05-53-004 Cross Connection Control and Backflow Prevention Policies
00-05-53-005 Inspection Fee

§ 00-05-53-001 AUTHORITY & WATER BOARD

(A) The Town may regulate the furnishing of water to the public. The Town may also establish, maintain and operate a waterworks system. The Town may also contract with private or public water service providers for the provision of water to its residents.

(B) There is established a water utility which shall be known as the Cumberland Water Utility (the Utility). The Utility may provide water service in the Town's corporate boundaries, in the GEM water service territory, and at any location as authorized by Indiana law.

(C) The Members of the Town Council shall comprise the Cumberland Water Board. The Board shall administer, operate and maintain the Water Utility.

§ 00-05-53-002 WATERWORKS SYSTEM

(A) The Utility shall construct, operate and maintain the waterworks system.

(B) The Utility may also extend its mains as it, in its discretion, determines is in the best interest of the Utility. Customers affected by the extension of the mains shall be responsible for the pro rata share and the main extension surcharges for service extensions.

(C) The Utility may enter into contracts with individuals or corporations for the extension of lines and services of the Utility. The contracts shall provide for the person deserving such extensions to pay for all of the cost of the extension and to construct such consistent with the specifications of the Utility. After such construction said persons desiring to tap into the water line shall be regulated and governed in the use of the lines and water therefrom. The contract shall further provide that any easements necessary for construction of the lines shall be made in the name of the Town and for the benefit of the Town and that the lines shall become the property of the Town. All such contract will provide for inspections of the site and work to be performed and for inspections fees as provided in the Utility Fee Schedule.

§ 00-05-53-003 RATES AND CHARGES

(A) The Cumberland Water Board shall determine all rates and charges for the provision of water service, connection fees, minimum charges, fire protection charges, tapping fees, inspection fees, and other fees. These rates and charges shall produce sufficient revenue to pay all legal and other necessary expenses incident to the operation of the Utility, provide a sinking fund for the liquidation of bonds or other obligations, including leases, provide a debt service

reserve for bonds or other obligations, including leases, in an amount established by the Board, not to exceed the maximum annual debt service on the bonds or obligations or maximum annual lease rentals, provide adequate money for working capital, provide adequate money for making extensions and replacements to the extent not provided for through depreciation, and provide money for the payment of any taxes that may be assessed against the Utility.

(B) Current rates and charge are found in the Utility Fee Schedule.

(C) All terms of service for GEM customers shall be governed by an account agreement executed by users at the time of the commencement of service. The Water Board may alter, amend or modify the terms of these agreements.

(D) The Town shall mail the water bill to the address provided by the customer. Mailing of the bill to the provided address shall constitute notice to the customer of the bill and its terms.

(E) Water service shall be disconnected as prescribed by 170 IAC 6-1-16, from those water customers who fail to pay the accrued fees within 60 days of billing. The service shall not be reconnected until all fees are paid, including the reconnect fee, late fees, attorney's fees and other charges.

(F) Submission of any delinquent account to an attorney for collection shall entitle the Water Board to collect and recover reasonable attorney's fees and court costs incurred by the Board.

(Am Ord. 2017-14, passed 8-16-2017)

§00-05-53-004 CROSS CONNECTION CONTROL AND BACKFLOW PREVENTION POLICIES

(A) **DEFINITIONS**: The following definitions apply to this section:

(1) Backflow: the flow of any foreign liquid, gas or other substance into the distributing pipelines of a potable supply of water from any source or sources other than the intended one.

(2) Backsiphonage: the backing up, or siphoning, of a foreign liquid, gas or other substance into a potable water system which occurs when the atmospheric pressure in the potable system is less than the atmospheric pressure on the foreign liquid, gas or other substance, creating a partial vacuum toward the potable system.

(3) Cross Connection: any physical arrangement whereby a public water supply distribution system is connected, directly or indirectly, either continuously or intermittently, with any secondary source of supply, sewer drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains any water, contaminated liquid, or other waste of unknown or unsafe quality that could impart a contaminant to the drinking water as a result of backflow caused by backpressure or backsiphonage.

(B) **PROHIBITIONS:** In order to protect the public water supply system from cross connections:

(1) Installation: No installation of public water supply piping or part thereof will be made in such a manner that it is possible for used, unclean, polluted or contaminated water, mixtures or substances to enter any portion of such piping from any tank, receptacle, equipment or plumbing fixture by reason of backsiphonage or any other cause, either during normal use and operation thereof or when any such tank, receptacle, equipment or plumbing fixture is flooded or subject to pressure in excess of the pressure in the hot-or-cold water piping.

(2) Cross Connections: No person shall make a connection or allow one to exist between pipes or conduits carrying domestic water supplied by any public or private water supply service system, and any pipes, conduits or fixtures containing or carrying water from any other source or containing or carrying water which has been used for any purpose whatsoever, or any piping carrying chemicals, liquids, gases, or any substance, unless there is provided an approved backflow prevention device and unless the connection has been approved and permitted by the GEM Water Utility.

(3) Devices: No plumbing fixtures, device or construction will be installed or maintained or connected to any domestic water supply when such installation or connection may provide a cross connection between a distribution system of water for drinking and domestic purposes and water that may become contaminated by such plumbing fixture devices or construction unless there is provided a backflow prevention device which has been approved by the Commissioner of the Indiana Department of Environmental Management.

(C) **CROSS CONNECTION CONTROL**: In order to ensure proper precautions are taken, GEM Water Utility will perform the following:

(1) Regulation: The Utility will exercise reasonable vigilance to ensure that customers take proper steps to protect the public water system and will adopt rules and procedures to enforce this protection.

(2) Customer Installation: When the Utility determines that a backflow assembly is required, it will require the customer, as a condition of the provision of water, to install an approved backflow prevention device which is appropriate to the degree of the backflow hazard.

(3) Customer Expense: If the Utility determines that a backflow assembly is required for a customer, the customer is responsible for the expense of the device, installation of the device, all required testing, proper repair and maintenance of the assembly, inspection fee and maintenance of adequate records of devices installed, testing, and repairs and maintenance. The customer will make these records available for inspection by the Utility upon request.

(4) List of Customers with Backflow Devices: The Utility will maintain a list of customers requiring backflow devices along with the type and location of each device.

(5) Testing Records: The Utility will obtain from each customer requiring backflow devices copies of all test reports and will maintain the three (3) most recent reports for review and inspection by IDEM.

(6) Inspection: The Utility and its agents have the right to enter upon the property of customers in order to perform inspections and investigations of backflow devices and existing conditions or hazards prior to, during and after installation of the devices in order to ensure compliance with this policy. The customer must pay for all inspections as provided in the Utility Fee Schedule.

(D) **COMPLIANCE WITH IDEM RULES**: All customers of the Utility and persons performing work for the customers are required to comply with the Indiana Department of Environmental Management's Cross Connection and Backflow Prevention rules and regulations, including but not limited to the provisions of Rule 10, as modified from time-to-time, all applicable provisions of the Indiana Plumbing Code, Indiana and federal law. When the IDEM rules conflict with the Indiana Plumbing Code, the customer and persons performing work for the customer must comply with IDEM's rules.

(E) **MANUFACTURER'S SPECIFICATIONS**: All installations of backflow devices must be in accordance with manufacturer's specifications.

(F) **TAMPERING WITH INSPECTION TAGS**: No person will tamper with, alter, modify or destroy an inspection tag placed by a backflow inspector on a device that has been tested.

(G) **PIPE COLOR CODING**: All water pipes in a building or industrial plant must be color coded and identified adequately by legends based on the Recommended Standards For Water Works: 2012 Edition or the American Standards Association Scheme For Identification of Piping Systems (ASA A13.1-1956).

(H) **FIRE PROTECTION SYSTEMS**: Fire Protection Systems (FPS) must comply with the rules of the Fire Prevention and Building Safety Commission.

(I) **RECOMMENDED DEVICES**: A list of recommended types of backflow protection devices may be found in Appendix D of the IDEM Cross Connection Control and Backflow Prevention Manual

(J) **PERMITS**: No person will make a cross connection or allow one to exist, as defined by this section, until the person has applied for and obtained a permit for the same and provided for an approved backflow prevention device, as follows:

(1) Application: Permit applications must be submitted to the Utility prior to construction or installation of a backflow prevention device.

(2) Permit Fees: Applicants must tender to the Utility the applicable fee (see Fee Schedule) at the time of submission of the application.

(3) Incomplete Information: If the application is incomplete, as determined by the Utility, the Utility will notify the applicant in writing within 10 days of the submission of the application.

(4) Permit Denial: If the permit application does not comply with the rules and regulations of the Utility, the Utility may deny the application. The Utility will provide to the applicant within 30 days of the receipt of an application with complete information a written denial which states the reasoning.

(5) Permit Issued: If the permit application complies with the rules and regulations of the Utility, the Utility will issue to the applicant a permit for the installation of the device.

(6) Permit Term: Each permit will have a term of one (1) year from the date of issuance.

(7) Renewal of Permit: The holder of a permit must apply for a renewal of a permit issued by the Utility at least 30 days prior to the expiration of the existing permit and tender to the Utility the renewal fee required by the Fee Schedule. The Utility will either grant or deny the renewal within 30 days of receipt of a complete application.

(8) Inspections: Upon receipt of an application for a permit or renewal of an existing permit, the Utility will conduct any and all inspections necessary to render the decision. The applicant will be required to pay for these inspections, and the costs of inspection must be paid prior to the issuance or renewal of the permit.

(9) No Modifications: After the issuance of a permit or renewal of an existing permit, no person will remove, alter or modify the backflow device or water system. If a permit holder removes, alters, or modifies a device or system, the holder's permit will be revoked.

(10) Appeals: If an applicant or permit holder is dissatisfied with a decision of the Utility, the applicant or holder may appeal the decision to the Cumberland Water Board by submitting to the Board Secretary within 30 days of the decision a written appeal which states the reasons why the applicant or holder believes the decision is incorrect.

(11) Hearing on Appeals: Within 30 days of the filing of a timely appeal, the Cumberland Water Board will conduct a hearing on the appeal. The applicant or holder must attend the hearing and has the right to present evidence in support of the appeal and to cross exam witnesses called by the Utility to support its decision.

(12) Findings by Water Board: Within 10 days of the appeal hearing, the Water Board will issue written findings and conclusions of its decision on the appeal.

(13) Appeal of the Water Board Decision: If the applicant or holder believes the decision of the Board is in error, the applicant or holder may appeal the Board's decision by filing an appeal, within 30 days of the decision by the Board, with a court of competent jurisdiction.

(K) **ENFORCEMENT**: The Utility will issue a Notice of Violation to any person it determines has or is violating any provisions of this section. This Notice will state the nature of the violation, the action to be taken to correct the violation, the time during which the corrective action must be taken, and the fines, penalties and remedies available to the Utility if the violation is not corrected. If the violation is not corrected as provided for in the Notice, the Utility may exercise the following remedies, either separately or jointly:

(1) Fines: The violator will be subject to a fine in the amount of $500 per day for each day, beginning when the time for correction ends, until the violation is corrected.

(2) Injunction: The Utility is entitled to obtain from a court of competent jurisdiction an order enjoining the violation from the continued violation of this section.

(3) Attorney's Fees: The Utility is entitled to collect from the violator any and all reasonable attorney's fees it incurs in the prosecution of any enforcement action.

(4) Money Judgment: The Utility is entitled to obtain from a court of competent jurisdiction a money judgment equal to fines and attorney's fees, as provided in this section.

(5) Remediation: The Utility is entitled to obtain from a court of competent jurisdiction an order allowing the Utility to:

(i) enter upon the property of the violator in order to remediate the violation; and,

(ii) obtain a money judgment against the violator for the expense incurred by the Utility in remediating the violation.

(6) Damages Suffered By Utility: The Utility is entitled to obtain from a court of competent jurisdiction a money judgment for any damages to its water supply, including

but not limited to the cost of decontamination, inspection, testing, provisions of alternate water supply, and other damages, and for damages to its fixture, equipment and property caused by the violation of this section.

(7) Disconnection From System: The Utility is entitled to disconnect the violator's water system from the Utility's water system, without further notice if the violation is a danger to public health.

(8) Other Remedies: The Utility is entitled to all other remedies provided for by Indiana law for a violation of this section.

(Ord. 2016-15, passed 8-17-16 | Am. Ord 2017-14, passed 8-16-2017)

§ 00-05-53-005 INSPECTIONS AND FEES

The Utility will charge an inspection fee, as provided for in the Utility Fee Schedule, for any inspection required by this Chapter or any inspection deemed necessary by the Public Works Director.

Ord. 2017-14, passed 8-16-2017)

Appendix

Utility Fee Schedule

APPLICATION & REVIEW

Sanitary Sewer (Chapter 50 of the Town Code)

Application & Review Fees			Engineering/ (Wessler)	Administrative Fee*
Plan Review			$400 for first 3 hours then $105/hour after	$150
Construction Inspection Fee				$50/EDU
Lift Station Plan Review			$400 for first 3 hours then $135/hour after	$150
Lift Station Inspection Fee				NA
Re-Review				$50/hour
Inspection Fee				$50

Storm Water (Chapter 51 of the Town Code)

Application & Review Fees			Engineering/ (CrossRoads)	Administrative
Plan Review (Drainage, SWPPP, Erosion Control)*			$1,100 (see Plan Commission Fee Schedule for what this covers)	$50
Post Construction SWPPP			$350	$50

Permit Fee			NA	$50
Erosion Control Inspection				$50/inspection
Inspection Fees			$120/hr + $0.50/mile	$50/per inspection
NOI			NA	$50
Appeals to the Storm Water Utility Board			$350	$200

Water (Chapter 53 of the Town Code)

Application & Review Fees			Engineering/ (Wessler)	Administrative Fee*
Plan Review			$400 for first 3 hours then $105/hour after	$150
Construction Inspection Fee				$50/EDU
Booster Station Plan Review			$400 for first 3 hours then $135/hour after	$150
Booster Station Inspection Fee				NA
Re-Review				$50/hour
Inspection Fee				$50

**in the absence of a petition on file with the Plan Commission that includes this review*

Cross Connection Control (Chapter 53)	Permit fee -- application	$40
Cross Connection Control (Chapter 53)	Permit fee -- annual renewal	$20

(Ord. 2016-16, passed 8-17-16 | Am Ord. 2017-13, passed 8-16-2017)

TITLE VII: TRAFFIC CODE

Chapter

70. TRAFFIC RULES

71. PARKING

72. TRAFFIC SCHEDULES

73. PARKING SCHEDULES

74. WAYFINDING DESTINATION SIGN POLICY

CHAPTER 70: TRAFFIC RULES

Section

General Provisions

00-07-70-01 Definitions; Consistency with Statutory Law
00-07-70-02 Directions by Police Officer or Firefighter

Control Devices; Compliance

00-07-70-20 Control devices; Erection and Establishment

Operational Requirements

00-07-70-30 Stop Streets and One-way Streets
00-07-70-31 Speeding
00-07-70-32 Driving on sidewalks
00-07-70-33 U-turns
00-07-70-34 Restricted turns
00-07-70-35 Damage to streets
00-07-70-36 Parades and Processions
00-07-70-37 Load Limits

Penalty

00-07-70-99 Penalty

GENERAL PROVISIONS

§ 00-07-70-01 DEFINITIONS; CONSISTENCY WITH STATUTORY LAW.

Uniform Traffic Code definitions from I.C. 9-13-2 control, unless otherwise defined. This chapter shall be deemed to be consistent with applicable statutory law as amended from time to time.
(Ord. 2002-1, passed 1-2-2002)

§ 00-07-70-02 DIRECTIONS BY POLICE OFFICER.

Officers of the Police Department, or such officers as are assigned by the Chief of the Police, are hereby authorized to direct traffic by voice, hand, or signal in conformance with

traffic laws, provided that in the event of an emergency or to expedite traffic or to safeguard pedestrians, officers may direct traffic as conditions may require, notwithstanding the provisions of the traffic laws. (Ord. 2002-1, passed 1-2-2002) Penalty, see § 00-07-70-99 (Amd. Ord. 2016- 26, 12-7-16)

CONTROL DEVICES; COMPLIANCE

§ 00-07-70-20 CONTROL DEVICES; ERECTION AND ESTABLISHMENT

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There shall be conducted, erected, and established services, signs, placards, signposts, semaphores, electrical automatic traffic signals, or other devices which may be deemed suitable for any nor all streets, intersections, or street crossings within the town for the protection of the traveling public and all persons using the public streets in the town.
(1995 Code, § 00-07-70-02) Penalty, see § 00-07-70-99

OPERATIONAL REQUIREMENTS

§00-07-70-30 Stop Streets and One-way Streets.

(A) The Town Council may designate certain streets and intersections as stop streets and intersections by placing stop signs on the streets or at the corners of intersections.

(B) The Town Council may also designate certain streets, or portions of them, as streets upon which vehicular traffic may travel in only one direction. For any such street designated as a one-way street, signs indicating the direction of travel shall be erected and maintained at every intersection of the streets, or the portions thereof that are limited to one-way travel.

(C) A schedule of stop streets and one-way streets in included in Chapter 72, Traffic Schedules.

§ 00-07-70-31 SPEEDING.

(A) (1) The state traffic laws regulating the speed of vehicles shall be applicable upon all streets within the town, except where the Town Council, as authorized by state law, properly declares and determines, upon the basis of an engineering and traffic investigation, that certain speed regulations shall be applicable upon specified streets or in certain areas.

(2) In the event the Town Council establishes such speed limits, it shall be unlawful for any person to drive a vehicle at a speed in excess of any speed so declared when signs are in place giving notice thereof.

(B) (1) On the basis of having performed an engineering and traffic investigation of all public highways within the jurisdictional limits and having thereby determined that certain speed regulations, either more restricted or greater than the speeds specified generally by statute for certain areas as set forth at I.C. 9-4-1-7k, were necessary and more reasonable upon specified streets or public ways, or portions thereof, it is hereby declared that the reasonable,

safe, and proper maximum speed limits to be permitted on all town streets, alleys, and public ways shall be not greater than as set forth and established by this chapter.

(2) It shall be prima facie unlawful for any person operating or using a motor vehicle on a public way within this jurisdiction to drive such vehicle at a speed in excess of the speed so declared and fixed for such locations when signs are in place at all necessary locations giving notice thereof.

(3) Alteration of state prima facie speed limits is hereby declared to be accomplished within through the establishment herein of the below-specified speed limits on the following designated streets, or portions thereof, all as authorized by law. Any violation thereof, in a manner declared unlawful in division (B)(2) above, shall subject the violator to the terms, conditions, and penalties for "moving traffic violation" offenses as prescribed in this code.

(C) A schedule of speed limits is in Chapter 72, Traffic Schedules.
(Ord. 2002-1, passed 1-2-2002) Penalty, see § 00-07-70-99

§ 00-07-70-32 DRIVING ON SIDEWALKS.

The driver or operator of any vehicle shall not drive the vehicle across any curb or across or within any sidewalk or grassplot area, except at a permanent or temporary driveway and, in the latter instance, shall use due care not to break the curbing or cause other damage to property or injury to any person.
(Ord. 2002-1, passed 1-2-2002) Penalty, see § 00-07-70-99

§ 00-07-70-33 U-TURNS.

The driver or operator of any vehicle shall not turn the vehicle so as to proceed in the opposite direction by a U-turn upon any street in a business district, or at any intersection where a left turn is prohibited, or at any place where an official traffic-control device or sign indicates that a U-turn shall not be made, nor shall the driver or operator of any vehicle so turn a vehicle, unless the movement can be made in safety and without interference with other traffic.
(Ord. 2002-1, passed 1-2-2002) Penalty, see § 00-07-70-99

§ 00-07-70-34 RESTRICTED TURNS.

(A) Whenever authorized signs are erected or placed indicating that no right, left, or U-turn is permitted at a certain place, no driver of a vehicle shall disobey the directions of any such sign or such direction by an officer.

(B) The making of such turns may be prohibited at any time or between certain hours of any day and may be permitted at other hours, in which event the prohibited hours shall be either directed by an officer or shall be plainly indicated on the signs or the signs may be removed when the turns are permitted.
(Ord. 2002-1, passed 1-2-2002) Penalty, see § 00-07-70-99

§ 00-07-70-35 DAMAGE TO STREETS.

(A) It is unlawful to operate any automobile, motorcycle, or other kind of vehicle so out of repair, or so loaded, or in such manner as to come in contact with or damage the street and create unnecessary grating, grinding, rattling, or other noises.

(B) It is unlawful to deposit or abandon on a public way or other public land any part of a vehicle, including mufflers and tires, without giving notice to a municipal public safety official.

(C) It is unlawful to damage a public way by any act connected with or related to the operation of a vehicle.
(Ord. 2002-1, passed 1-2-2002) Penalty, see § 00-07-70-99

§ 00-07-70-36 PARADES AND PROCESSIONS.

No procession of 100 or more persons or 25 or more vehicles, except the forces of the United States Army or Navy, the military forces of this state, and the forces of the Police and Fire Departments, shall occupy, march, or proceed along any street in the Hancock County part of the town, except in accordance with a permit issued by the Chief of Police or the designee of the Police Chief and such other regulations as are set forth herein which may apply.
(Ord. 2002-1, passed 1-2-2002) Penalty, see § 00-07-70-99

§ 00-07-70-37 LOAD LIMITS.

(A) It shall be unlawful, except as provided in division (B) below, for any person to drive or operate a motor vehicle weighing in excess of five tons upon any street or public way within the corporate limits of the town.

(B) Division (A) above shall not apply to the operation of vehicles for the purposes of local deliveries or on the streets set forth below:

(1) State or federal highways; and

(2) Warehouse Street, Wayburn, Muessing, South Munsie Street, and South Starter Street.
(1995 Code, § 00-07-70-26) (Am. Ord. 1986-7, passed 7-2-1986) Penalty, see § 00-07-70-99

PENALTY

§ 00-07-70-99 PENALTY.

(A) Any person violating any provision of this Chapter for which no specific penalty is prescribed shall be subject to §00-01-10-99.

(B) Any person vilating Section 31 of this Chapter shall be finned as follows: $50 for 1-15 mph over limit, $75 for 16-20 mph, $100 for 21-25 mph, and $150 for 25+ mph.

(C) Any person violating §§ 00-07-70-02, 00-07-70-20, or 00-07-70-32 of this Chapter shall be fined $50 for a first violation within a calendar year and at least $70 for additional violations of each section.

(D) Any person violating §§ 00-07-70-35(C) or 00-07-70-36 shall be fined $250.

(E) Violations of any section of this chapter shall be certified to the Indiana Bureau of Motor Vehicles as required by state law.
(Ord. 2002-1, passed 1-2-2002; Amd. Ord. 2016-26, 12-7-16)

CHAPTER 71: PARKING

Section

General Provisions

00-07-71-01 Definitions; consistency with statutory law
00-07-71-02 Parking prohibited
00-07-71-03 Limited parking
00-07-71-04 Prohibited stopping, standing, and parking
00-07-71-05 Car doors
00-07-71-06 Truck and/or trailer parking

Specific Regulations

00-07-71-16 Metered parking
00-07-71-17 Placement of meters
00-07-71-18 Loading and unloading
00-07-71-19 Unauthorized parking in loading and unloading zones
00-07-71-20 Public carrier stops
00-07-71-21 Oversized vehicle parking
00-07-71-22 Exceptions to use

Penalty

00-07-71-99 Penalty

Cross-reference:

Ordinance Violations Bureau, see Chapter 36
Parking Schedules, see Chapter 73
Police Department, see Chapter 33
Traffic Rules, see Chapter 70
Traffic Schedules, see Chapter 72

GENERAL PROVISIONS

§ 00-07-71-01 DEFINITIONS, CONSISTENCY WITH STATUTORY LAW.

(A) Uniform Traffic Code definitions from I.C. 9-13-2 control, unless otherwise defined.

(B) This chapter shall be deemed to be consistent with applicable statutory law as amended from time to time.
(Ord. 2002-2, passed 1-2-2002)

§ 00-07-71-02 PARKING PROHIBITED.

(A) When signs are erected, if shall be unlawful for the driver or operator of any vehicle to park such vehicle or to permit it to be parked at any time, except as otherwise permitted I this chapter, in any of the places upon any of the streets enumerated in this section.

(B) Nothing in this section shall be construed to prohibit:

(1) The standing, at or adjacent to the curb of any streets enumerated in this section, of a passenger vehicle temporarily for the reasonable and expeditious loading or unloading of passengers, if the loading or unloading shall not consume more than five minutes.

(2) The standing, at or adjacent to the curb of any such streets, of a commercial vehicle, or of any vehicle being then actually used for a commercial purpose, whether occupied or not, temporarily for the reasonable and expeditious loading, unloading, delivery, or pickup of materials or merchandise, if the loading, unloading, delivery, or pickup shall not consume more than 20 minutes:

(3) The standing of a passenger or commercial vehicle upon any such roadway during any time in obedience to traffic signs or signals;

(4) The standing of a passenger or commercial vehicle upon any such roadway while such vehicle is temporarily disabled and during the time reasonably necessary for its removal therefrom, if the standing shall not consume more than 30 minutes; nor

(5) The standing of a regularly licensed taxicab or bus, respectively, within a regularly established taxicab stand or bus zone, as permitted in this code or other town ordinance, or while the taxicab or bus is taking on or discharging passengers in such zone or stand, the taking on or discharging of which does not consume more than five minutes'.
(Ord. 2002-2, passed 1-2-2002) Penalty, see § 00-07-71-99

§ 00-07-71-03 LIMITED PARKING.

When signs are erected in each block giving notice thereof, no person shall park a vehicle in violation of a limited parking notice.
(Ord. 2002-2, passed 1-2-2002) Penalty, see § 00-07-71-99

§ 00-07-71-04 PROHIBITED STOPPING, STANDING, AND PARKING.

Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer, official traffic-control device, or markings on a street or curb, no person shall:

(A) Stop, stand, or park a vehicle:

(1) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(2) On a sidewalk;

(3) Within an intersection;

(4) Alongside or opposite any street excavation or obstruction, when stopping, standing, or parking would obstruct traffic;

(5) On any railroad tracks;

(6) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(7) At any place where official signs prohibit stopping; nor

(8) At any place where official signs prohibit standing.

(B) (1) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers:

(a) Within 50 feet of the nearest rail of a railroad crossing; nor

(b) At any place where official signs prohibit parking.

(2) No person shall move a vehicle not lawfully under his or her control into any prohibited area or away from a curb at a distance that is unlawful.

(C) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

(1) In front of a public or private driveway:

(2) Within 15 feet of a fire hydrant

(3) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of that entrance (when properly sign-posted);

(4) Within ten feet of a crosswalk; nor

(5) Within 30 feet from any flashing signal, stop sign, or traffic-control signal. (Ord. 2002-2, passed 1-2-2002)

(D) Stand or park a vehicle in a location along a roadway or in a public or private parking lot that has signage or other markings indicating that location to be parking for handicapped persons, unless a government-issued permit for handicapped parking is visibly displayed on the vehicle.

§ 00-07-71-06 CAR DOORS.

(A) No person shall open the door of a motor vehicle on the side available to moving traffic, unless and until it is reasonably safe to do so.

(B) No person shall leave a door open on the side of a motor vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.
(Ord. 2002-2, passed 1-2-2002) Penalty, see § 00-07-71-99

§ 00-07-71-07 TRUCK AND/OR TRAILER PARKING.

(A) It shall be unlawful and shall be a violation of this chapter for any truck, truck-tractor, road tractor, trailer, semi-trailer and pole trailer as defined in this section to be parked or stored on or along the streets, roads or other public ways in the corporate limits of the town which are located in any residential zoning classification.

(B) Trucks, truck-tractors, road tractors, semi-trailers and pole trailers may, however, for the purpose of making delivery or picking up a load be so parked for not more than the minimum length of time necessary for the purpose of delivery or picking up a loan or while temporarily disabled for not to exceed 48 hours while so disabled.

(C) Whenever in this section the following terms are used, they shall have the meanings respectively ascribed to them as follows:

POLE TRAILER. Any vehicle with motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregular shaped loads such as poles, pipes, or structural members, capable, generally, of sustaining themselves as beams between the supporting connections.

ROAD TRACTOR. Any motor vehicle designed and used for drawing other vehicles and not so constructed as to carry a load thereon, either independently or any part of the weight of a vehicle or load so drawn.

SEMI-TRAILER. Any vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

TRAILER. Any vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

TRUCK. Any motor vehicle designed, used or maintained primarily for the transportation of property. The term ***TRUCK*** shall include any motor vehicle designed to be used primarily for drawing another vehicle and so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

TRUCK-TRAILER. Any motor vehicle designed and used primarily for drawing other vehicles and not constructed as to carry a load other than part of the weight of the vehicle and load so drawn.

(D) This section shall not apply to the following:

(1) Trucks having a recommended load capacity of less than 2,000 pounds.

(2) Vehicles parked or stored on municipal, county, state or other publicly owned or operated property and along the streets adjoining such property;

(3) Vehicles parked or stored on lawful business or commercial property under and recognized as such pursuant to the zoning ordinances of the won and along the streets adjoining such property;

(4) Motor vehicles or trailers designed and used as a travel trailer, camper, motor home, vacation trailers, tent trailer, boat trailer, snowmobile trailer, motorcycle trailer, camping trailer, and for any similar purpose.
(Ord. 2010-3, passed 3-17-2010)

SPECIFIC REGULATIONS

§ 00-07-71-16 METERED PARKING.

(A) After establishment and designation of parking meter zones and the installation of meters, it shall be unlawful, during such times as are designated and marked, to park any vehicle in any parking meter zone without payment of the parking fee, or to permit ay vehicle to remain parked, after payment, for a period longer than designated on such meter.

(B) Lines shall be painted or placed upon the curb or street adjacent to each parking meter for the purpose of designating the parking space and the angle at which vehicles are to be parked. Each vehicle parking within any parking meter zone shall park within the line or marking so established. It shall be unlawful to park any vehicle across any line or marking or to park the vehicle in a position that the same shall not be entirely within the area designated by the lines or markings.

(C) It shall be unlawful for any person not authorized by the municipality to deface, injure, tamper with, open or willfully break, destroy, or impair the usefulness of any parking meter installed under the provisions of this subchapter.

(D) It shall be unlawful to deposit any slug, device, or other substitute for any coin in any parking meter.

(E) Where any signs are posted in any block of any street or in any public place, or any officers give orders, giving notice of any prohibited times or hours for any parking thereon, or in such portions thereof, or of other restrictions, persons shall take notice thereof and shall not use any parking meters, or remain in any spaces, during or at any place or times so prohibited. The Town Council, in its discretion, may give further notices at any time by so indicating on plates or signs attached to or near each parking meter.
(Ord. 2002-2, passed 1-2-2002) Penalty, see § 00-07-71-99

§ 00-07-71-17 PLACEMENT OF METERS.

(A) Parking meters shall be installed in the parking meter zone, as established by the Town Council, and shall be placed adjacent to the individual parking places hereinafter described.

(B) Each parking meter shall be placed or set to show or display by a signal whether the parking place adjacent to the meter is in use legally.

(C) Due allowance shall be given to clearance of alleys and street intersections and of fire hydrants, loading, taxicabs, bus zones, and other prohibitions or restrictions upon parking at various places within such parking meter zones and for specified sizes of vehicles, as may be prescribed by the Council.
(1995 Code, § 00-07-71-17) Penalty, see § 00-07-71-99

§ 00-07-71-18 LOADING AND UNLOADING.

(A) Any vehicles, while loading or unloading goods, wares, or merchandise, or any material, within a commercial district or other congested area between the hours of 8:00 a.m. and 7:00 p.m., must park parallel with the curb and as close thereto as possible.

(B) Any vehicle waiting at the curb and not engaged in loading and unloading promptly shall give way to another vehicle desiring to load or unload goods, wares, merchandise, or other material, and no vehicle shall be left standing in any alley, within a commercial district or other congested area between the hours of 8:00 a.m. and 7:00 p.m., longer than is necessary for the purpose of loading or unloading goods, wares, merchandise, or other material.

(C) In no case shall the stop for loading or unloading of materials exceed 30 minutes.
(Ord. 2002-2, passed 1-2-2002) Penalty, see § 00-07-71-99

§ 00-07-71-19 UNAUTHORIZED PARKING IN LOADING AND UNLOADING ZONES.

(A) *Passenger zone.* No person shall stop, stand, or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to such curb loading zone are effective, and then only for a period not to exceed three minutes.

(B) *Freight zone.* No person shall stop, stand, or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pick-up and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to such zones are in effect.
(Ord. 2002-2, passed 1-2-202) Penalty, see § 07-07-71-99

§ 00-07-71-20 PUBLIC CARRIER STOPS.

It shall be unlawful for the driver or operator of any vehicle, other than a bus or taxicab respectively, to park or stop any vehicle or to permit the vehicle to stand in or otherwise obstruct an officially designated bus stop zone or taxicab stand.
(Ord. 2002-2, passed 1-2-2002) Penalty, see § 00-07-71-99

§ 00-07-71-21 OVERSIZED VEHICLE PARKING.

It shall be illegal and unlawful for any person to park a vehicle with a capacity of more than one-half ton on any street or alley in the town, unless such person is in the act of loading or unloading cargo.
(Ord. 2002-2, passed 1-2-2002) Penalty, see § 00-07-71-99

§ 00-07-71-22 EXCEPTIONS TO USE.

(A) Whenever parking or stopping of any vehicle is prohibited between certain hours or during certain specified periods of time of any or all days upon certain designated streets, places, or portions thereof; is prohibited temporarily at any particular time; or is prohibited in an emergency, no driver or operator of any vehicle shall park or stop it or permit it to be parked, or to stand and remain at any such time in any place allotted for parking meter use, or any street or public place, or portions thereof, where parking meters have been installed and are in operation.

(B) Where any signs are posted in any block of any street or in any public place, or any officers give orders, giving notice of any prohibited times or hours for any parking thereon, or in such portions thereof, or of other restrictions, all persons shall take notice thereof and shall not use any parking meters, or remain in any spaces, during or at any place or times as so prohibited. The Town Council in its discretion, may give further notices at any time by so indicating on plates or signs attached to or near each parking meter.
(1995 Code, § 00-07-71-22) Penalty, see § 00-07-71-99

§ 00-07-71-99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 00-01-10-99.

(B) Any person in violation of §§00-07-71-02 through 00-07-72-07, except 00-07-71-04(A)(1) through (5) and (C)(1) through (3), 00-07-71-16, 00-07-71-17, and 00-07-71-20, shall be fined $12 for a first offense and at least $20 for subsequent offenses in the same calendar year.

(C) Any person in violation of §§ 00-07-71-04(A)(1) through (5) and (C)(1) through (3), 00-07-71-18 and 00-07-71-19, shall be fined $25 for a first offense and at least $35 for subsequent offenses in the same calendar year.

(D) Any person in violation of § 00-07-71-21 shall be fined $50.

(E) Any person violating any provisions of § 00-07-71-06 and any person who aids, abets or assists therein, shall be subject to a fine according to the following schedule:

First Offense	$100
Second Offense	$250
Third Offense	$400
Fourth and all other offenses	$500

(1) Each day in which such violation shall continue shall be deemed a separate and distinct offense and violation of this chapter. In addition, after the fourth offense the town may elect to have the vehicle towed immediately in accordance with all ordinances of the town and the state.

(2) If the town elects to tow said vehicle(s), the owner of the vehicle(s) will be responsible for paying all towing and storage costs in addition to the fine.

(3) If the fine(s) are not paid within 30 days, the town may file a Code Enforcement action against the individual in violation. In this event, the individual will be responsible for attorneys fees and court costs in addition to the fine(s).
(Ord. 2002-2, passed 1-2-2002; Am. Ord. 2010-3, passed 3-17-2010; Am. Ord. 2010-15, passed 8-4-2010; Am. Ord. 2016-26, passed 12-7-16)

CHAPTER 72: TRAFFIC SCHEDULES

Schedule

I. Stop streets
II. Speed limits
III. One-way streets

SCHEDULE I. STOP STREETS

Stop Street	*Stop Location*	*Ord. No.*	*Date Passed*
All	Intersection New York and Hugo Streets		
All	Intersection Michigan and Hugo Streets		
All	Intersection Michigan and Monroe Streets		
All	Intersection New York and Monroe Streets		
All	U.S. 40		
Abel Circle	Valley Brook Drive	1987-6	1-6-1988
Beckley Road	Buck Creek Road		
Beechwood Drive	Oak Blvd. W. Drive, Hickory Drive		
Berkshire Lane	Yorkshire Blvd. N. Drive		
Berkshire Lane	Derbyshire Drive		
Bremerton Drive	10th Street		
Bremerton Circle	Bremerton Drive		
Buck Creek Road	Intersection Buck Creek Road		
Buck Creek Road	Valley Brook Drive		
Buckley Blvd.	Buckley Road	1990-14	8-1-1990
Buckley Blvd.	Buck Creek Road	1990-14	8-1-1990
Buckley Court	Buckley Blvd.	1990-14	8-1-1990
Calzia Lane	Washington Cove Lane	1994-10	10-5-1994
Cobblefield Way	21st Street		
Colmar Street	Munsie, Muessing, Wayburn, Starter		
Constantino Lane	Washington Cove Lane	1994-10	10-5-1994
Constantino Lane	Washington Cove Way	1994-10	10-5-1994
Coolee Circle	Coolee Lane		
Coolee Lane	Dunshire Drive		
Cumberland Falls Drive	Water Fall Way and Ridge Run Way		

Deanna Drive	Munsie Street		
Derbyshire Drive N.	Yorkshire Drive		
Derbyshire Drive S.	Yorkshire Blvd. (EB and WB)		
Dunbar Circle N.	Dunbar Drive		
Dunbar Circle S.	Dunbar Drive		
Dunbar Court	Dunbar Drive		
Dunbar Drive	Beckley and Hopkins Road		
Dunshire Drive	Woodlark Drive		
E. Harvest Glen Drive	Buck Creek Road		
E. Harvest Glen Drive	N. Harvest Glen Court		
E. St. Joseph Street	Bremerton Drive		
Emory Drive	Valley Brook Drive	1987-6	1-6-1988
Fieldstone Court	Cobblefield Way		
Granby Drive	Hopkins Road		
Grebe Circle	Mace Drive	1986-12	12-29-1986
Heflin Street	Warehouse, Saxon, and Saturn (NB and SB)		
Hickory Court	Hickory Drive		
Hickory Drive	Oak Blvd. S. Drive, Oak Blvd. N. Drive, Hickory Court		
Hickory Lane	Hickory Court		
Hopkins Road	Buck Creek Road		
Hopkins Road	E. Harvest Glen Drive		
Hopkins Road (SE)	Intersection Hopkins and Beckley Roads		
Hugo Street	10th, Michigan, and New York Streets		
Huntington Circle	Lakeside Lane	1987-6	1-6-1988
Huntington Court	Huntington Drive	1987-6	1-6-1998
Huntington Drive	Lakeside Lane (both ends)	1987-6	1-6-1988
Kemp Circle	Mace Drive	1986-12	12-29-1986
Lakeside Lane	Buck Creek Road	1987-6	1-6-1988
Lakeside Lane	E. 21st Street	1987-6	1-6-1988
Mace Drive	Emory Drive	1986-12	12-29-1986
Mace Drive	Valley Brook Drive		
Maple Court	Oak Blvd. S. Drive		

Mayer Drive	Water Fall Way		
Mayfield Street	Hopkins Road		
Michigan Street	Bremerton Drive		
Michigan Street	Muessing Street		
Michigan Street	Washington Cove Way (EB and WB)	1994-10	10-5-1994
Monroe Street	10th, Michigan, and New York Streets		
Muessing/Munsie Street	Saturn, Colmar, Welland Streets		
Muessing Street	Saxon Street (NB and SB)		
New York Street	Arthur Street		
Niles Street	Munsie, Muessing, Wayburn, and Starter Streets		
N. Buckingham Court	N. Manchester Drive		
N. Cambridge Court	N. Winchester Drive		
N. Concord Court	N. Manchester Drive		
N. Hampton Court	N. Manchester Drive		
N. Harvest Glen Cr.	E. Harvest Glen Drive		
N. Manchester Drive	N. Buckingham Court		
N. Manchester Drive	N. Concord Court		
N. Manchester Drive	Salem Court		
N. Threshing Court	E. Harvest Glen Drive		
N. Winchester	N. Salem Court		
Oak Blvd. N. Drive	700 W. Woodland E. and W. and Oak Blvd. W. Drive		
Oak Blvd. S. Drive	700 W.	2005-04	7-6-2005
Oak Blvd. S. Drive	Hickory Drive and Woodland East Drive	2005-04	7-6-2005
Oak Blvd. W. Drive	Oak Blvd. N. Drive and Oak Court	2005-04	7-6-2005
Sandstone Court	Cobblefield Way		
Saturn Street	Municipal Parking Lot		
Saturn Street	Muessing, Munsie, Heflin, Starter, Wayburn		
Saxon Street	Carroll Road, Heflin, Starter, Wayburn, Muessing		
Starter Street	Warehouse, Saxon, and Saturn Streets		

Sunrise Circle	Sunrise Drive	1987-6	1-6-1988
Sunrise Drive	Valley Brook Drive		
Sunrise Court	Valley Brook Drive	1987-6	1-6-1988
Valley Brook Court	Valley Brook Drive		
Valley Brook Court	E. 21st Street		
Valley Brook Drive	Valley View Circle (NB and SB)	1990-4	3-7-1990
Valley Brook Drive	Intersection Buck Creek Road	1988-6	8-3-1988
Valley View Circle	Valley Brook Drive	1987-6	1-6-1988
Village Green Drive	100 n.		
Warehouse Street	Carroll Road and Wayburn Streets		
Waring Drive E.	E. 10th Street		
Waring Drive W.	E. 10th Street		
Washington Dove Lane	E. 10th Street		
Water Fall Way	700 West Street		
Waterview Circle	Valley Brook Drive	1987-6	1-6-1988
Wayburn Street	Welland, Saturn, Saxon, Warehouse Streets		
Welland Street	Munsie and Muessing Streets		
Westminster Court	N. Manchester Drive		
Whidbey Court	Whidbey Drive		
Woodlark Drive	E. 10th Street		
Woodland East Drive	Oak Blvd. N. and Oak Blvd. S. Drives		
Woodland West Drive	Oak Blvd. N. and Oak Blvd. S. Drives		
9th Street	Muessing Street		
10th Street	Washington Cove Lane	1994-10	10-5-1994

(Ord. 2000-6, passed 11-1-2000)

SCHEDULE II. SPEED LIMITS

(A) No motor vehicle or any other type of vehicular traffic shall travel along and upon the residential streets of the town at a speed greater than as follows:

Street	***Location***	***Speed Limit***
Buck Creek Road	All parts in the town	35 mph
All other residential streets	All parts of the town	20 mph

(B) Speed signs shall be erected along the streets of the town which show the speed limitations established herein.
(1995 Code, Ch. 72, Sch. II)

(C) Muessing Road, Tenth Street and German Church Road are roadways under the jurisdiction of Marion County and Washington Street is under the jurisdiction of the State of Indiana, thus the speed limits are not established by the town.

SCHEDULE III. ONE-WAY STREETS

Street	***Location***
Muncie Street	From Washington Street to Saturn Street
Municipal Drive	From park Lane to Washington Street
Park Lane	From the Post Office parking lot to Municipal Drive

CHAPTER 73: PARKING SCHEDULES

Scheduled

I. No parking zones

SCHEDULE I. NO PARKING ZONES

The following streets constitute no parking zones, no person shall park a vehicle along the following streets designated below.

Street	Location	Side	Ord. No.	Date Passed
Bremerton Drive	From 10th Street to Dunshire Drive	West		
Coolee Lane	From Dunshire Drive to East St. Joseph	East		
Dunshire Drive	From Bremerton Drive to Woodlark Drive	South		
East St. Joseph	From Coolee Lane to Bremerton Drive	North		
Waring Drive East	From 10th Street to Whidbey Court	West		
Woodlark Drive	From 10th Street to New York Street	West		
Waring Drive West	From Whidbey Court to 10th Street	East		
Muncie Street	From Washington Street to Saturn Street	East	1990-18	11-7-1990

(1995 Code, Ch. 73, Sch. I) (Ord. 1990-18, passed 11-7-1990)

CHAPTER 74: WAYFINDING DESTINATION SIGN POLICY

Section

00-07-74-01 Policy for destinations to be listed on town wayfinding signs
00-07-74-02 Publicly owned and operated
00-07-74-03 Public services
00-07-74-04 Districts
00-07-74-05 Private businesses
00-07-74-06 Making a request
00-07-74-07 Appeals

§ 00-07-74-01 POLICY FOR DESTINATIONS TO BE LISTED ON TOWN WAYFINDING SIGNS.

(A) The town has undertaken a design process for wayfinding, or directional, signs that will be located throughout the town. These signs will designate public buildings and services, but may also provide directions to privately owned buildings that have not-for-profit uses. It is important for the Town Council to establish a policy on what destinations will be considered appropriate to be listed on the wayfinding signs.

(B) This is especially important since commercial businesses and other entities may very well likely wish to have their businesses or organizations on these signs.

(C) All buildings, services organizations, and/or businesses must be located within the town limits.

(D) The following sections will identify destinations that are permitted to be listed o these signs, the process to request and also to appeal these decisions.
(Ord. 2010-05, passed 4-21-2010)

§ 00-07-74-02 PUBLICLY OWNED AND OPERATED.

This category allows for all publicly (town, state, federal, county, township) owned facilities to be listed on signs. This category should be given a high priority for listing on wayfinding signs.

(A) *Town owned and operated:*

(1) Town Hall and Police Department.

(2) All town parks.

(3) Cumberland Pennsy Trail.

(4) Cumberland Buck Creek Trail.

(5) All future parks and trails.

(6) Cumberland wastewater treatment plant would not be listed for security purposes.

(B) *State and federal building:* Post Office.

(C) *Other*. None.
(Ord. 2010-05, passed 4-21-2010)

§ 00-07-74-03 PUBLIC SERVICES.

Public services may be operated and/or funded by public agencies or non-profit organization providing necessary service or address social needs of residents.

(A) *Schools and educational facilities*.

(1) There are currently no educational facilities located within the town. However, all township schools located within the town limits in the future should be given an opportunity to apply to be listed on signs. This should be the same for publicly-funded charter schools and higher education facilities with a minimum enrollment of 100 students.

(2) This section is not intended to include daycare centers, pre-schools, nursery schools, church related or religious schools, or similar uses. For profit educational facilities will not be included in the directional signage program.

(B) *Libraries, museums and cultural facilities*.

(1) There are currently no libraries, museums or cultural facilities located within the town.

(2) These types of facilities that are owned publicly or by non-profit organizations and open to the public on a daily basis shall be permitted to be listed on the signs.

(C) *Hospitals*.

(1) There are currently no hospitals within town limits. Publicly owned and funded hospitals shall be allowed to be listed on the signs.

(2) Privately funded hospital may be listed if they meet the minimum criteria of 100 in patient beds.

(D) *Other*.

(1) Bus stops.

(2) Farmers' market.

(3) Public parking
(Ord. 2010-05, passed 4-21-2010)

§ 00-07-74-04 DISTRICTS.

(A) The town is located along the Historic National Road and is listed both locally and nationally as a historic district. These districts may be listed on the signs for visitors.

(B) Additionally, the town will identify commercial districts where groups of business are located and list the district name(s) to identify where their business is located.

(1) *National Register District:* Old Town Cumberland.

(2) *Local Historic District:*

(a) Cumberland Conservation District.

(b) St. John UCC.

(c) Other districts designated by the Indianapolis Historic Preservation Commission.

(3) *Commercial Districts:* Downtown Cumberland.
(Ord. 2010-05, passed 4-21-2010)

§ 00-07-74-05 PRIVATE BUSINESSES.

Private for profit businesses or organizations will not be permitted on the wayfinding signs.
(Ord. 2010-05, passed 4-21-2010)

§ 00-07-74-06 MAKING A REQUEST.

(A) Buildings not listed on signs that wish to be added may request to be listed on wayfinding signs. Only buildings/services listed as permitted in this policy will be permitted.

(B) This policy may be updated from time to time to address new services, buildings, or organizations that will or will not be permitted.

(1) *Format and requests*. Requests shall be made in writing to the Director of Planning and Development. Requests shall include the location of the business, statement of why request fits with this policy, and contact information for person making request.

(2) *Process for review*. When a request is received by the Director of Planning and Development, the request shall be reviewed, considered and a determination made within 30 days unless Town Council action is required. The standards for review shall be the statements put forth in this policy.

(3) *Final decisions*. Decisions by the Director of Planning and Development shall be committed to writing.
(Ord. 2010-05, passed 4-21-2010)

§ 00-07-74-07 APPEALS.

(A) Parties that believe their request was denied contrary to the permissions set forth in the Policy for destinations to be listed on wayfinding signs may appeal to the Town Council.

(B) Any business or organization that is explicitly prohibited in this policy may not appeal a decision of the Director of Planning and Development.

(1) *Format to appeal.* Requests shall include the location of the business, statement of why request fits with this policy, contact information for person making request, and reasons why believe request should have been approved by Director of Planning and Development. Appeals must be made within ten days of decision.

(2) *Procedures and final decision*. The Town Council shall address the appeal at the next available Town Council meeting or within 30 days of receipt of appeal. The Town Council's decision is final.
(Ord. 2010-05, passed 4-21-2010)

TITLE IX: GENERAL REGULATIONS

Chapter

90. ABANDONED AND ILLEGALLY STORED VEHICLES
91. ANIMALS
92. FIRE PREVENTION
93. NUISANCES
94. PARKS AND RECREATION
95. STREETS; SIDEWALKS; BRIDGES
96. WEEDS AND VEGETATION
97. ALARMS
98. NO SMOKING
99. WATER CONSERVATION
100. UNSAFE BUILDING REGULATIONS AND REMEDIATION

CHAPTER 90: ABANDONED AND ILLEGALLY STORED VEHICLES

Section

Abandoned Vehicles

00-09-90-01	Definition
00-09-90-02	Statutory authority
00-09-90-03	Police Department; power
00-09-90-04	Town Marshal; power

Motor Vehicle Storage

00-09-90-15	Application and enforcement of storage provisions
00-09-90-16	Storing motor vehicles on private property
00-09-90-17	Compliance required; removal of vehicles

ABANDONED VEHICLES

§ 00-09-90-01 DEFINITIONS.

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

ABANDONED VEHICLE.

(1) A vehicle located on public property illegal.

(2) A vehicle left on public property without being moved for three days.

(3) A vehicle left on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicular traffic on a public right-of-way.

(4) A vehicle that has remained on private property without the consent of the owner or person in control of that property for more than 48 hours.

(5) A vehicle from which the engine, transmission, or differential has been removed or that is otherwise partially dismantled or inoperable and left on public property.

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

(7) A vehicle that is at least three model years old, is mechanically inoperable, and is left on private property continuously in a location visible from public property for more than 20 days.

§ 00-09-90-02 STATUTORY AUTHORITY.

(A) The provisions of this subchapter on abandoned vehicles are adopted pursuant to the authority of I.C. 9-22-1-32 and incorporate all of the authority allowed municipalities under this statute.

(B) Subject to any amendments to I.C. 9-22-1-1, this authority does not apply to the following:

(1) A vehicle in operable condition specifically adapted or constructed for operation on privately owned raceways.

(2) A vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment.

(3) A vehicle located on a vehicle sale lot.

(4) A vehicle located upon property licensed or zoned as an automobile scrapyard.

(5) A vehicle registered and licenses under I.C. 9-18-12 as an antique vehicle.

§ 00-09-90-03 POLICE DEPARTMENT; POWERS.

The Cumberland Police Department shall have the power to remove, store, and dispose of abandoned vehicles in accordance with the procedures of I.C. 9-22-1-1 through I.C. 9-22-1-32.

§ 00-09-90-04 TOWN COUNCIL; POWERS.

Subject to the approval of the Town Council, the Town Marshal shall have the authority to enter into towing contracts on behalf of the town; for the removal, storage, and disposition of abandoned vehicles and parts. The charges for towing and storage of abandoned vehicles shall be the amount the towing contractor is entitled to be paid under the terms of their towing contract with the town. The town may use any method allowed by statute to cities and towns for the disposal of abandoned vehicles or, by cooperative agreements with Indianapolis, Marion County or Hancock County, may use methods allowed by statute to first class cities and counties.

MOTOR VEHICLE STORAGE

§ 00-09-90-15 APPLICATION AND ENFORCEMENT OF STORAGE PROVISIONS.

(A) The provisions of this subchapter are supplemental to those of the subchapter "Abandoned Vehicles" and to any town zoning provisions that may apply to parking, storing or allowing motor vehicles or motor vehicle parts on private property. The provision of this subchapter shall not be enforced when such enforcement is in conflict with the provisions of the subchapter "Abandoned Vehicles" or any town zoning provision.

(B) This subchapter may be enforced by the Town Manager or his or her designee or the Town Marshal or his or her designee.

§ 00-09-90-16 STORING MOTOR VEHICLES ON PRIVATE PROPERTY.

(A) No motor vehicle or motor vehicle parts shall be parked, stored, or allowed to remain on any private property in the town, unless authorized in connection with an approved business, such as a service station, motor vehicle garage, or junkyard, existing in accordance with current zoning and parking regulations, or as allowed by this subchapter.

(B) (1) Motor vehicles and motor vehicle parts may be stored in a completely enclosed building upon private property within the town, provided the storage does not violate any zoning regulation.

(2) No motor vehicle may be parked, stored, or maintained on private property within the town, other than in an enclosed building, unless the vehicle meets all of the following requirements.

(a) The vehicle must have current license plates affixed.

(b) The vehicle must belong to the resident of the property where parked, stored, or maintained or to his or her guest, or to the title holders of the real property.

(c) The vehicle must meet all requirements (including, but not limited to, insurance and equipment requirements) to drive on public highways during both daytime and nighttime hours in the state.
(1995 Code, § 00-09-90-02) (Ord. 1992-9, passed 6-3-1992) Penalty, see § 00-01-10-99

§ 00-09-90-17 COMPLIANCE REQUIRED; REMOVAL OF VEHICLES.

(A) Motor vehicles not complying with the requirements provided in this subchapter shall be removed within 30 days after the landowner and/or resident has been notified to remove the same. Notice shall be effected by delivery of the same to the owner of the property or posting the same on the vehicle.

(B) Failure to comply with a removal notice within the time set may result in any or all of the following actions:

(1) A fine of $10 per day for each day the violation continues after notification; and/or

(2) Institution of a suit by the town seeking a permanent and mandatory injunction to enforce this subchapter, together with all costs and expenses, including attorneys' fees, for maintaining the suit. (1995 Code, § 00-09-90-03) (Ord. 1992-9, passed 6-3-1992) Penalty, see § 00-01-10-99

CHAPTER 91: ANIMALS

Section

General Provisions

00-09-91-01 General provisions
00-09-91-02 Identification required

Regulated Activities

00-09-91-03 Confinement of cats and dogs
00-09-91-04 Dogs and cats in heat
00-09-91-05 Animals creating a nuisance
00-09-91-06 Humane treatment required
00-09-91-07 Vaccination required
00-09-91-08 Disposal of animals
00-09-91-09 Awarding live animals as prizes
00-09-91-10 Enticing animals to fight
00-09-91-11 Animals in crime
00-09-91-12 Animals in vehicle
00-09-91-13 Wild animals
00-09-91-14 Keeping farm animals
00-09-91-15 Curbing animals required
00-09-91-16 Vicious animals
00-09-91-17 Vehicular collisions with animals
00-09-91-18 Enticing animals

00-09-91-99 Penalty

GENERAL PROVISIONS

§ 00-09-91-01 GENERAL PROVISIONS.

This chapter shall be deemed to be consistent with applicable statutory law as amended from time to time.
(Ord. 2002-3, passed 1-2-2002)

§ 00-09-91-02 IDENTIFICATION REQUIRED.

(A) A person who owns a dog or cat in the town shall ensure that each dog or cat owned by that person bears a permanent means of identification at all times, such that the owner of a lost or stolen dog or cat can be ascertained quickly and easily. That person shall assure that any corresponding microchip identification numbers will be on record by the municipality.

(B) The means of identification required by this section shall be in addition to any tags required to be worn by dogs or cats by state law or other provision of this code and shall include either:

(1) A microchip implanted in the dog or cat which bears a registered identification number and which can be read by a standard microchip scanner; or

(2) A permanent tag attached to a durable collar worn at all times by the dog or cat and bearing the owner's current name, address, and telephone number.

(C) Each veterinarian or other person in the municipality who implants microchips as contemplated in this section shall, at an interval of not less than once each month, send to the animal control agency of the municipality the names, addresses, and phone numbers of the owners of the dogs and cats, and the corresponding microchip identification numbers.

(D) The requirements of this section shall not apply to cats and dogs of less than three months of age.
(Ord. 2002-3, passed 1-2-2002) Penalty, see § 00-09-91-99

REGULATED ACTIVITIES

§ 00-09-91-03 CONFINEMENT OF CATS AND DOGS.

It shall be unlawful for the owner, or any other person having the possession, care, custody or control thereof, to permit any dog or cat to run at large upon public streets or walks or parks or upon private property, other than the dog or cat owner's property, unless the dog be attached to a leash of not more than 12 feet in length, of sufficient strength to restrain the dog, and each dog or cat shall be kept under the control of the person accompanying it.
(Ord. 2002-3, passed 1-2-2002) Penalty, see § 00-09-91-99.

§ 00-09-91-04 DOGS AND CATS IN HEAT.

Every female dog or cat in heat shall be confined in a building or secure enclosure in such manner that the female dog or cat cannot come into contact with another animal, except for planned breeding.
(Ord. 2003-3, passed 1-2-2002) Penalty, see § 00-09-91-99

§ 00-09-91-05 ANIMALS CREATING A NUISANCE.

(A) It shall be unlawful for any person to own, keep, or harbor within the town any animal which, by its frequent or habitual howling, yelping, barking, or making of other noises, shall create an annoyance or significant disturbance to the peace and tranquility of the neighborhood, or which by such noise interferes with the reasonable use and enjoyment of another person's property, and such conditions are hereby declared to be a nuisance.

(B) No owner, keeper, or person harboring an animal shall fail to exercise proper care and control of his or her animals to prevent them from molesting passersby, chasing vehicles, or habitually attacking other domestic animals, and such conditions are hereby declared to be a nuisance.
(Ord. 2002-3, passed 1-2-2002) Penalty, see § 00-09-91-99

§ 00-09-91-06 HUMANE TREATMENT REQUIRED.

(A) Every owner or keep of an animal kept in the town shall see that such animal:
(1) Is kept in a clean, sanitary, and healthy manner and is not confined so as to be forced to stand, sit or lie in its own excrement; the person(s) responsible for 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;

(2) Has food that is appropriate for the species in adequate amounts to maintain good health, fresh potable drinking water where appropriate, shelter, and ventilation, including quarters that are protected from excessive heat and cold are of sufficient size to permit the animal to exercise and move about freely;

(3) Shall not be tethered by use of a choke collar, or on any collar too small for the size and age of the animal, nor by any rope, chain, or cord directly attached to the animal's neck, nor by a leash less than 12 feet in length or of such unreasonable weight as to prevent the animal from moving about freely;

(4) Is protected against abuse, cruelty, neglect, torment, overload, overwork, or any other mistreatment;

(5) Shall provide the reasonably necessary medical care, in addition to the required rabies vaccination, which shall include vaccinations as required by accepted veterinary standards, and, if diseased or injured or exhibiting symptoms of disease, receives proper care and is segregated from other animals so as to prevent transmittal of the disease; and

(6) Is maintained in compliance with all applicable federal, state, and local laws.

(B) It shall be unlawful for a person to beat, starve, or otherwise mistreat any animal in the town or to fail to comply with any requirement of division (A) above.

(C) In the discretion of the enforcement authority, a person who violates any provision of this section for the first time may be given written notice of the practices or conditions which constitute the violation, and the enforcement authority shall in such instance direct remedies to such person where appropriate and provide a time period of no longer than 30 days within which to correct the violation(s) within the specified time period shall constitute prima facie evidence of a violation of this section.

(D) It shall be unlawful to throw or deposit poisoned meat, or any poison or poisoned or harmful substance, in any public place or on any private premises for the purpose of destroying any dog or other animal. However, this section does not prevent prudent use of commercially prepared toxins by an authorized public animal control or health officer, or by a private individual upon his or her own premises for purposes of eradicating rats, mice, or other vermin.
(Ord. 2002-3, passed 1-2-2002) Penalty, see § 00-09-91-99

§ 00-09-91-07 VACCINATION REQUIRED.

(A) Each dog and cat over the age of three months which is kept in the town shall have been vaccinated against rabies by a veterinarian within the preceding 365 days. It shall be unlawful for a person to own a dog or cat not in compliance with this section.

(B) Upon the vaccination of an animal, a certificate of rabies vaccination shall be issued at least in triplicate with one copy given to the animal owner. The certificate shall be presented upon request by any police officer. A metal vaccination tag shall be worn by the animal at all times.
(Ord. 2002-3, passed 1-2-2002) Penalty, see § 00-09-91-99

§ 00-09-91-08 DISPOSAL OF ANIMALS.

It should be unlawful for any person to dispose of or throw away any carcass, dead animal, animal blood, or parts of any carcass upon any street, alley, or public place or upon any lot within the town.
(Ord. 2002-3, passed 1-2-2002) Penalty, see § 00-09-91-99

§ 00-09-91-09 AWARDING LIVE ANIMALS AS PRIZES.

It shall be unlawful for a person to sell, offer for sale, trade, barter, or give away in the town any live animal as a novelty, 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 the establishment, other than establishments selling animals as their primary business.
(Ord. 2002-3, passed 1-2-2002) Penalty, see § 00-09-91-99

§ 00-09-91-10 ENTICING ANIMALS TO FIGHT.

It shall be unlawful for a person to incite, train to fight (other than a crime prevention dog), or set any animal to fighting another animal, or to incite combat between animals and humans in the town. It also shall be unlawful to attend or to be a spectator at organized animal fights.
(Ord. 2002-3, passed 1-2-2002) Penalty, see § 00-09-91-99

§ 00-09-91-11 ANIMALS IN CRIME.

It shall be unlawful for a person to make use of an animal in the commission or furtherance of any criminal act in the town.
(Ord. 2002-3, passed 1-2-2002) Penalty, see § 00-09-91-99

§ 00-09-91-12 ANIMALS IN VEHICLES.

(A) It shall be unlawful to leave a domestic animal unattended in a vehicle when the conditions in that vehicle would constitute a health hazard to the animal.

(B) It shall be unlawful for any animal to ride in the bed of a pickup truck on public streets, highways, and/or rights-of-way, unless the animal is securely caged and protected from the environment or unless the bed of the pickup truck is enclosed with a camper shell or other device and there is appropriate and sufficient ventilation.
(Ord. 2002-3, passed 1-2-2002) Penalty, see § 00-09-91-99

§ 00-09-91-13 WILD ANIMALS.

(A) It shall be illegal for any person to own, possess, harbor, keep, or make provisions for keeping a wild animal within the corporate limits, regardless of whether such wild animal is caged, penned, sheltered, or housed and regardless of whether or not such resident of the town has received a permit for possession of wild animals from the Department of Natural Resources of the State of Indiana or any other regulatory authority.

(B) It shall be unlawful for any person to own, keep, or harbor upon or within any property located within the corporate limits any poisonous or potentially dangerous snake, reptile, or insect or any other type of animal or marine life which has the propensity of causing serious harm to human beings.

(C) This section shall not be construed so as to apply to a zoological garden, theatrical exhibit, or circus, except that no theatrical exhibit or act shall be held in which animals are encouraged to perform through the use of chemical, electrical, or mechanical devices.
(Ord. 2002-3, passed 1-2-2002) Penalty, see § 00-09-91-99

§ 00-09-91-14 KEEPING FARM ANIMALS.

(A) **Prohibited Animals**: it shall be unlawful for any person to own, keep, or harbor upon his or her premises within the corporate limits of the Town of Cumberland any cow, pig, bull, horse, rooster, or other domestic farm animal, except chickens as provided in subsection B and horses as provided in subsection C.

(B) **Allowed Chickens**: A person may own, keep, or harbor chickens upon his or her premises within the corporate limits of the Town of Cumberland, subject to the following limitations:

(1) Chickens are allowed in residential districts only;

(2) No more than ten (10) chickens are allowed on any property at a time;

(3) No roosters are allowed;

(4) No slaughtering of chickens is allowed on the premises;

(5) Chickens are not allowed to roam free. The chickens must be confined in a secure and clean hen house or other enclosure suitable for the confinement of chickens;

(6) No hen house or other enclosure may be located within twenty (20) feet of a property line;

(7) Town officials shall have the right to inspect the premises without notice in order to ensure compliance with this ordinance; and

(8) The person must comply with all other laws, regulations, rules and ordinances of the Town, including but not limited to the Cumberland Zoning Ordinance.

(C) **Allowed Horses**: A person may own, keep or harbor horses upon his or her premises within the corporate limits of the Town of Cumberland, subject to the following limitations:

(1) Horses are only permitted in the agriculture districts;

(2) Horses must have a minimum of one acre of open space per horse;

(3) The minimum lot size to have horses shall be 2.5 acres;

(4) Town officials shall have the right to inspect the premises without notice in order to ensure compliance with the ordinance; and

(5) The person must comply with all other laws, regulations, rules and ordinances of the Town, including but not limited to the Cumberland Zoning Ordinance

(D) **Penalty and Fines**: A person who owns, keeps or harbors an animal or animals in violation of this section commits a separate violation for each day the person so owns, keeps or harbors the animal or animals. The amount of the fine for each violation is $35 for the first violation and $50 for each subsequent violation.

(Ord. 2002-3, passed 1-2-2002 | Amd Ord. 2010-28, passed 12-1-2010 | Amd. Ord 2011-06, passed 6-1-11)

§ 00-09-91-15 CURBING ANIMALS REQUIRED.

(A) No person shall knowingly allow, except as provided in division (B) below, an animal to defecate on a public street or byway of any municipally owned or public land or buildings, or private property without permission of the land owner.

(B) (1) Division (A) above does not apply to guide dogs.

(2) For the purpose of this division, the following definition shall apply unless the context clearly indicates or requires a different meaning.

GUIDE DOG shall mean any animal serving a blind person in an auxiliary ocular (eye) capacity.

(C) If an animal shall relieve itself as contemplated in division (A), the owner of the animal is not in violation of this section if that owner immediately removes any solid evidence of such relief to a waste container, or shall otherwise dispose of such evidence of relief in a manner inoffensive to reasonable public sensibilities.

(D) No person shall knowingly allow an animal to disperse waste material placed for public or private collection on any public street or byway or any municipally owned or public land or building or private property.
(Ord. 2002-3, passed 1-2-2002) Penalty, see § 00-09-91-99

§ 00-09-91-16 VICIOUS ANIMALS.

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

VICIOUS, FIERCE, OR DANGEROUS ANIMAL.

(a) Attacked a person without having been provoked by that person;

(b) Attacked another animal at some place other than its owner's or keeper's property; or

(c) Chased or approached a person, at some place other than its owner's or keeper's property, in a menacing fashion or apparent attitude of attack.

(B) It is unlawful for an owner or keep of a vicious, fierce, or dangerous animal to cause, suffer, or allow it to go unconfined and unrestrained on the owner's or keeper's premises, or to run at large, within the corporate limits.

(C) It is unlawful in the corporate limits for an owner or keeper of a vicious, fierce, or dangerous animal to walk any such animal or otherwise cause, suffer, or allow its presence upon a public street or byway, right-of-way, or municipally owned or public land or building, or upon private property without permission of the owner thereof.

(D) It shall be the duty of any person having authority to impound an animal forthwith to impound any vicious, fierce, or dangerous animal found unconfined or running at large in violation of this section.

(E) The owner of a vicious animal shall display, in a prominent place on his or her premises, a clearly visible warning sign indicating that there is a vicious animal on the premises. A similar sign is required to be posted on the pen or kennel of the animal.

(F) The owner or person in control of such dog must maintain liability insurance on the animal in an amount of at least $300,000 for personal injury. A certificate of the insurance must be available for viewing by any police officer upon the request of the officer.

(G) In addition to the penalty, if the violation results in the animal causing serious bodily injury to any person, the court upon request shall order the animal forfeited and/or destroyed. (Ord. 2002-3, passed 1-2-2002) Penalty, see § 00-09-91-99

§ 00-09-91-17 VEHICULAR COLLISIONS WITH ANIMALS.

(A) A person whose vehicle causes injury or death to a domestic animal in the town shall stop at once, assess the extent of the injury to the extent that it is safe to do so, and immediately notify the animal's owner, if known, or the animal care and control shelter, either directly or through a local law enforcement agency, together with a description of the animal struck, the location of the striking, and an estimate as to the condition of the animal after being struck, along with the rabies tag number of the animal, if it can be ascertained.

(B) The person shall not be required to report his or her name, as the only purpose of this requirement is to aid the stricken animal and notify its owner, if any.
(Ord. 2002-3, passed 1-2-2002) Penalty, see § 00-09-91-99

§ 00-09-91-18 ENTICING ANIMALS.

(A) It shall be unlawful for a person, not so authorized, to enter or invade the private premises of another person in the town to capture, entice, or take any animal out of the enclosure or premises of the owner, or to seize an animal at any place while the animal is accompanied by its owner or keeper.

(B) It shall be unlawful for a person, not so authorized, to entice any animal away from the premises of the person who owns or keeps the animal in the town, or to entice an animal from a street, alley, or public place in the town, with the intent to deprive the owner of the animal's possession.
(Ord. 2002-3, passed 1-2-2002) Penalty, see § 00-09-91-99

§ 00-09-91-99 PENALTY.

(A) Any person violating § 00-09-91-06, other than divisions (B) and (D), will be fined $35 for a first offense and not less than $200 for subsequent offenses. Also, the court upon request may order forfeiture or other disposition of the animal involved. A judgment by the

court which orders forfeiture or other disposition of the animal by the town or any third party shall include as a part of the judgment adequate provisions for the collection of costs of forfeiture or impoundment from the person found in violation.

(B) Any person violating § 00-09-91-06(B) and/or (D), or § 00-09-91-12, will be fined $100 for a first offense and not less than $200 for subsequent offenses. Also, the court upon request may order forfeiture or other disposition of the animal involved. A judgment by the court which orders forfeiture or other disposition of the animal by the town or any third party shall include as a part of such judgment adequate provisions for the collection of costs of forfeiture or impoundment from the person found in violation.

(C) Any person violating §§ 00-09-91-10, 00-09-91-13, or 00-09-91-15 will be fined $50 for a first offense and not less than $75 for subsequent offenses.

(D) Any person violating §§ 00-09-91-16 will be fined a minimum of $200, but not more than the amount allowed by the general penalty of this code.

(E) Any person violating any other sections of this chapter will be fined $35 for a first offense and not less than $50 for subsequent offenses.
(Ord. 2002-3, passed 1-2-2002)

CHAPTER 92: FIRE PREVENTION

Section

00-09-92-01 Adoption by reference of Indianapolis fire regulations
00-09-92-02 Provision of fire protection
00-09-92-03 Regulations
00-09-92-04 Enforcement
00-09-92-05 Open burning prohibited
00-09-92-06 Residential burning
00-09-92-07 Limited burning for special purposes
00-09-92-08 Burning for the purpose of training fire personnel
00-09-92-09 Liability

00-09-92-99 Penalty

§ 00-09-92-01 ADOPTION BY REFERENCE OF INDIANAPOLIS FIRE REGULATIONS.

The State of Indiana Fire Code is adopted and incorporated as part of this code of ordinances as fully as if set out at length herein.
(1995 Code, § 00-09-92-01)

§ 00-09-92-02 PROVISIONS OF FIRE PROTECTION.

(A) The Town Council may provide the town with fire protection by executing a contract with any duly organized fire company under the terms and conditions that may, in the judgment of the Council be necessary to provide adequate fire protection for the residents of the town.

(B) (1) The Council also may provide that a Town Fire Department be established, should it be in the best interest of the town.

(2) The establishment will be performed by enacting the ordinances which would provide for necessary personnel and equipment to adequately staff the Department. Until the enactment of those ordinances the Council shall delegate the responsibility for fire protection contractually, as provided herein.
(1995 Code, § 00-09-92-02)

§ 00-09-92-03 REGULATIONS.

It shall be the duty of the Town Council to provide for the enforceable regulations, by contract or otherwise, to ensure proper fire prevention. The regulations shall require necessary periodic inspections of public buildings, premises, and pubic thoroughfares for the purposes of ascertaining and causing to be corrected any conditions liable to cause fire or creating a fire hazard. The inspections shall not be deemed to include the interior of private dwellings.
(1995 Code, § 00-09-92-03)

§ 00-09-92-04 ENFORCEMENT.

This chapter is enforceable by any fire department authorized to provide service to any part of the town, the Police Department or the Town Manager or his or her designee.

§ 00-09-92-05 OPEN BURNING PROHIBITED.

(A) It shall be unlawful at all times, suffer, or allow any open burning on any real estate zoned or used for multiple-family dwellings, businesses, apartment complexes, or mobile home parks.

(B) It shall be unlawful to cause, suffer, or allow any open burning of any substance, other than wood products, at any place within the town, except as permitted by §§ 00-09-92-06 through 00-09-92-06, provided that no person shall cause, suffer, allow, or permit the emission into the atmosphere of any substance or combination of substances from the burning of wood products as allowed therein in quantities as to cause annoyance or constitute a nuisance as to interfere with the health or well-being of any individuals in their home or place of employment or recreation or as to interfere with the normal use and enjoyment of any place.
(1995 Code, § 00-09-92-05) (Ord. 1991-6, passed 9-4-1991) Penalty, see § 00-09-92-99
Cross-reference:
Prohibition against open burning on active construction sites, see town's Building Code.

§ 00-09-92-06 RESIDENTIAL BURNING.

(A) Residents of single- or double-family dwellings located on one or more residential lots hall be permitted to burn openly only wood products originating on the premises only as

hereinafter provided between the hours of 10:00 a.m. to 7:00 p.m. on days when the wind speed is greater than five mph, as given by the local office of the National Weather Service.

(B) Burning shall be more than 15 feet from any structure, in a noncombustible container, sufficiently vented to induce adequate primary combustion air, with enclosed sides, a bottom, and a mesh covering.

(C) Fires shall be attended at all times until completely extinguished.

(D) If a fire creates a nuisance or a health hazard, or produces any quantity of smoke or an offensive or obnoxious odor which adversely affects adjoining property owners, it shall be extinguished. (1995 Code, § 00-09-92-06) (Ord. 1991-6, passed 9-4-1991) Penalty, see § 00-09-92-99

§ 00-09-92-07 LIMITED BURNING FOR SPECIAL PURPOSES.

The open burning of wood products, which does not create a nuisance or a fire hazard and which is attended by a responsible person at all times until completely extinguished, may be permitted for the following purposes:

(A) Ceremonial fires and bonfire: a bonfire in connection with a religious ceremony, school pep rallies, scouting activities, and similar purposes;

(B) Camp fires and fires for cookouts;

(C) Fires required for personal comfort or a bonfire in connection with recreational activities, including, but not limited to, sledding and ice skating;

(D) Fires required for personal comfort or a bonfire in connection with recreational activities, including, but not limited to, sledding and ice skating;

(E) (1) Open burning of agricultural or residential vegetation, when it can be shown that the open burning is necessary and that no fire hazard will occur, provided the person intending to dispose of plat life by open burning shall obtain approval from the Town Council, with 14-day notice of the regular meeting date. The Council will then authorize the Building Commissioner to issue a permit. Also, the person responsible shall attain permission from the Fire Department that has jurisdiction.

(2) Any open burning permitted under the provision of division (E) shall be allowed only between the hours of 10:00 a.m. and 6:00 p.m. and only at times when the forecast by the local weather service for wind speed is greater than five mph and less than 20 mph. The fire shall consist of plant life only.
(1995 Code, § 00-09-92-07) (Ord. 1991-6, passed 9-4-1991) (Am. Ord 96-2, passed 7-3-1996) Penalty, see § 00-09-92-99

§ 00-09-92-08 BURNING FOR THE PURPOSE OF TRAINING FIRE PERSONNEL

(A) The Town Council may authorize the intentional and controlled burning of structures within the town for the exclusive purpose of training Fire Department personnel concerning fire fighting and fire prevention.

(B) Persons responsible for burning as authorized hereunder shall remove the contents or portions of any structure or structures not to be burned and shall, consistent with the purpose and adequacy of the training involved, minimize the emission of smoke or other air contaminants.

(C) Authorization by the Building Commissioner shall be given only upon the basis if certification to the Commissioner of the necessity of the training as would be permitted hereunder, provided that the Commissioner may require compliance with general or special restrictions, standards, and qualifications as in his or her discretion are deemed advisable.
(1995 Code, § 00-09-92-08) (Ord. 1991-6, passed 9-4-1991)

§ 00-09-92-09 LIABILITY.

Any person who allows the accumulation or existence of combustible material, which constitutes or contributes to a fire causing air pollution, shall not be excused from responsibility therefor on the basis that the fire was accidental or an act of God.
(1995 Code, § 00-09-92-10) (Ord. 1991-6, passed 9-4-1991) Penalty, see § 00-09-92-99

§ 00-09-92-99 PENALTY.

Any person, firm, or corporation violating any provision of this chapter shall be fined $95. Each day the violation occurs or continues shall be considered a separate offense.
(1995 Code, § 00-09-92-99) (Ord. 1991-6, passed 9-4-1991)

CHAPTER 93: NUISANCES

Section

General Provisions

00-09-93-01 Structures or things detrimental to health and safety
00-09-93-02 Health hazards prohibited
00-09-93-03 Offensive premises
00-09-93-04 Unsafe motor vehicles

Abatement; Enforcement

00-09-93-15 Abatement procedures
00-09-93-16 Enforcement by police

00-09-93-99 Penalty

GENERAL PROVISIONS

§ 00-09-93-01 STRUCTURES OR THINGS DETRIMENTAL TO HEALTH AND SAFETY.

No building, vehicle, structure, receptacle, yard, lot premises, or part thereof shall be made, used, maintained or operated in the town in any manner causing or producing any nuisance, or that shall be dangerous or detrimental to the public's health, safety, and welfare.
(1995 Code § 00-09-93-01) Penalty, see § 00-09-93-99

§ 00-09-93-02 HEALTH HAZARDS PROHIBITED.

(A) No substance, matter, or thing of any kind which is dangerous or detrimental to health, or which shall become noxious or injurious to public comfort, shall be allowed to exist in connection with any business or be used therein, or be used in any work or labor performed in the town.

(B) No nuisance shall be permitted to exist and continue in connection with any business, or in connection with any work or labor.
(1995 Code § 00-09-93-02) Penalty, see § 00-09-93-99

§ 00-09-93-03 OFFENSIVE PREMISES.

Any factory, yard, building, or structure of any kind which emits unwholesome smell or noises, or becomes foul, noxious, or offensive or injurious to public comfort or health, is hereby declared a public nuisance and may be abated.
(1995 Code § 00-09-93-04) Penalty, see § 00-09-93-99

§ 00-09-93-04 UNSAFE MOTOR VEHICLES.

The use of any motor vehicle on the streets of the town is a public nuisance where, by reason of any defect or other condition in the vehicle, the driving thereof on the streets constitutes a nuisance by reason of noise or contribution to air pollution, or for another cause found to be a menace or hazard to the life, safety, or property of any persons.
(1995 Code, § 00-09-93-04) Penalty, see § 00-09-93-99

ABATEMENT; ENFORCEMENT

§ 00-09-93-15 ABATEMENT PROCEDURES.

(A) In all cases where any public nuisance may be found or caused near or upon any public way or place or public property, it shall be the duty of the Town Manager or his or her designee to serve written notice upon the owner or occupant of any premises, or other person so causing the nuisance.

(1) The notice shall require the owner, occupant, or person to abate the nuisance within a reasonable time.

(2) If the owner or occupant of the premises, or other person causing the nuisance, cannot be found, the notice shall be posted on the premises.

(3) It shall not be necessary for the Town Manager or his or her designee to designate in the notice the manner in which a nuisance shall be abated, unless the Town Manager or his or her designees deems it advisable to do so.

(4) (a) If the owner or occupant of the premises, or other person causing the nuisance, refuses or neglects to abate the nuisance within the designated time after the notice is given, the person violating this section shall be fined as provide in § 00-01-10-99.

(b) In addition, the Town Manager or his or her designee may cause the nuisance to be abated either summarily or in any manner authorized by law, including the institution in the name of the town against the owner or occupant of the premises, or other person, of an action therefore and for the recovery of the amount of expense of abatement.

(B) Any public nuisance in the town may be summarily abated and removed by order of the Town Manager or his or her designee.

(1) The Town Manager or his or her designee shall have authority to take action on all complaints of anyone concerning nuisances, except where jurisdiction is exclusively conferred upon the Town Council, Police Department, the Fire Department, or other public officials for removal and abatement of those things which are declared either by this code, or other statutes, or by the common or state law, to be public nuisances or which constitute, from their nature and effects, nuisances per se.

(2) Where any legal proceedings become necessary to effect abatement, or to enjoin summary abatement, the Town Manager or his or her designee or other officials concerned shall refer the matter to the Town Attorney.
(1995 Code § 00-09-93-15) Penalty, see § 00-09-93-99

§ 00-09-93-16 ENFORCEMENT BY POLICE.

The Town Marshal and deputies are charged with the duty of enforcing the provisions of this chapter.
(1995 Code, § 00-09-93-16)

§ 00-09-93-99 PENALTY.

Any person who violates this chapter shall be subject to a fine of $95 and costs. Each day the violation occurs or continues shall constitute a separate offense.
(1995 Code, § 00-09-93-99)

CHAPTER 94: PARKS AND RECREATION

Section

00-09-94-01 General rules
00-09-94-02 Control of vehicles
00-09-94-03 Tennis facilities
00-09-94-04 Prohibited persons
00-09-94-05 Trail rules
00-09-94-06 Parks and Recreation Board

00-09-94-99 Penalty

§ 00-09-94-01 GENERAL RULES.

(A) To provide for the safety and welfare of community residents in their use and enjoyment of the town's public park facilities, it is necessary that the following rules and regulations be herein established and adhered to.

(B) The general rules shall be applicable to all park facilities.

(1) Animal owners may not allow their animals to be in the park unless the animal is on a leash and under human control.

(2) There shall be no littering of any nature. Any refuse or waste materials shall be deposited in the receptacle provided for that purpose. All feces from animals owned by humans shall be removed from the park by the animal's owner or other person who brings or permits the animal to be in the park.

(3) There shall be no motorcycles, motor bikes, or mini-bikes of any nature permitted within the part at any time, unless such vehicle is an Other Power Driven Mobility Device, as defined by the Americans with Disabilities Act of 1990 (Act) and regulations promulgated under the authority of the Act, used by a person with a disability under the Act.

(4) There shall be no alcoholic beverages possessed or consumed within the confines of the park.

(5) Commercial activities, including the soliciting of business, shall be prohibited in the park, except upon written approval of the Town Council.

(6) Defacing, damaging, or destroying any tree, bush, shrub, or any park property is expressly prohibited.

(7) All children under the age of eight years are prohibited from being within the park, unless accompanied and supervised by an adult.

(8) (a) From April 1 to October 31 of each year, parks shall be open to the public from dawn to dusk, except for any part of the park with facilities that are illuminated by park lights, which facilities shall be open from dawn to 10:00 p.m.

(b) From November 1 to March 31 of each year, parks shall be open to the public from dawn to dusk.

(c) The Park Superintendent or Police Department may close any park in response to the adverse weather unsuitable ground conditions, or for any other public safety-based reason. (1995 Code, § 00-09-94-01) (Am. Ord. 2000-3, passed 5-3-2000)(Am. Ord. 2018-21, passed 9-5-18) Penalty, see § 00-09-94-99

§ 00-09-94-02 CONTROL OF VEHICLES.

(A) It shall be unlawful and punishable by fine for anyone to operate a motor vehicle of any kind in and upon any public park ground, or area designated as such, which is located within the limits of the town.

(B) Motor vehicles shall only be operated along and upon specifically designated and marked public thoroughfares within the park, but otherwise are restricted from being operated in any other part or portion of the public park areas.

(1) The provisions in sections (A) and (B) do not apply to the following:

(i) Individuals with disabilities operating an Other Power Driven Mobility Device pursuant to the Americans with Disabilities Act of 1990.

(ii) Authorized employee of the Town of Cumberland using a Town vehicle within the scope of their employment.

(iii) Emergency response teams and first responders acting within their scope of employment, including police, firefighters, and ambulance drivers.

(1995 Code, § 00-09-94-02). Penalty, see § 00-09-94-99

§ 00-09-94-03 TENNIS FACILITIES.

The following special rules apply only to people using the tennis courts or the tennis facilities.

(A) Players shall wear tennis shoes at all times when using the tennis court.

(B) Only tennis players are allowed upon the tennis courts.

(C) Drinks or food are prohibited from being taken to the court area.

(D) Nets, once placed in the proper position for play, shall not be adjusted or altered.

(E) One hour of playing time shall be observed by all players, should others be waiting to play; and doubles should play rather than singles if there are players waiting for use of the courts.

(F) Bicycles, scooters, skateboards, motorcycles, or other similar vehicles are expressly prohibited from being used upon or along the surface of the tennis courts.
(1995 Code, § 00-09-94-03) (Am. Ord. 2000-3, passed 5-3-2000) Penalty, see § 00-09-94-99

§ 00-09-94-04 PROHIBITED PERSONS.

(A) The following individuals are prohibited from all parks, playgrounds and other recreational facilities owned, operated or managed by the town or its designees;

(1) Those individuals required by Indiana law to register with the State of Indiana Sex Offender Registry, published and disseminated by the Indiana Criminal Justice Institute; and

(2) Whose conviction, which requires such registration, occurs after the adoption of this section.

(B) The prohibition provided by this section terminates when the individual is no longer required by Indiana law to register with the State of Indiana Sex Offender Registry.
(Ord. 2009-12, passed 12-15-2009) Penalty, see § 00-09-94-99

§ 00-09-94-05 TRAIL RULES.

(A) Trail Rules.

(1) Trail hours are from dawn to dusk.

(2) Littering is prohibited. All trash must be placed within the appropriate receptacles or carried out by the user.

(3) Alcohol is prohibited on the trail.

(4) Pets must be on a short leach (no more than six feet in length).

(5) Pet waste must be cleaned up by owner of the pet.

(6) Keep to the right of the trail.

(7) When passing, communicate such by saying “Passing on the left”.

(8) Pedestrians have the right-of-way. All other users (bicycle riders, skaters, etc.) shall yield to pedestrians.

(9) Stop for cross traffic and obey all traffic and trail signage.

(10) Motorized vehicles are prohibited, except in the case of maintenance, public safety, and use by individuals with disabilities pursuant to the Americans with Disabilities act of 1990.

(11) If snow or rain render any segment of the trail impassable by foot or bike, please refrain from using it.

(12) Advertising along the trail is prohibited, except for town approved trail related signage.

(B) Trail Etiquette.

(1) Share the trails, don't block the entire trail. If in a group, walk single file to allow others to pass when present.

(2) Be courteous of other users.

(3) Do not trespass on private property adjacent to the trail.

(4) Do not disturb the natural environment along the trail.
(Ord. 2010-13, passed 8-4-2010 Amd. Ord. 2018)

§ 00-09-94-06 Parks and Recreation Board

(A) Establishment. The Cumberland Town Council hereby establishes the Town of Cumberland Parks and Recreation Board (the "Board").

(B) Membership. The Board shall consist of four members. The members will be appointed by the Cumberland Town Council based on their interest in and knowledge of parks and recreation. Members of the Board must be residents of the Town of Cumberland. Not more than two members of the Board may be affiliated with the same political party. No member of the Town Council may serve on the Board.

(C) Waiver of Requirement by the Town Council. The Town Council may, by resolution, waive the requirement that a member of the Board be affiliated with a political party if such a waiver is necessary due to the absence of persons who are willing to serve on the Board. The Town Council may also waive, by resolution, the requirement that not more than two of the four Board members be affiliated with the same political party if such a waiver is necessary due to the absence of persons who are willing to serve on the Board.

(D) Ex Officio Members. At the election of the Town Council, one or two ex officio members may be designated to the Board. These members may be either:

(1) A member of the governing body of a school corporation selected by the governing body of that school or an individual designated by the governing body of the school corporation;
(2) A member of the governing body of the library district selected by that body; or,
(3) Both (1) and (2).

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

(E) Appointments and Vacancies. The initial appointments are as follows:

(1) One member for one year;

(2) One member for two years;
(3) One member for three years; and,
(4) One member for four years.
(5) As a term expires, each new appointment is for a four year term. All terms expire on the first Monday of January, but a member continues in office until the member's successor is appointed. If an appointment is not made by the first Monday in April, the incumbent shall serve another term. If a vacancy on the Board occurs, the Town Council must appoint a person to serve for the remainder of the unexpired term.

(F) Member Removal. A member may be removed only for cause, upon specific written charges filed against the member. Charges shall be filed and heard by the Town Council, unless the Town Council brings the charges. If the Town Council is the body bringing the charges, the Town Council shall appoint a hearing officer to hear the charges. The appointed hearing officer shall set a date for a public hearing and provide notice to both parties of the hearing date at least 10 days in advance. At the hearing, the Board member is entitled to present evidence and argument and to be represented by legal counsel.

*(G) Meetings***.** The Board shall, at a minimum, meet quarterly. The Board shall fix the time and place of the Board's regular meetings. A majority of the members constitute a quorum. Action of the Board is not official unless it is authorized by at least three members present and acting. At its first regular meeting each year the Board shall elect a president, vice president, and secretary**.**

(H) Duties. The Board shall perform all duties in accordance with the provisions of Indiana Code § 36-10-3-10 and the Town of Cumberland Code of Ordinances. The Board may also exercise the powers statutorily authorized by Indiana Code § 36-10-3-11.

(Ord. 2018-06, passed 3-21-18)

§ 00-09-94-99 PENALTY.

(A) Any person who violates §§ 00-09-94-01 and 00-09-94-03 shall be subject to a fine of $25 and costs and §00-09-94-02 shall be subject to a fine of $95 and costs. In addition to any fine, violators of this chapter may be required to pay to the town the cost of any property damage sustained by the park's grounds or facilities as a result of violation.

(B) Any person who violates § 00-09-94-04 shall be fined $200 for each violation. The town, through its employees and agents, may enforce this chapter using all legal means, including but not limited to actions for the collection of money, injunctive relief, and other remedies in the Circuit and Superior Courts of Hancock or Marion Counties, Indiana, or other courts of competent jurisdiction.
(Am. Ord. 2009-12, passed 12-15-2009)

CHAPTER 95: STREETS; SIDEWALKS; BRIDGES

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GENERAL PROVISIONS

§ 00-09-95-01 APPLICABILITY OF PROVISIONS.

This chapter shall apply only to streets and bridges located within the geographic area of the town which are under the control and jurisdiction of the town for maintenance. Whenever this chapter makes reference to the requirements of Marion County or agencies of the Marion County government, those provisions shall be interpreted as incorporating the currently applicable requirements and responsible agencies of Marion County. Procedures involving Marion County agencies shall not be applicable to the Hancock County part of town. Whenever any provision of this chapter is in conflict with an applicable provision of the town's subdivision control ordinance, the conflicting provision of this chapter shall not be applicable.
(1995 Code, § 00-09-95-01)

§ 00-09-95-02 ACCEPTANCE OF STREETS AND BRIDGES.

On or after the effective date of this section, all streets and bridges not constructed by the town shall be accepted by the Town Council for maintenance only when the requirements of this chapter are met.
(1995 Code, § 00-09-95-02)

§ 00-09-95-03 CONSTRUCTION, INSPECTION, ACCEPTANCE, AND BOND RELEASE.

(A) Inspection of construction of streets and bridges.

(1) Execution of inspection agreement. Before construction begins, the developer shall execute an agreement with the Town Council, which will provide that:

(a) The Council will employ an inspector to inspect the construction work to ensure it meets the requirements of the approved construction plans;

(b) The developer will reimburse the town for the cost of inspection services determined at the time of execution of the agreement;

(c) Upon completion of construction, the inspector will certify to the town and the developer as to the compliance of the construction with the requirements of the approved construction and/or approved change orders; and

(d) No action respecting the acceptance of the construction and release of the improvement bond pursuant to division (A)(1)(b) above or § 95.0500-09-95-05(B) shall be taken until the developer has reimbursed the town in full for the inspection services.

(2) Inspection of construction.

(a) All construction of streets and bridges shall be inspected and certified pursuant to the agreement executed under division (A)(1) above.

(b) The developer shall furnish the town necessary copies of the approved construction plans.

(c) If construction already has begun on the effective date of this chapter, the developer may continue to provide his or her own construction inspection. The developer then shall furnish, with his or her application for acceptance under division (B) below, a certification by a professional engineer, registered in the state, that the construction will be inspected by the town.

(B) Acceptance of construction.

(a) All construction of streets and bridges shall be inspected and certified pursuant to the agreement executed under division (A)(1) above.

(b) The developer shall furnish the town necessary copies of the approved construction plans.

(c) If construction already has begun on the effective date of this chapter, the developer may continue to provide his or her own construction inspection. The developer then shall furnish, with his or her application for acceptance under division (B) below, a certification by a professional engineer, registered in the state, that the construction will be inspected by the town.

(B) Acceptance of construction.

(1) Acceptance request. Upon completion of construction, the developer, or the developer's authorized representative, shall may written application for acceptance to the town.

(2) Acceptance of construction and release of improvement bond. If, by law, the street and bridge construction require approval and bonding by the Marion County Department of Metropolitan Development, the procedure of this division shall be followed. Otherwise, the procedure of § 00-09-95-05 shall apply.

(a) Upon receipt of notice of satisfactory completion from the town, the Town Manager or his or her designee shall take appropriate action to accept the streets and bridges and to notify the Marion County Department of Metropolitan Development that the performance has been completed to the Transportation Board's satisfaction and that claims against any

improvement bond by the Department of Transportation and the Transportation Board are released.

(b) Before acceptance, the Town Council shall determine that a maintenance bond meeting the requirements of the Marion County Department of Metropolitan Development has been posted with the department.

(C) Release of maintenance bond.

(1) (a) Not more than six months nor less than four months before expiration of the maintenance bond, the Town Manager or his or her designee shall inspect the streets and bridges covered by the bond.

(b) If no deficiencies are found, the Town Manager or his or her designee shall notify the developer, in writing, that he or she has no objection to the release of the maintenance bond. Failure of the Town Manager or his or her designee to so notify the developer before the expiration date of the bond shall be deemed the town's release of all claims against the bond.

(c) If deficiencies are found to exist, the following steps shall be taken.

1. The Town Manager or his or her designee shall notify the developer in writing, by first class U.S. Mail of the specific deficiencies, requesting necessary corrective action and informing the developer that the maintenance bond release will be withheld until the deficiencies are corrected.

2. If the developer has not acknowledged receipt of the deficiency notice and/or has not taken any corrective action within 60 days of the transmittal of the first notice pursuant to division (C)(1)(c)1. above, the Town Manager or his or her designee shall transmit to him or her, by first class U.S. mail, a second and final notice containing the same information as the first notice.

3. When the developer has corrected all the deficiencies, he or she shall notify the town in writing and the Town Manager or his or her designee shall make a new inspection within 14 days. If any deficiencies have not been corrected to the Commissioner's satisfaction, the town shall notify the developer in the same manner as the original notice pursuant to division (C)(1)(c)1. above and, if necessary, division (C)(1)(c)1. above and, if necessary, division (C)(1)(c)2. above.

4. a. In the event the developer does not correct the deficiencies to the Town Manager of his or her designee's satisfaction, the town shall be empowered to have the deficiencies corrected at its own expense and to secure reimbursement therefor from the developer and/or bonding company.

b. Before taking that action, written notice of intent to do it shall be transmitted to the developer and the bonding company by first class U.S. mail.

5. a. When all deficiencies have been corrected to the Town Manager or his or her designee's satisfaction in accordance with the criteria in effect at the time of design approval, and any financial liabilities of the developer and/or bonding company to the Town Manager or his or her designee arising pursuant to division (C)(1)(c)4. above, have been satisfied, the town

shall prepare a written document stating this fact and approving release of its interest in the maintenance bond.

b. The document shall be transmitted to the developer and the bonding company by first class U.S. mail.

(2) Notice, made in accordance with division (C)(1) above, shall be deemed constructive notice upon all affected parties, whether or not they actually receive the notice.
(1995 Code, § 00-09-95-03) Penalty, see §00-09-95-99

§ 00-09-95-04 APPEAL FROM ADMINISTRATIVE ACTION.

(A) Any person or firm affected by the exercise of any discretionary authority delegated by this code to any official of the Public Works Department, who objects to the decision made or action taken by the official, shall be entitled to a hearing before the Town Council.

(B) The person or firm desiring the hearing shall file with the Town Manager or his or her designee a written statement of the objection and the Commissioner shall call it to the attention of the Council.

(C) The Council shall hold the hearing shall file with the Town Manager or his or her designee. The person or firm making the objections shall be given notice of the time, place, and date of the hearing at least ten days before it.

(D) After hearing the testimony of the objector and the official who made the decision or action objected to, the Council may confirm, reverse, modify and confirm as modified the decision or action of the official in any manner consistent with the discretionary authority delegated by this code to that official.
(1995 Code, § 00-09-95-04)

§ 00-09-95-05 ALTERNATIVE BONDING PROCEDURE.

(A) In general. In the event the streets or bridges to be accepted for maintenance by the town do not, by him or her, require approval and bonding by the Marion County Department of Metropolitan Development, the provisions of this section shall apply to all matters pertaining to bonding in lieu of the provisions of § 00-00-95-03.

(B) Posting of improvement bond.

(1) If the right-of-way for the streets and/or bridges is to be dedicated and recorded before construction, the applicant shall file an improvement bond with the town.

(2) The bond shall:

(a) Run jointly and severally to the town and its Public Works Department;

(b) Be in an amount equal to 100% of the construction cost estimated by the Public Works Department;

(c) Provide surety and principal satisfactory to the Public Works Department;

(d) Specify that the construction of the streets or bridges shall be done in accordance with the applicable terms and conditions of this chapter and in accordance with construction plans approved under § 00-09-95-41; and

(e) Run until and terminate upon:

1. Acceptance of the streets and bridges for the Public Works Department by action of the Town Council; and

2. Posting of a maintenance bond in accordance with division (D) below.

(C) Acceptance of construction and release of improvement bond. Upon receipt of notice of satisfactory completion of construction from the Public Works Department and the posting of a maintenance bond in accordance with division (D) below, the Town Council shall take appropriate action to accept the streets or bridges and to release any improvement bond which has been posted with the Public Works Department.

(D) Posting of maintenance bond. Before acceptance of construction and release of any improvement bond pursuant to division (C) above, the applicant shall file a maintenance bond with the Public Works Department. The bond shall:

(1) Run jointly and severally to the town and its Public Works Department;

(2) Be in an amount equal to 100% of the construction cost estimated by the Public Works Department;

(3) Provide surety and principal satisfactory to the Public Works Department;

(4) Warrant that workmanship and materials used in the construction of the streets or bridges meet the applicable terms and conditions of this ordinance and complies with the construction plans approved under § 00-09-95-41; and

(5) (a) Provide that, for a period of three years after the release of the improvement bond pursuant to division (B) above, the applicant or the applicant's approved principal will make necessary repairs to the streets or bridges in accordance with the warranty of division (D)(4) above.

(b) It also shall provide that the term of three years shall be extended by the surety until a satisfactory release has been effected pursuant to division (E) below.

(E) Maintenance bond release procedure. The maintenance bond release procedure shall follow § 00-09-95-03, except that no notices to the town will be made and the maintenance bond will be released by the Public Works Department.
(1995 Code, § 00-09-95-05) Penalty, see § 00-09-95-99

§ 00-09-95-06 SUPERVISION OF MAINTENANCE AND REPAIR WORK

All maintenance and repair of public streets, alleys, sidewalks, curbs, and other public ways shall be under the supervision of the Town Manager or his or her designee, who is charged with the enforcement of all ordinance provisions relating to those public places, except traffic ordinances, and is hereby authorized to enforce the ordinances.
(1995 Code, § 00-09-95-06)

§ 00-09-95-07 PERMIT REQUIRED TO CONSTRUCT OR LAY PAVEMENT.

(A) (1) It shall be unlawful to construct or lay any pavement on any public street, sidewalk, alley, curb, or other public way, or to repair the same, or cut any curb or existing pavement, without having first secured a permit therefor.

(2) Application for the permit shall be made to the Town Manager or his or her designee.

(3) It shall state the location of the intended cut, pavement, or repair, the extent thereof, and the person or firm who is to do the work.

(4) No permit shall be issued except where the work will confirm to this chapter.

(B) All curb cuts in the public thoroughfares of the streets in the town shall be regulated by the provisions of the Marion County Code as it pertains to street cuts and bonding and surety requirements.
(1995 Code, § 00-09-95-07) Penalty, see § 00-09-95-99

§ 00-09-95-08 REPAIRS.

All public street, alley, sidewalk, and curb pavement shall be repaired in a workmanlike manner of approved materials.
(1995 Code, § 00-09-95-09) Penalty, see § 00-09-95-99

§ 00-09-95-09 DEFECTS.

Every town officer and employee who becomes cognizant of any defect in any street, alley, or sidewalk, or any obstruction thereof, shall report it to the Town Manager or his or her designee as soon as possible.
(1995 Code, § 00-09-95-10)

PROHIBITED CONDUCT

§ 00-09-95-20 INJURY TO NEW PAVEMENT.

It shall be unlawful to walk upon, or drive any vehicle or animal upon, or damage any newly laid street, sidewalk, or curb pavement while it is guarded by a warning sign or barricade, or to otherwise knowingly damage any soft or newly laid pavement.
(1995 Code, § 00-09-95-08) Penalty, see § 00-09-95-99

§ 00-09-95-21 OBSTRUCTION.

It shall be unlawful for any person, firm or corporation to cause, create, or maintain any obstruction of any street, alley, sidewalk, or other public way, except as many be specified by this chapter or by the order of the Town Manager or his or her designee.
(1995 Code, § 00-09-95-11) Penalty, see § 00-09-95-99

§ 00-09-95-22 BARRICADES.

(A) (1) Any person, firm, or corporation laying or repairing any pavement on a street, sidewalk, or other public place, or making an excavation in the same, shall maintain suitable barricades to prevent injury of any person or property by reason of the work.

(2) The barricades shall be protected by lights attached thereto from sundown to sunup.

(B) It shall be unlawful to disturb or interfere with any barricade or lights lawfully placed to protect or mark any pavement, excavation, obstruction, or opening in any public street, alley, or sidewalk.
(1995 Code, § 00-09-95-12) Penalty, see § 00-09-95-99

§ 00-09-95-23 PRIVATE USE.

It shall be unlawful for any person, firm, or corporation:

(A) To use any street, sidewalk, or other public property as a space for the display of goods or merchandise for sale; or

(B) To write or make any sign or advertisement on any public places.
(1995 Code, § 00-09-95-13) Penalty, see § 00-09-95-99

§ 00-09-95-24 ENCROACHMENTS.

It shall be unlawful to erect or maintain any building or structure which encroaches upon any public street or right-of-way.
(1995 Code, § 00-09-95-14) Penalty, see § 00-09-95-99

§ 00-09-95-25 ADVERTISEMENTS; NOTICES.

It shall be unlawful to attach any sign, advertisement, or notice to any tree, shrub, telephone pole, or any other structure in any public way or place.
(1995 Code, § 00-09-95-15) Penalty, see § 00-09-95-99

§ 00-09-95-26 BURNING LEAVES AND RUBBISH.

It shall be unlawful for any person, firm, or corporation to burn any leaves, paper rubbish, or other substances upon any of the public streets or sidewalks in the town.
(1995 Code, § 00-09-95-16) Penalty, see § 00-09-95-99

MINIMUM STANDARDS

§ 00-09-95-40 VARIANCE REQUIRED.

Upon written application to the Town Manager or his or her designee with supporting reasons and data, a variance from the requirements of this subchapter, based upon good engineering judgment, may be granted by the Town Council. This variance, if granted, shall apply only to the particular streets or bridges between the specified limits named in the application.
(1995 Code, § 00-09-95-25)

§ 00-09-95-41 GENERAL REQUIREMENTS.

(A) Plans. All streets as designated and labeled upon a proposed plat, instruments of dedication, or construction plans shall be graded, constructed, and surfaced in accordance with the satisfactory construction plans and specifications submitted therefor by the developer in accordance with the following specifications and requirements.

(1) Preparation of plans. Plans for the streets and bridges shall be prepared over the seal and signature of a professional engineer or land survey licensed by the state.

(2) Presentation of plans for approval. Plans shall be submitted for review and approval to the various departments that are to assume final maintenance responsibility for the completed work in accordance with the procedures published by that department. In cases of overlapping responsibility, duplicate copies of transmittal letters and plans may be requested by the Town Manager or his or her designee.

(B) Starting of construction.

(1) Work shall not be started until plans have been approved by all agencies having jurisdiction over the phase of construction. Copies of various approvals shall be submitted to all agencies involved upon request.

(2) Written notice shall be given to all affected agencies, in accordance with their procedures, sufficiently in advance of the start of construction so that those employees charged with the responsibility of inspection may be properly notified. For the Town Manager or his or her designee, written notice shall be given within a minimum of three days in advance of construction; where construction has ceased for 90 days, renotification is required.

(3) Neither the Town Manager or his or her designee nor any other affected agency of government shall be obligated to accept any work started before approval of plans in accordance with division (A) above and notification pursuant to division (B)(2) above. Should a request for acceptance of the work be made, the criteria and requirements for acceptance shall be those in force and effect on the date of the request. Any remedial work determined necessary for acceptance by the Town Manager or his or her designee or any other affected department shall be done at the developer's expense.

(C) Governing specifications. Unless otherwise provided in this chapter or on the plans and specifications supplied for the project, the Indiana State Highway Commission Standard Specifications, current at the time of construction plan approval, shall apply to all work performed and to any materials used in all improvements which are to be dedicated to the town for maintenance.

(D) Length of plan approval validity. In the event construction of a street or bridge is not initiated within two years and work completed within four years after the approval of construction plans, the plans shall be presented to the Town Manager or his or her designee for

re-review and certain design features may be required to be changed due to changes in design criteria.
(1995 Code, § 00-09-95-26) Penalty, see § 00-09-95-99

§ 00-09-95-42 MINIMUM STANDARDS FOR STREET DESIGN.

(A) Designation of street classification. The designation of street classification shall be approved by the Town Manager or his or her designee in accordance with definitions of classification as specified by the Department of Metropolitan Development.

(B) Pavement width and length.

(1) The minimum width of residential local street pavement, including gutters and curbs, shall be 26 feet when the density is two and one-half or less lots per gross acre of the total project. If the density is greater than two and one-half lots per gross acre of the total project, the minimum width, including gutters and curbs, shall be 30 feet. The maximum total length of a dead-end street shall be 650 feet, as measured from the intersection and the radius point of the cul-de-sac.

(2) All permanently dead-ended streets shall be terminated by cul-de-sacs. The minimum radius of cul-de-sacs on local streets and the minimum radius of curb entering and leaving the turnaround area shall be shown on Standard Plan 22-01, Type 1. Temporarily dead-ended streets may be permitted in cases in which they are proposed to be and should logically be extended beyond the limits of the plat, but are not yet constructed beyond the limits of the plat. Adequate easements for turnarounds shall be provided for temporarily dead-ended streets which extend greater than one lot deep.

(3) The minimum width of residential collector street pavement, including gutters and curbs, shall be 36 feet back-to-back of curbs.

(4) The minimum width of a street within an area zoned non-residential or multi-family shall be 36 feet back-to-back of curbs.

(5) The minimum radius of cul-de-sacs on all streets not covered by division (B)(2) above and the minimum radius of curb entering and leaving the turnaround area shall be shown on Standard Plan 22-01, Type 2.

(C) Minimum right-of-way. The greater of the following shall be the minimum right-of-way required.

(1) The right-of-way as set forth for future use in the Marion County Thoroughfare Plan Ordinance 69-CPS-R5, as amended.

(2) Local streets: 50 feet; 500 foot radius from center of cul-de-sac.

(3) Collector streets: 70 feet.

(4) In areas not zoned under the Dwelling District Zoning Ordinance of Marion County at the time of submission of plans for approval: 70 feet.

(5) The right-of-way set forth in Marion County Metropolitan Subdivision Control Ordinance 58-A0-13, as amended.

(6) Divided streets and one-way streets: as determined by the Marion County Department of Transportation.

(D) Pavement crown. The pavement crown for all streets shall be computed at a rate of one-fourth inch per foot.

(E) Grades.

(1) Maximum grades.

(a) The maximum grade of expressways and primary and secondary thoroughfares shall be as determined by the Marion County Department of Transportation.

(b) The maximum grade for collector streets shall not exceed 5%.

(c) The maximum grade for local streets shall not exceed 7%, except short local streets (not to exceed 600 feet in total length) where maximum grade shall not exceed 12%.

(d) The maximum grade for cul-de-sacs within the turning area shall not exceed 3%.

(2) Minimum grades. The minimum grade of all streets shall be 0.5%.

(F) Design speeds. The design speed is that speed used for design of streets as set forth in various texts, handbooks, and the like for highway design. It is intended that, through controls, both legal and geometric, the operating speed of a typical vehicle will be at or below the current 30 mph legal speed limit for urban districts as set forth in state statutes.

(1) The design speed for collector streets shall be 30 mph.

(2) The design speed for local streets shall be 20 mph.

(3) The design speed for all other streets shall be as determined by the Town Council.

(G) Minimum stopping sight distances.

(1) The stopping sight distance for collector streets shall be 240 feet.
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(2) The stopping sight distance for local streets shall be 125 feet.

(3) The stopping sight distance for all other streets shall be as determined by the Town Council.

(H) Street alignment.

(1) The minimum lengths of vertical curves shall be as shown in Standard Plan 26-01.

(2) Vertical curve shall be considered at all intersections of grade, and the maximum grade change without a vertical curve shall be based on comfort and as shown in Standard Plan

26-01. At intersections, the break in the grade may be 4% maximum conforming to the crown at the cross street.

(3) (a) The minimum centerline radius for a horizontal curve shall be as shown below for the various streets.

1. Collector: 200 feet.

2. Local: 150 feet.

3. Short local (650 feet or less in length): 100 feet.

(b) These radii are less than the minimum for the various design speeds set forth in division (F) above. The minimum radii are being used to discourage higher operating speeds than those which may be obtained using the theoretical minimum radii based on design speed.

(4) Street width shall be uniform or uniformly tapered for widening through curves. Bulges on curves or at "two leg" intersections shall not be acceptable.

(5) The minimum tangent between reversed minimum radii curves shall be 100 feet. In no case may a tangent distance less than 50 feet be permitted, except for very large (more than 1,000 feet) radii curves which may be reversed with no tangent between curves.

(I) Intersections.

(1) An intersection shall have three or more street approaches whose center lines intersect in a common point.

(2) Street curbs at intersections shall have the greater of the following as a minimum radius.

(a) Between two local streets: 20 feet.

(b) If one or more streets is classified as a collector street: 25 feet.

(c) If one or more streets is designated as a thoroughfare in the Marion County Thoroughfare Plan Ordinance 69-CPS-RS, as amended, see division (I)(5) below.

(3) Street intersections shall be as nearly at right angles as is possible; no intersection shall be at an angle of less than 75 degrees.

(4) Street jogs with centerline offsets of less than 150 feet shall not be permitted.

(5) Intersections of local and collector streets with thoroughfares shall be in accordance with appropriate sections of the Department of Transportation Access Control Manual and be approved by the Town Council.

(6) The following shall be required as a provision of the covenants of all final plats:

"No fence, wall hedge, or shrub planting, which obstructs sight lines, shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property

lines and a line connecting points 25 feet from the intersection of the property lines extended at the intersections of a collector street and a local street. The above restrictions for the intersection of two local streets shall be a triangle with legs equal to 15 feet. The same sight line limitations shall apply to any lot, the corner of which is at the intersection of a street property line with an alley line. No trees shall be permitted to remain within such distances of such intersections, unless the foliage line is maintained a sufficient height to prevent obstruction of such sight lines."

(J) Sidewalks.

(1) In all platted subdivisions, the necessity of sidewalk installation shall be governed by the Marion County Metropolitan Subdivision Control Ordinance 58-AO-13, as amended, and any waivers thereof shall be obtained from the Town Council before submission of construction plans for approval. A copy of the waiver shall be submitted with construction plans. For all other streets and bridges, the necessity of sidewalk installation shall be determined by the Council.

(2) The minimum width of sidewalks shall be four feet from the back of the curb.

(K) Driveways.

(1) When shown on construction plans, each driveway shall be designed to meet the following requirements:

(a) The Marion County Department of Transportation Access Control Manual; and

(b) The provisions of § 95.45.

(2) If driveways are not to be installed as a part of the construction, a note to that effect shall be placed on the plans.
(1995 Code, § 00-09-95-27) Penalty, see § 00-09-95-99

§ 00-09-95-43 MINIMUM STANDARDS FOR STREET CONSTRUCTION.

(A) General requirements.

(1) Minimum requirements for street construction shall be in accordance with standard specifications of the State Highway Commission of Indiana, 1978 edition, or subsequent superseding edition, hereinafter referred to as the Standard Specifications, unless otherwise required by this statute.

(2) All Standard Specification section number references are based on the 1978 edition.

(3) A copy of the current edition of the se Standard Specifications is on file at the town hall, Office of the Clerk-Treasurer.

(4) Construction tolerances and testing shall be in accordance with the criteria and methods set out in Standard Plans 70-01 and 70-02.

(B) Preparation of subgrades for rigid and flexible pavements. The subgrade shall be prepared in compliance with § 207 of the Standard Specifications.

(C) Rigid pavement (plain cement concrete) thickness.

(1) The minimum thickness of concrete pavement for local streets shall be six inches.

(2) The minimum thickness of concrete pavement for residential collector streets shall be seven inches.

(3) The minimum thickness of concrete pavement for commercial and industrial collector streets shall be eight inches. If it is anticipated the street will have a greater than 10% truck traffic (average daily), the thickness shall be nine inches.

(4) The minimum thickness of concrete pavement for all other streets shall be as determined by the Town Council.

(D) Rigid pavement materials and methods of construction.

(1) Plain cement concrete pavement shall be constructed in accordance with § 501 of the Standard Specifications, except as provided below.

(2) Materials shall comply with § 901 and subsections 903.01, 903.02, and 912.01 of the Standard Specifications. Concrete shall be machine finished, except on widened portions, intersections, or other places where hand finishing will be permitted if authorized by the Town Manager or his or her designee.

(3) Conditioning of subgrade shall be in accordance with § 501.07 of the Standard Specifications.

(4) All joints shall be constructed in accordance with § 501.14 of the Standard Specifications, except:

(a) Weakened plane or dummy transverse contraction joints shall be placed not to exceed 20 feet spacing. Transverse contraction joints may be either formed or sawed dummy groove, ribbon or pre-molded strip type. One of the above-named joints shall be placed at every catch basin and manhole in line of pavement. The location of manholes in the pavement shall determine the exact location of joints. All joints must extend throughout side strips and curbs.

(b) Expansion joints, with approved dowel bar assembly, shall be placed at street intersections and where shown on the plans.

(c) Whenever the width between forms of the pavement under construction is greater than 13 feet, longitudinal joints shall be constructed so as to divide the pavement into strips not to exceed 15 feet each.

(5) Finishing machines or vibrating strikeboards of design other than as specified in the Standard Specifications will be permitted only if work of equal quality as set out in these specifications is obtained in the opinion of the Town Manager or his or her designee.

(6) Curing with approved impervious membrane or sealing compounds will be permitted if authorized by the Town Manager or his or her designee.

(7) All concrete shall be air entrained.

(E) Flexible pavement (full depth asphalt) thickness.

(1) The minimum thickness of full depth hot asphalt concrete or hot asphalt emulsion for local collector streets shall be seven and one-half inches.

(2) The minimum thickness of full depth hot asphalt concrete or hot asphalt emulsion for residential collector streets shall be nine and one-half inches.

(3) The minimum thickness of full depth hot asphalt concrete or hot asphalt emulsion for commercial and industrial collector streets shall be 11 and one-half inches. If it is anticipated the street will have greater than 10% truck traffic (average daily), the thickness shall be 12 and one-half inches.

(4) The minimum thickness for full depth hot asphalt concrete or hot asphalt emulsion for all other streets shall be as determined by the Town Council.

(F) Flexible pavement materials and methods of construction.

(1) (a) Hot asphalt emulsion and hot asphalt concrete pavements shall be in accordance with §§ 402 and 403, respectively, of the Standard Specifications. These pavements shall consist of one inch wearing surface and the rest of the total asphalt section as described in division (E) above, shall be base, placed in three and one-half inch maximum compacted lifts. The hot asphalt emulsion surface shall be Type mixture and base shall be either No. 4, No. 5, or No. 53B mixture. The hot asphalt concrete surface shall be Type B mixture and base shall be either No. 4, No. 5, or No. 53B mixture.

(b) Construction joints in the same plane shall not be located within 50 feet of a joint in the preceding lift.

(2) Materials shall comply with subsections 902.01 through 902.04, 903.01, and 903.02 of the Standard Specifications.

(G) Other paving materials. Upon application to the Director of the Department of Transportation with supporting data from field tests, permission may be granted by the Department of Transportation to use other paving materials that have shown satisfactory performance.

(H) Alternate pavement thickness.

(1) Upon application to the Town Council, with supporting data from field tests, alternate or lesser pavement thickness than those set forth in divisions (C) and (E) above may be approved by the Town Council.

(2) Based upon experience in the vicinity of a proposed street or with soil of a similar nature, the Town Manager or his or her designee may require a pavement thickness greater than the minimums specified in parts three and five, unless supporting data to the contrary is supplied.

(I) Curb and gutter.

(1) Curb and gutter shall be required for all streets.

(2) Curb and gutter shaper shall be in accordance with Standard Plan §12-01.

(3) Construction requirements shall comply with subsection 605.04 of the Standard Specifications.

(4) Materials and conditioning of subgrade shall be in accordance with the provisions of division (D)(3) above.

(J) Sidewalk. Sidewalks shall be a minimum of four inch thickness of Portland cement concrete, conforming to subsections 604.02 and 604.03 of the Standard Specifications and be shown on Standard Plan 14-01.

(K) Parkstrip.

(1) The parkstrip (the area between the curb and the sidewalk) shall be constructed in accordance with subsection 604.08 of the Standard Specifications and be shown on Standard Plan 14-01.

(2) The materials shall comply with subsections 913.01 and 913.03 through 913.05 of the Standard Specifications.
(1995 Code, § 00-09-95-27) Penalty, see § 00-09-95-99

§ 00-09-95-44 BRIDGES.

(A) Plans for bridges, or structures having clear spans of 20 feet or greater, shall be reviewed separately from the street plans. Construction may be separate or combined with the adjacent street at the discretion of the developer.

(B) The bridge shall be designed to meet the criteria set forth in the A.A.S.H.O. Standard Specifications for highway bridges in effect at the time of design, and shall be designed for HS-20 loading.

(C) (1) In order for the Town Council to review the plans for a bridge crossing a waterway of any size, copies of acceptance of the waterway opening by the various other governmental agencies having jurisdiction over stream crossings at the time of design shall be submitted along with the plans.

(2) These agencies, include, but are not limited to, the Indiana Department of Natural Resources, the U.S. Army Corps of Engineers, and the Department of Public Works of the Consolidated City of Greater Indianapolis.

(D) In the event that construction of the bridge is not initiated within two years and work completed without four years after the approval of construction plans, the plans shall be presented to the Town Council for re-review, and certain design features may be required to be changed due to changes in the design criteria.
(1995 Code, § 00-09-95-29) Penalty, see § 00-09-95-99

§ 00-09-95-45 DRIVEWAYS.

(A) Permits.

(1) Approved construction plans will be required instead of an access or driveway permit when the construction is to connect a proposed public street to another proposed public street or to an existing public street.

(2) Driveway permits are required for individual or commercial driveways and private streets to be connected to streets which have been, or are proposed to be, accepted by the town.

(B) Construction.

(1) Private residential driveways shall be constructed in accordance with Standard Plan 16-01, and parts C, four, and six herein.

(2) Commercial driveways and their acceleration and deceleration lanes shall be constructed in accordance with the Department of Transportation Access Control Manual and parts C, three, four, five and six herein.
(1995 Code, § 00-09-95-30) Penalty, see § 00-09-95-99

§ 00-09-95-46 STREET NAME SIGNS.

(A) Location. At least two street name signs shall be installed on one post at each street intersection to be located on the northeast corner thereof, whenever possible, and on the parkstrip between the street and sidewalk at a point approximately six inches from the sidewalk.

(B) Material and installation. Street name signs shall conform with Standard Plan 43-01.
(1995 Code, § 00-09-95-31) Penalty, see § 00-09-95-99

§ 00-09-95-47 DRAINAGE.

(A) General provisions.

(1) The type and location of all pipes, culverts, bridges, and the like intended to carry storm water within street right-of-ways shall be approved by the Town Manager or his or her designee. Evidence shall be presented at the time of presenting the street plans for approval that application has been made to the appropriate other governmental agencies having jurisdiction over drainage for approval of the size and other hydraulic criteria. The Town Manager or his or her designee shall review and approve any drainage structure whose failure could seriously affect the street itself.

(2) The Town Council also must review and approve the overall drainage plan.

(B) Culverts.

(1) Culverts shall be constructed and installed whenever necessary to provide adequate drainage, in accordance with the satisfactory construction plans and specifications therefor submitted to the developer.

(2) The location and size of driveway culverts shall be determined at the time construction plans are prepared for the entire subdivision. However, the minimum size of the culverts shall be no less than 12 inches, but in no case less than that specified by the approved construction plans and specifications therefor submitted.

(3) Pipe and sections (metal or concrete) shall be used for driveway culverts. She Standard Plans 32-01 and 32-02.

(C) Storm drainage.

(1) Within street right-of-ways, all surface water shall be drained by enclosed drainage systems. All pipes, culverts, interjectional drains, drop inlets, bridges, pipe end sections, and similar or related installations necessary to provide adequate surface water drainage of the area, shall be constructed and installed in accordance with the approved plans and specifications submitted therefore by the developer to the various governmental agencies having jurisdiction over drainage.

(2) Storm drainage and surface water installations, including roof down spouts, shall not be connected to or empty into sanitary sewer systems.

(D) Drainage design criteria for streets.

(1) Inlet or catch basin spacing shall be designed using the following criteria.

(a) The quantity of water (Q) in cubic feet per second shall be determined for the area to be drained by the inlet in accordance with the methods outlined by the Marion County Department of Public Works.

(b) Rainfall intensity-duration-frequency used in these calculations shall be taken from information supplied by the Weather Bureau for Indianapolis, Indiana. Copies of charts showing these curves for the years of 1903 to 1951 are on file with the Marion County Department of Transportation.

(c) For a two-year design storm, there shall be one unflooded lane, 12 feet wide on local streets, and two unflooded lanes, 22 feet wide on collector streets. On other streets, the amount of flooding shall be as determined by the Town Council.

(d) A check shall be made to insure that, for a ten-year design storm, the now is the street shall, at no location, be above the top of the curb. If necessary, the inlet spacing shall be adjusted accordingly.

(2) A catch basin, or other type of approved debris retainer, shall be located so as to intercept debris collected by the drainage system constructed as part of the particular development, immediately before intersection with a previously-constructed collector storm sewer. In cases where various streets within a development are to be drained into a collector storm sewer constructed as part of the development project, debris retainers must be constructed on each line serving the individual streets immediately prior to their intersection with the collector line.

(3) Main line storm and sanitary sewers, as standard practice, shall not be placed under pavement, except that minimal near right angle crossings shall be permitted, provided adequate provisions are made for backfilling.

(4) The minimum velocities used in designing storm sewers shall be as required by the Marion County Department of Public Works.

(5) Materials and construction requirements for manholes, inlets, and pipes shall be in accordance with § 715 of the Standard Specifications or as specified by the Marion County Department of Public Works.

(6) The use of under drains to reduce the accumulation of subsurface water shall be required in all depressed or sag areas. These drains shall meet the requirements of Standard Plan 30-03.
(1995 Code, § 00-09-95-32) Penalty, see § 00-09-95-99

§ 00-09-95-48 PLANS.

(A) The Standard Plans, showing details of practices and designs for portions of streets and/or bridges for which acceptance may be requested of the Town Council, are adopted and incorporated as part of this code of ordinances as fully as if set out at length herein.

(B)(1) These Standard Plans are hereby declared the official Standard Plans for the town for the purpose of achieving uniformity of construction methods, materials, and appearance.

(2) The plans must be followed in construction of applicable portions of streets and bridges to be accepted by the Town Manager or his or her designee's Board, unless written permission for the deviation therefrom is given by the Town Council.

(3) The various applicable Standard Plans, with their effective dates, shall be listed on all construction plans submitted for approval to the Council.

(C)(1) The Town Manager or his or her designee is hereby granted the power and authority to revise the Standard Plans, to delete any of them, and/or to adopt new Standard Plans, when in his or her judgment, the revisions, deletions, or additions shall be necessary or helpful in order to give guidance to developers and to achieve the purpose of this subchapter.
(2) Any new or revised Standard Plan adopted after the effective date of this subchapter shall become effective on the date stated thereon, which shall be a minimum of 30 days after its approval by the Town Manager or his or her designee, and shall apply to all construction plans submitted for approval after such effective date.

(3) The Town Council shall make reasonable efforts to give notice of all new or revised Standard Plans to all person or firms who may be affected thereby, or who shall request notice.
(1995 Code, § 00-09-95-33) Penalty, see § 00-09-95-99

CUTS OR EXCAVATIONS FOR INSTALLATION OF UTILITIES

§ 00-09-95-60 PLANS AND SPECIFICATIONS.

(A) Any person, firm, or corporation locating a conduit, pipe line or electrical wiring under the surface of any street, avenue, alley, or public grounds or parts thereof shall present to the Town Council, or its designated officer, a written statement specifying all streets, avenues,

alleys, or public grounds or parts thereof in which conduits are to be located, the size and portions of the streets, the size of the conduit to be used, and distance from the surface of the street to the top of the conduit.

(1) The statement shall be accompanies by a map, profile, and specifications which shall show the proposed location, with reference to the grade lines, the surface of the streets, the dimensions and materials of the conduit, and the manholes, appliances, and connections to be used therewith.

(2) The map, profile, and specifications shall be referred at once to the Town Manager or his or her designee for suggestions with reference to the proposed location of the conduits in respect to other improvements; the proposed location shall be changed, as may be found necessary and directed by the Town Council, or its designated officer, after a report from the Town Manager or his or her designee.

(3) The map, profile, or specifications shall be furnished by and at the expense of the person, firm, or corporation constructing the conduit and, after being corrected or changed as may be found necessary, together with the original statement referred to above, shall be filed in the office of the Clerk-Treasurer. The conduit shall be constructed in accordance with the statement, map, profile, and specifications as approved.

(B) Upon the application of any person, firm or corporation constructing a conduit, and the recommendation of the Town Manager or his or her designee, a change may be made in the location or material of any conduit or method of construction; provided the change is approved by resolution of the Town Council and the company making the change, on or before the completion of the conduits, files with the Clerk-Treasurer an amended statement, map, profile, and specification describing the conduit as changed.
(1995 Code, § 00-09-95-45) Penalty, see § 00-09-95-99

§ 00-09-95-61 DUTY TO REPLACE PAVEMENT; LIABILITY.

(A) In the location, construction, or repair of conduits, pipe lines, or writing, no unnecessary excavation or obstruction shall be made, placed or continued.

(1) Any excavation obstruction made or placed in any street, avenue, alley, or public grounds at any time for any purpose by the person, firm, or corporation constructing the conduit, or their agents, servants, or contractor, shall be properly guarded.

(2) Any pavement cut or removed at any time or for any purpose shall be speedily replaced and put in proper repair under the supervision of and based on the acceptance of the work by the Town Manager or his or her designee.

(B) (1) Any company liable therefore shall pay all damages for injuries to persons or property, of any person as well as to the town, resulting from or occasioned by, or growing out of, negligence or improper excavation or the repairs.

(2) The liable company shall fully indemnify and save harmless the town from all claims, actions, or suits, at law or in equity, of any kind or nature, for damages to persons or property resulting from, occasioned by, or growing out of the functions of the company, or its servants, agents, or contractors:

(a) To properly guard any excavation or obstruction at any time for any purpose made, placed, or caused in any street, alley, avenue, or public ground;

(b) The omission to properly or speedily repair and repave any openings; or

(c) To keep such pavement in proper repair so far as repair may be made necessary by the interference of such pavement caused by the location, construction, use, or repair of conduits, wires, poles, or pipes.
(1995 Code, § 00-09-95-46) Penalty, see § 00-09-95-99

§ 00-09-95-62 PERMIT REQUIRED; FEE.

(A) No cut, excavation, or removal of material shall be made in any street, alley, avenue, or public grounds by any person, firm, or corporation until a permit for the cut, excavation, or removal of materials has been obtained from the Town Manager or his or her designee. The Commissioner shall make available applications for the work and, upon application, shall issue a permit for it.

(B) The fee for permits described in division (A) above shall be $25 per cut. No fee shall be charged to town-owned facilities. The fee shall be paid to the General Fund and made payable to the Clerk-Treasurer.
(1995 Code, § 00-09-95-47) Penalty, see § 00-09-95-99

§ 00-09-95-63 PERMIT FOR CONSTRUCTION OF NEW WIRELESS SUPPORT STRUCTURES

(A) *Definitions*. As used in this Section, the following definitions apply:

"Permit" shall mean any local permit, license, certificate, approval, registration, or similar form of approval required by policy, administrative rule, regulation, ordinance, or resolution with respect to a project.

"Project" shall mean the construction or deployment of wireline or wireless communications facilities to provide communications services (as defined in IC 8-1-32.5-3) in a unit.

(B) Notwithstanding any other provision of the Town of Cumberland's ordinances, regulations, policies, or practices the following shall apply to a project:

(1) The Town Manager or his/her designee will oversee all matters related to a project;

(2) All necessary forms, applications, or documents related to a project may be submitted or filed and signed by electronic means;

(3) The Town Manager or his/her designee shall review and either approve or reject all applications for a permit related to a project within ten (10) business days after an application is filed or submitted;

(4) Once a project is approved in accordance with subsection (A (3)) above, all inspections, including any additional necessary approvals, related to a project will occur in a timely expeditious manner.

(C) After certification as a Broadband Ready Community, the following procedures will be implemented and used to promote broadband adoption:

(1) The Town Manager or his/her designee will be the single point of contact in charge of broadband adoption;

(2) Each communications service provider that already provides broadband services in the Town will be notified that the Town is applying to be a Broadband Ready Community;

(3) The Town will work with communications service providers to promote broadband adoption in the Town;

(4) The Town will not:

(a) discriminate among communications service providers with respect to promoting broadband adoption in the Town; nor

(b) impose a fee on communications service providers to fund promotion of broadband adoption in the Town.

(D) The Town of Cumberland shall adopt the following process and procedures to implement the provisions above.

(1) The Town Manager or his/her designee shall provide prescribed application forms at the request of a project manager. Submittals should be accompanied with maps of locations, profiles, and technical specifications as required on the appropriate applications;

(2) Upon receipt of a broadband project permit, the application will be forwarded to the Town Manager or his/her designee for review;

(3) The Town Manager or his/her designee will contact the applicant with any deficiencies as soon as possible;

(4) As with other cuts or excavations for installation of utilities, applicants shall comply with Section 00-09-95-61of the Town Code;

(5) Processes and procedures established in this section hereunder may not do the following:

(a) Require an applicant to designate a final contractor to complete a project;
(b) Impose a fee to review an application or issue a permit for a project;
(c) Impose a seasonal moratorium on the issuance of permits for a project;
(d) Discriminate among communications service providers or utilities with respect to any action described in this section or otherwise related to a project, including granting access to public rights-of-way, infrastructure and poles, river and bridge crossings, and any other physical assets owned or controlled by the Town of Cumberland.

(Ord. 2017-03, passed 4-6-2017; Amd. Ord 2018-13, passed 6-20-2018)

OVERHANGING CANOPIES; SIGNS

§ 00-09-95-75 PERMIT.

(A) No person, firm or corporation shall erect or maintain any sign, signboard, or canopy over any street, sidewalk, alley, or other public way in the town without having first obtained a permit therefore. Permits for signs, canopies, or signboards may be issued by the Building Commissioner upon payment of the fee. The permit shall designate the location and type of the structure.

(B) The annual fee for the permit described in division (A) above shall be $10 for each overhanging sign or canopy.
(1995 Code, § 00-09-95-55) Penalty, see § 00-09-95-99

§ 00-09-95-76 BOND.

Each person, firm, or corporation maintaining a sign or canopy, as described in § 00-09-95-75, shall file with the Clerk-Treasurer a bond or indemnity policy in the sum f $50,000 conditioned to indemnify the town for any loss, damage, or liability that may result from the construction or maintenance of the sign or canopy. The bond or indemnity policy shall have sureties as may be approved by the Council.
(1995 Code, § 00-09-95-56) Penalty, see § 00-09-95-99

§ 00-09-95-77 CONSTRUCTION.

All signs and canopies extending over any public sidewalk, street, alley, or other public place must be securely fastened and constructed so there will be no danger of it being dislodged by wind or falling from other causes. No sign or canopy shall be erected or maintained extending over any public sidewalk, street, alley, or other public place in a location as to obstruct the view of any traffic light or other traffic sign or signal or approaching vehicles.
(1995 Code, § 00-09-95-57) Penalty, see § 00-09-95-99

§ 00-09-95-78 HEIGHT.

(A) The lowest part of any canopy, sign, or of any awning or any support thereof which extends over any public way shall be at least eight feet above the level of the walk or public way over which it extends.

(B) No such sign shall be maintained over any public way used by vehicles in any part of its support or if the sign is less than 15 feet above the level of the public way.
(1995 Code, § 00-09-95-58) Penalty, see § 00-09-95-99

§ 00-09-95-79 INSPECTION.

(A) It shall be the duty of the Building Commissioner to inspect or cause to be inspected every sign, or canopy or awning which extends over any sidewalk, street, alley, or other public way.

(B) If the sign is not constructed in a safe manner, the Building Commissioner shall report the fact to the owner of the sign or the owner or occupants of the premises on which it is fastened.

(C) If the condition of the sign is not corrected to comply with the provisions of this code within ten days after the notice, it shall be removed by the Fire Department on order of the Building Commissioner made to the Fire Chief.
(1995 Code, § 00-09-95-59) Penalty, see § 00-09-95-99

§ 00-09-95-80 UNDERGROUND AND BURIED UTILITY DISTRICT.

(A) The Town hereby establishes an Underground and Buried Utilities District ("Area") to be in effect April 28, 2017, and to apply throughout the Town's ROW and granted utility easements, and is hereinafter defined as follows:

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

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

(3) In all areas of the Town that would require compliance with the Town Code, Subdivision Control Ordinance, Zoning Ordinance and other applicable ordinances, regulations and rules;

(4) All other areas of ROW or proposed ROW throughout the Town, or in a utility easement granted by the Town, whether above ground utilities or utility facilities currently exist;

(5) Notwithstanding subsections (1) through (4) above, any utility that requires construction, placement, or use of a small cell facility in an Area designated strictly for underground or buried utilities, may submit an application to the Street Commissioner requesting a waiver to install new utility poles or new wireless support structures within the Area under provisions defined by local law, as amended. A utility may appeal a denial of such application to the Cumberland Plan Commission by filing with the Street Commissioner within 30 days of the denial a written notice of appeal, stating the reasons for the appeal;

(6) Upon receipt by the Street Commissioner of an application for construction, placement, or use of a small cell facility on one or more new utility pole or one or more new wireless support structure in an area that is designated strictly for

underground utilities, the Street Commissioner will post notice of the application on the Town's website and state that the application is available for public inspection upon request; and

(7) Neighborhood associations or homeowner's associations may register with the Town to receive notices of any application filed under this section for permits in the association's jurisdictional area. Instructions for registration will be posted on the Town's website.

(B) From and after the effective date of this Ordinance, no person, corporation, or utility may erect or construct within the Town's ROW or granted utility easement, any pole, overhead line, or associated overhead structure used or useful in supplying electric, communication or similar associated services.

(C) Unless a waiver is obtained or the Town's Street Commissioner otherwise expressly authorizes to the contrary, all utilities located within the Town's ROW or a granted utility easement shall be placed underground or buried.

(D) All existing overhead poles, wires, or utility transmission lines, may remain within the Town's ROW or utility easement, but may not be replaced or relocated without prior written authorization of the Street Commissioner, except:

(1) providers may collocate small cell facilities on existing utility poles and wireless support structures; and

(2) providers may replace existing utility poles and wireless support structures.

(Ord. 2017-08, passed 6-7-2017)

§ 00-09-95-99 PENALTY.

Any person, firm, or corporation violating any of this chapter shall, upon conviction, be subject to a fine not to exceed $2,500. Each day the violation occurs or continues shall constitute a separate offense.
(1995 Code, § 00-09-95-99)

CHAPTER 96: WEEDS AND VEGETATION

Section

00-09-96-01 Definitions
00-09-96-02 Owner's Duty to Prevent Excessive Growth
00-09-96-03 Failure to Cut; Notice; Abatement
00-09-96-04 Removal by Town; Payment of Costs
00-09-96-05 Collecting Unpaid Costs; Tax Lien; Civil Action
00-09-96-06 Emergency Removal
00-09-96-07 Non-Exclusive Remedies

§ 00-09-96-01 DEFINITIONS.

The following definitions apply to this chapter:

Department: The Cumberland Department of Planning and Development, which is responsible for administering this chapter.

Weeds and Rank Vegetation: "Weeds and Rank Vegetation" includes all grass, weeds, or other rank or useless vegetation, or any vegetation that harbors insects or disease that constitutes a hazard to health or property. "Weeds and Rank Vegetation" does not include agricultural crops, hay and pasture, garden plants, ornamental grasses and plants used for landscape purposes, wild flowers, wetlands, storm water best management practice areas, or nature preserves.

§ 00-09-96-02 OWNER'S DUTY TO PREVENT EXCESSIVE GROWTH.

(A) Policy. Because the excessive growth of weeds, grass, and other vegetation can lead to increased presence of insects and vermin, conceals dangerous land conditions, adversely affects the property and adjacent properties, and otherwise adversely affects the public health, safety, and welfare, it is the town's policy to prohibit and take all necessary action to remove such conditions.

(B) Not to Exceed Twelve Inches. It is the duty of every owner of real property in the Town of Cumberland to cut and remove all weeds and rank vegetation growing on the real estate before it exceeds a height of 12 inches, as measured from the ground.

§ 00-09-96-03 FAILURE TO CUT; NOTICE; ABATEMENT.

(A) Notice to correct. If the Department finds a property contains weeds or rank vegetation exceeding twelve inches in height in violation of this chapter, it shall mail to the property owner a notice to correct the violation. The notice shall advise the owner of the violation and require it to be corrected and removed within five days. The notice shall also inform the owner of the town's remedies if the owner fails to correct the violation. The Department shall serve the notice to correct on the property owner by first class mail, registered or certified mail return receipt requested or an equivalent service permitted under IC 1-1-7-1 to the owner's last address on record with the Hancock County Auditor's office, or by personal delivery to the owner.

(B) If an initial notice to correct was provided by certified mail, first class mail, or equivalent service permitted under IC 1-1-7-1, a continuous abatement notice may be posted at the property at the time of abatement. A continuous abatement notice serves as notice to the owner that each subsequent violation during the same calendar year for which the initial violation notice was provided may be subject to further penalties and abated by the town or its contractors without further notices.

§ 00-09-96-04 REMOVAL BY TOWN; PAYMENT OF COSTS.

(A) From the date the notice to correct is mailed, the property owner has five days to abate the violation. After five days, the Department may inspect the property. This includes the right of entry. If the property owner has abated the violation (mowed the property), the Department will note the compliance and close the matter. If the owner has not abated the violation, the Department will document the violation and immediately mow the property, either by its own employees and equipment or by a hired contractor.

(B) If the property owner fails to abate the violation within the five-day period, the owner shall be liable for a fine as follows:

(1) If the owner has not previously violated this chapter, the fine shall be $250;

(2) If the owner has committed one prior violation of this chapter, the fine shall be $500; and

(3) If the owner has committed two or more prior violations of this chapter, the fine shall be $750.

(C) If the owner failed to abate the violation, the owner shall also be liable and responsible for an administrative fee of $250 to cover the town's time and costs incurred in the enforcement action.

(D) After mowing the property, the Department shall mail to the property owner, via first class mail, an invoice reflecting the costs incurred by the town in mowing the property, the $250 administrative fee, and the appropriate fine.

(E) Within ten days after the invoice is mailed, the property owner shall:

(1) Pay to the Department all amounts owed as identified in the invoice; or

(2) File a written appeal with the Town Court. The appeal shall identify the property address, the property owner's name and mailing address, the basis for the appeal, and any supporting information or documentation. Upon appeal, the Town Court shall set the matter for hearing. At the conclusion of the hearing the court shall determine whether the owner is liable for the violation and, if so, assess the appropriate fine, costs, and the administrative fee. If the town prevails in an action before the Town Court, it is also entitled to recover its reasonable attorney fees.

§ 00-09-96-05 COLLECTING UNPAID COSTS; TAX LIEN; CIVIL ACTION.

If the property owner fails to pay the invoice or file a written appeal within ten days, or fails to pay the invoice within ten days of an adverse determination by the Town Court, the town may

take the following action to collect the invoiced amounts due, including the fine, the $250 administrative fee, and costs incurred in abating the violation:

(A) The Department may certify to the Hancock County Auditor the amount due from the owner, and the Auditor shall place the certified amount on the tax duplicate for the real estate and it shall be collected as taxes are generally collected. When collected, the funds shall be disbursed to the town for deposit in its General Fund. The town may distribute the funds to the Department.

(B) In the alternative, the town may file a civil action in court to collect the amounts due. If the town prevails, it is also entitled to collect its costs and reasonable attorney's fees. If the town obtains a judgment, the town may obtain a lien in the judgment amount on any real or personal property of the owner.

§ 00-099-96-06 EMERGENCY REMOVAL.

If a property owner fails to perform his or her duty to cut and remove weeds and rank vegetation as required by this chapter and such vegetation obstructs, either in whole or in part, the normal and usual view of any street or vehicular traffic from an intersecting street, alley, or drive, the Director may deem the condition an emergency and may cut and remove the vegetation immediately, either by its own employees or a hired contractor, without the necessity of the five-day written notice. The property owner shall be subject to the same penalties as provided above, and the procedures above for invoicing, collecting, and appealing the action apply.

§ 00-099-96-07 NON-EXCLUSIVE REMEDIES.

The remedies in this chapter are non-exclusive, and the town may also seek any other remedy provided for by Indiana law or town ordinance. Vegetation prohibited by this chapter constitutes a nuisance which the town may abate in any authorized manner. The town may exercise one or more remedies without waiving any other available remedies.

(Ord. 2016-29. Passed 1/4/17)

CHAPTER 97: ALARMS

Section

00-09-97-01 General provisions
00-09-97-02 Excessive false alarms prohibited
00-09-97-03 Prolonged externally sounding alarms prohibited
00-09-97-04 Automatic alarm notification devices prohibited

00-09-97-99 Penalty

Cross-reference:
Police Department, see Chapter 33

§ 00-09-97-01 GENERAL PROVISIONS.

This chapter shall be deemed to be consistent with applicable statutory law as amended from time to time.
(Ord. 2002-04, passed 1-2-2002)

§ 00-09-97-02 EXCESSIVE FALSE ALARMS PROHIBITED.

(A) It shall be unlawful for a person who owns or controls property in the municipality equipped with an alarm system to issue, cause to be issued, or permit the issuance to any municipal public safety personnel of more than two false alarms in a calendar year.

(B) Provided, however, a calculation of the number of false alarms under this section shall include the first four false alarms issued within 30 days after the date the alarm system is first monitored.
(Ord. 2002-04, passed 1-2-2002) Penalty, see § 00-09-97-99

§ 00-09-97-03 PROLONGED EXTERNALLY SOUNDING ALARMS PROHIBITED.

It shall be unlawful for an alarm system located in the municipality not to have an automatic reset system which silences the externally sounding alarm within 15 minutes after reactivation.
(Ord. 2002-04, passed 1-2-2002) Penalty, see § 00-09-97-99

§ 00-09-97-04 AUTOMATIC ALARM NOTIFICATION DEVICES PROHIBITED.

It shall be unlawful to sell, install, use or permit the use of any device connected to an alarm system which automatically sends a prerecorded message or coded signal directly to a law enforcement agency indicating the activation of the alarm system.
(Ord. 2002-4, passed 1-2-2002) Penalty, see § 00-09-97-99

§ 00-09-97-99 PENALTY.

Penalties for violating this chapter are:

(A) Any person violating § 00-09-97-02 shall be fined $25 for their first violation within a calendar year, $50 for their second violation within a calendar year, $100 for their third violation within a calendar year, and $200 for fourth and subsequent violations within a calendar year;

(B) Any person violating § 00-09-97-03 shall be fined $50; and

(C) Any person violating § 00-09-97-04 shall be fined $200.

(Ord. 2002-4, passed 1-2-2002)

CHAPTER 98: NO SMOKING OR VAPING POLICY

Section

00-09-98-01 Definitions
00-09-98-02 Prohibition of Smoking on Town-Owned Outdoor Property
00-09-98-03 Prohibition of Smoking in Outdoor Places of Employment
00-09-98-04 Prohibition of Smoking in Outdoor Public Places
00-09-98-05 Prohibition of Smoking in Outdoor Residential Facility
00-09-98-06 Declaration of Outdoor Public Place as Nonsmoking
00-09-98-07 Posting of Signs
00-09-98-08 Nonretaliation; Nonwaiver of Rights
00-09-98-09 Enforcement
00-09-98-10 Violations and Penalties
00-09-98-11 Other Applicable Laws

§ 00-09-98-01. Definitions

The following words and phrases, whenever used in this Chapter, shall be construed as defined in this Section:

(A) "Bar" means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.

(B) "Business" means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered; and private clubs.

(C) "Electronic Smoking Device" means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person in any manner for the purpose of inhaling vapor or aerosol from the product. The term includes any

such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

(D) "Hookah" means a water pipe and any associated products and devices which are used to produce fumes, smoke and/or vapor from the burning of material including, but not limited to, tobacco, shisha, or other plant matter.

(E) "Partially Enclosed" means an area closed in by a roof or overhang or by permanent or temporary walls or windows (exclusive of doorways), on at least two sides, including but not limited to, courtyards, patios, and covered walkways.

(F) "Place of Employment" means an area under the control of a public or private employer, including, but not limited to, work areas, construction sites, temporary offices, restroom facilities, and vehicles.

(G) "Playground" means any park or recreational area designed in part to be used by children that has play or sports equipment installed or that has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds or on Town grounds.

(H) "Public Event" means an event which is open to and may be attended by the general public, including but not limited to, such events as concerts, fairs, farmers' markets, festivals, parades, performances, and other exhibitions, regardless of any fee or age requirement.

(I) "Public Place" means an area to which the public is invited or in which the public is permitted, including but not limited to, parks, playgrounds, and trails.

(J) "Recreational Area" means any public or private area open to the public for recreational purposes, whether or not any fee for admission is charged, including but not limited to, athletic fields, fairgrounds, gardens, golf courses, parks, plazas, swimming pools, and trails.

(K) "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. "Smoking" also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Chapter.

§ 00-09-98-02. Prohibition of Smoking on Town-Owned Outdoor Property

Smoking shall be prohibited on all outdoor property owned, leased, or operated by the Town of Cumberland including but not limited to parks, trails, recreation areas, playgrounds and other public places of the Town.

§ 00-09-98-03. Prohibition of Smoking in Outdoor Places of Employment

(A) Smoking shall be prohibited in all outdoor places of employment where two or more employees are required to be in the course of their employment. This includes, without limitation, work areas, construction sites, temporary offices such as trailers, restroom facilities, and vehicles.

(B) This prohibition on smoking shall be communicated to all existing employees, by the employer, and on the effective date of this Chapter and to all prospective employees upon their application for employment.

§ 00-09-98-04. Prohibition of Smoking in Outdoor Public Places

Smoking shall be prohibited in the following outdoor public places:

(A) Within a reasonable distance of 15 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited, so as to prevent smoke or vapor from entering those areas.

(B) In, and within 15 feet of, outdoor seating or serving areas of restaurants and bars.

(C) In outdoor shopping malls, including parking structures.

(D) In outdoor arenas, stadiums, and amphitheaters. Smoking shall also be prohibited in, and within 15 feet of, bleachers and grandstands for use by spectators at sporting and other public events.

(E) In outdoor recreational areas, including parking lots.

(F) In, and within 15 feet of, all outdoor playgrounds.

(G) In, and within 15 feet of, all outdoor public events.

(H) In partially enclosed areas.

§ 00-09-98-05. Prohibition of Smoking in Outdoor Residential Facilities

Smoking shall be prohibited in outdoor common areas of apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities, except in designated smoking areas, not to exceed twenty-five percent (25%) of the total outdoor common area, which must be located at least 15 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited.

§ 00-09-98-06. Declaration of Outdoor Public Place as Nonsmoking

Notwithstanding any other provision of this Chapter, an owner, operator, manager, or other person in control of an outdoor public place or place of employment may declare that entire outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of § 00-09-98-07(A) is posted.

§ 00-09-98-07. Posting of Signs

The owner, operator, manager, or other person in control of an outdoor public place, place of employment, or residential facility where smoking is prohibited by this Chapter shall clearly and conspicuously post “No Smoking” signs or the international “No Smoking” symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) in appropriate locations as determined by the Town of Cumberland Town Manager or an authorized designee.

§ 00-09-98-08. Nonretaliation; Nonwaiver of Rights

(A) No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, customer, or resident of a multiple-unit residential facility because that employee, applicant, customer, or resident exercises any rights afforded by this Chapter or reports violations of this Chapter.

(B) An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

§ 00-09-98-09. Enforcement

(A) This Chapter shall be enforced the Town of Cumberland Code Enforcement Authority or an authorized designee.

(B) Notice of the provisions of this Chapter shall be given to all applicants for a business license in the Town of Cumberland.

(C) Any citizen who desires to register a complaint under this Chapter may initiate enforcement with the Town of Cumberland Planning Department, Code Enforcement Authority.

(D) An owner, manager, operator, or employee of an area regulated by this Chapter shall direct a person who is smoking in violation of this Chapter to extinguish the product being smoked. If the person does not stop smoking, the owner, manager, operator, or employee may ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, manager, operator, or employee may contact a law enforcement agency.

§ 00-09-98-10. Violations and Penalties

(A) A person who smokes in an area where smoking is prohibited by the provisions of this Chapter shall be guilty of a code violation, punishable by a fine not exceeding fifty dollars ($50).

(B) Except as otherwise provided in 00-09-98-08(A), a person who owns, manages, operates, or otherwise controls a place of employment of public place and who fails to comply with the provisions of this Chapter shall be guilty of an infraction, punishable by:

(1) A fine not exceeding one hundred dollars ($100) for a first violation.

(2) A fine not exceeding two hundred dollars ($200) for a second violation within one (1) year.

(3) A fine not exceeding five hundred dollars ($500) for each additional violation within one (1) year.

(C) In addition to the fines established by this Section, violation of this Chapter by a person who owns, manages, operates, or otherwise controls a place of employment or public place may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.

(D) Violation of this Chapter is hereby declared to be a public nuisance, which may be abated by the Code Enforcement Authority by restraining order, preliminary and permanent injunction, or other means provided for by law, and the Town may take action to recover the costs of the nuisance abatement.

(E) Each day on which a violation of this Chapter occurs shall be considered a separate and distinct violation.

(F) Payments for fines shall be made to the Town of Cumberland Clerk-Treasurer within ten days of citation.

§ 00-09-98-11. Other Applicable Laws

This article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

(Ord. 2018-28, passed 11-7-18)

CHAPTER 99: WATER CONSERVATION

Section

00-09-99-01 Application
00-09-99-02 Definitions
00-09-99-03 Voluntary conservation
00-09-99-04 Declaration of need; notice
00-09-99-05 Mandatory water conservation; exemptions
00-09-99-06 Violations
00-09-99-07 Enforcement
00-09-99-08 Violations subject to admission and payment
00-09-99-09 Severability

§ 00-09-99-01 APPLICATION.

This Ordinance applies to the use of water from Citizens Energy Group, or its successors (hereinafter referred to as Citizens Water) that occurs within the town of Cumberland, Indiana.

§ 00-09-99-02 DEFINITIONS.

As used in this Chapter, the following terms shall have the meanings ascribed to them in this Section.

(A) Advisory conditions means conditions under which voluntary conservation measures are appropriate due to decreased supplies in the Citizens Water reservoirs, or other circumstances have reduced the amount of treated water available to customers, as determined by Citizens Water. Advisory conditions may be either.

(1) Water Shortage Watch Advisory: a voluntary reduction in water use, particularly discretionary use, including lawn watering to no more than one (1) time per week; or

(2) Water Shortage Alert Advisory: a voluntary reduction in water use, particularly during peak demand, including halting lawn watering for a specific period of time.

(B) Customer means an individual, firm, corporation, government agency or other entity being supplied with water utility service by Citizens Water at a location within the Town of Cumberland.

(C) Citizens Water means Citizens Water, a division of Citizens Energy Group, or its successors in interest.

(D) Mandatory conservation means compliance with Town of Cumberland imposition of requirements that are designed to reduce certain kinds and types of water use all as set forth herein.

(E) Normal conditions means conditions under which water supply and treatment capacity are adequate to meet demand.

(F) Treated water means water treated in a manner that it is suitable for human consumption or for another designated use.

(G) Vegetable garden means a garden where substantially all of the plants are suitable and grown primarily for human consumption.

(H) Voluntary conservation means compliance with the Town of Cumberland request to reduce water use.

(I) Water shortage emergency means occurrence wherein Mandatory Conservation measures are appropriate due to the levels in either of the Citizens Water reservoirs having been reduced to less than their designed drawdown curves or less than an estimated twenty-five (25) percent of their annual drawdown design capacities, groundwater wells not functioning properly due to reduced groundwater levels or the existence of other circumstances that have reduced the amount of treated water available to customers, as determined by Citizens Water.

(J) Water user means a customer or other individual, firm, corporation, government agency, or other entity using water from Citizens Water system within the Town of Cumberland.

(K) Water shortage warning means an occurrence wherein mandatory conservation measures are appropriate due to the levels in either of the Citizens Water reservoirs having been reduced to less than their designed drawdown curves or less than an estimated fifty (50) percent of their annual drawdown design capacities, groundwater wells not functioning properly due to reduced groundwater levels, or the existence of other circumstances that have reduced the amount of treated water available to customers, as determined by Citizens Water.

§ 00-09-99-03 VOLUNTARY CONSERVATION.

During normal conditions and advisory conditions, water users should follow the voluntary consideration measures as found in the Wise Water Use Policy and other policies adopted by the Citizens Water and approved by the Town of Cumberland.

§ 00-09-99-04 DECLARATION OF NEED; NOTICE.

(A) Upon determining that the Citizens Water system is in a condition of water shortage, the Town Manager of the Town of Cumberland may declare the existence of a water shortage warning or water shortage emergency, whereupon the respective water conservation measures described in Section 5 of this Chapter shall apply until the water warning or emergency is terminated. Whenever the Town Manager finds that some or all of the conditions that gave rise to the declaration of a water warning or water emergency no longer exist, he/she may declare the water warning or water emergency terminated.

(B) Notice of the declaration or termination of a water shortage warning or water shortage emergency shall be made by publication in a newspaper of general circulation. Notice shall be deemed effective upon publication.

§ 00-09-99-05 MANDATORY WATER CONSERVATION; EXEMPTIONS.

(A) During a water shortage warning, it shall be unlawful for a water user to cause, permit, allow, do, or engage in any of the following actions:

(1) Sprinkling, watering, or irrigating of grasses;

(2) Washing cars, trucks, trailers, mobile homes, railroad cars or any other type of mobile equipment, except as required by applicable local, state, or federal law for health or safety reasons; and

(3) Filling empty swimming pools;

(B) During a water shortage emergency, it shall be unlawful for a water user to cause, permit, allow, do, or engage in any outdoor water use with the exception of the watering of vegetable gardens using a bucket or pail.

(C) The following water users and water uses shall be exempt from the prohibitions contained in divisions (A) and (B) of this section: Nurseries, provided water use is limited to the amount essential to preserve inventories.

(1) Nurseries, provided water use is limited to the amount essential to preserve inventories; and

(2) Growing crops on farms, provided the water use is limited to the amount essential to prevent a reduction in yield.

(D) The following water users and water uses may be exempted by the Town Manager from the prohibitions contained in subsections (A) and (B) of this Section:

(1) Automatic commercial car washes, provided a majority of the water used is recycled;

(2) Manual commercial car washes, provided only a handheld hose equipped with a shut-off nozzle is utilized; and

(3) Golf courses, provided tee boxes and greens are watered only on an every other day schedule that begins on Monday of each week and fairways are watered only once per week on Thursday.

(4) Any watering of property owned or controlled by the Town of Cumberland as directed by the Town Manager or Town Manager's designee where such watering is necessary or appropriate for asset preservation.

§ 00-09-99-06 VIOLATIONS.

(A) Each customer shall be responsible for compliance with Section 5 of this Chapter with respect to the premises where the customer receives water service. If the identity of the water user cannot be ascertained, the customer shall be prima facie liable for violations that occur on such premises.

(B) A person's first and second violations of Section 5 of this Chapter in any twelve (12) month period shall be subject to an admission of violation and payment of the designated civil penalty though the Ordinance Violations Bureau.

(C) Any person who violates the provisions of this Chapter shall be guilty of an infraction, punishable by a fine of not more than:

First offense: Written Warning
Second offense within a year: $250
Third and subsequent offense with a year: $500

The payment of a penalty for the violation of any provision of this Chapter shall not excuse the violation or permit to continue nor shall such payment be held to prevent the enforced correction of the prohibited conditions. A separate offense shall be deemed committed upon each day during or on which such violation occurs or continues.

(D) With respect to violations not resolved under Section 3 of this Chapter, including a person's subsequent violations of Section 5 in a twelve (12) month period, the Town Manager may refer the matter to a court of competent jurisdiction for enforcement action.

(E) All monies collected from violation of this chapter shall be deposited in the General Fund of the town.

§ 00-09-99-07 ENFORCEMENT.

This chapter shall be enforced by the Town of Cumberland and any other designee at the direction of the Town Manager.

§ 00-09-99-08 VIOLATIONS SUBJECT TO ADMISSION AND PAYMENT.

Violations of the Ordinance provisions set forth herein are designated as subject to admissions of violation and payment of the designated civil penalty through the Ordinance Violations Bureau of the Town of Cumberland in an amount not exceeding any limitation under I.C. 33-36-2-3 in accordance with the procedures of this Article.

§ 00-09-99-09 SEVERABILITY.

Should any provision (section, paragraph, sentence, clause, or any other portion) of this Ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this Ordinance. To this end the provisions of this Ordinance are severable.
(Ord. 2014-15, adopted _____)

CHAPTER 100: UNSAFE BUILDING REGULATIONS AND REMEDIATION

Section

00-09-100-01 Unsafe Building Law Incorporated by Reference.
00-09-100-02 Administrator and Hearing Authority.
00-09-100-03 Unsafe Building and Unsafe Premises Defined.
00-09-100-04 Substantial Property Interest Defined.
00-09-100-05 Order, Notice, Hearing and Corrective Action.
00-09-100-06 Establishment of Unsafe Building Fund.
00-09-100-07 Public Nuisance.

§ 00-09-100-01. UNSAFE BUILDING LAW INCORPORATED BY REFERENCE.

Indiana's Unsafe Building Law, I.C. 36-7-9-1 through 29, is incorporated by reference as the Town's Unsafe Building Ordinance. All proceedings for the inspection, repair, and removal of unsafe buildings shall be governed by the state law and this chapter. If any of these provisions conflict with the state Unsafe Building Law, the state law controls.

§ 00-09-100-02. ADMINISTRATOR AND HEARING AUTHORITY.

(A) Administering Department. The Cumberland Planning and Development Department is designated as the department responsible for administering this ordinance.
(B) Enforcement Authority. The Cumberland Director of Planning and Development ("the Director") is designated as the "enforcement authority" as provided in I.C. 36-7-9-2.
(C) Hearing Authority. The Cumberland Town Council is designated as the "hearing authority" for purposes of conducting hearings under I.C. 36-7-9-7 and for taking any other action authorized by the Unsafe Building Law.

§ 00-09-100-03. "UNSAFE BUILDING" AND "UNSAFE PREMISES" DEFINED.

For purposes of this ordinance, the term "unsafe building" has the definition in I.C. 36-7-9-4. In particular, the term means a building or structure, or any part of a building or structure, that is:

(1) in an impaired structural condition that makes it unsafe to a person or property;
(2) a fire hazard;
(3) a hazard to public health;
(4) a public nuisance;
(5) dangerous to a person or property because of a violation of a statute or ordinance concerning building conditions or maintenance; or
(6) vacant and not maintained in a manner that would allow human habitation, occupancy, or use under the requirements of a statute or an ordinance.

As further provided in I.C. 36-7-9-4, an unsafe building and the tract of real property on which the unsafe building is located are considered unsafe premises. A tract of real property that does not contain a building or structure, not including land used for producing agriculture, is considered an unsafe premises if the tract of real property is:

(1) a fire hazard;
(2) a hazard to public health;
(3) a public nuisance; or
(4) dangerous to person or property because of a violation of a statute or an ordinance.

§ 00-09-100-04. "SUBSTANTIAL PROPERTY INTEREST" DEFINED.

The definition of "substantial property interest" in I.C. 36-7-9-2 is incorporated herein. In particular, the term means any right in real property that may be affected in a substantial way by actions authorized by this chapter, a fee interest, a life estate interest, a future interest, a mortgage interest, or an equitable interest of a contract purchaser.

§ 00-09-100-05. ORDER, NOTICE, HEARING, AND CORRECTIVE ACTION.

The procedures in I.C. 36-7-9-5 through 29, and any other applicable provisions of I.C. 36-7-9, are incorporated herein and govern the procedures for enforcing this ordinance. The following provisions are intended to provide a summary of the statutory procedures and in no way restrict those procedures or the available relief and remedies.

(A) Issuance of Order.

Upon discovery of an unsafe premise, the Director may issue an order requiring corrective or remedial action as provided in I.C. 37-7-9-5(a). The order must contain the information specified in I.C. 37-7-9-5(b). The ordered action must be reasonably related to the condition of the unsafe premises and the nature and use of nearby properties. The order supersedes any permit relating to building or land use, whether that permit is obtained before or after the order is issued. The order must allow a sufficient time, of between 10 days and 60 days, from the time when notice of the order is given, to accomplish the required action. If the order allows more than 30 days for accomplishing the action, the order may require that a substantial beginning be made in accomplishing the action within 30 days.

The Director may issue an order that modifies a previously issued order, and may rescind a previously issued order, even if the order has been affirmed by the Town Council.

(B) Hearing and Action by Town Council.

1. Except as provided below, the Town Council must hold a hearing for each order the Director issues. The hearing must be held no earlier than 10 days after notice of the order is given, unless proper action is taken for a different hearing date as provided in I.C. 36-7-9-7(b). Persons with an interest in the proceedings who appear at the hearing are entitled to present evidence, cross-examine opposing witnesses, and present arguments.

At the conclusion of the hearing, the Council may affirm, rescind, or modify the Director's order. But, unless the person to whom the order was issued, or the person's counsel, is present at the hearing, the Council may modify the order only in a manner that makes its terms less stringent. The Council may grant additional time to accomplish action required by the order, as provided in I.C. 36-7-9-7(f). If the Council affirms or modifies an order, it shall issue a continuous enforcement order, as provided in I.C. 36-7-9-7(g).

If the Council affirms an order and finds that there has been a willful failure to comply with the order, the Council may impose a civil penalty not exceeding $5,000. The Council may, in its discretion, reduce or strike a penalty. The Council may impose additional penalties, not to exceed $5,000 per penalty, if the Council finds that 1) significant work on the premises to comply with the affirmed order has not been accomplished, and 2) the premises have a negative effect on property values or the quality of life of the surrounding area or the premises require the provision of services by local government in excess of the services required by ordinary properties, as provided in I.C. 36-7-9-7(e).

The Council shall make a written record of its decisions and its supporting findings. The record of the Council's findings and action shall be available to the public upon request, but neither the Director nor the Council is otherwise required to give any person notice of its findings and action.

2. The Council is not required to hold a hearing relating to an order by the Director to seal an unsafe building (I.C. 36-7-9-5(a)(2)); for extermination of vermin (I.C. 36-7-9-5(a)(2)); for removal of trash, debris, fire hazardous material, or a public health hazard (I.C. 36-7-9-5(a)(4)); or to repair or rehabilitate an unsafe building (I.C. 36-7-9-5(a)(5)). However, a person holding a fee interest, life estate interest, mortgage interest, or equitable interest of a contract purchaser in the unsafe premises may request a hearing by the Council relating to such an order. Such a request must be made within 10 days after notice is given. If a hearing is timely requested, the Council shall conduct a hearing. If a hearing is not timely requested, such orders become final 10 days after notice is given.

(C) Judicial Review.

The Council's decision concerning an order or its imposition of a civil penalty is subject to judicial review by the circuit or superior court of Hancock County, as provided in I.C. 36-7-9-8. The petition for judicial review must be filed with the court within 10 days after the date the action was taken.

(D) Emergency Action Without Order or Notice.

If the Director finds it necessary to take emergency action concerning an unsafe building or unsafe premises in order to protect life, safety, or property, he may take necessary action to remove an immediate danger without first issuing an order or giving notice, as provided in I.C. 36-7-9-9.

(E) Proceedings for Corrective Action, Recovery of Costs, and Related Matters.

All proceedings concerning the enforcement of orders issued under this ordinance, including hiring contractors to take action necessary to bring a property into compliance, liability for costs of work performed, the Town's recovery of costs related to the enforcement action – including seeking a judgment from a court and imposing a lien – and all related matters, shall be governed by the terms of the Unsafe Building Law, including but not limited to the procedures in I.C. 36-7-9-10 through 13.5.

(F) Required Notices.

All notices issued under this ordinance shall be given as provided in I.C. 36-7-9-25. This includes notice of orders, of hearings continued without a specified date, of statements that public bids are to be let, and of claims for payment.

(G) Recording of Orders.

The Director shall record in the office of the Hancock County Recorder orders for demolition and removal of part of an unsafe building (I.C. 36-7-9-5(a)(6)), for demolition and removal of an unsafe building for the reasons specified in I.C. 36-7-9-5(a)(7), or modifying a previously issued order (I.C. 36-7-9-6(a)), and other related orders as provided in I.C. 36-7-9-26.

(H) Filing Repair Order for Real Property Listed on County Executive's List of Vacant or Abandoned Property.

If real property is listed on the County Executive's certified list of vacant and abandoned property, the Town Building Commissioner may submit copies of one or more orders for necessary repairs on vacant or abandoned property, located in the Town, to the County Auditor. The Building Commissioner shall make copies of the submitted orders available for public inspection in the office of the Building Commissioner at least 40 days before a tax sale is conducted by the County pursuant to Indiana Code § 6-1.1-24. If necessary repair orders are submitted to the County Auditor and made available to the public, a successful bidder for the vacant or abandoned property at a tax sale conducted under Indiana Code § 6-1.1-24 takes the property subject to the necessary repair orders for the vacant property. If a tax deed for a vacant or abandoned property has been issued to a successful bidder subject to a necessary repair order, the Town may enforce the order against the successful bidder under Indiana Code § 36-7-9.

(Amd. Ord 2019-01, passed 3-6-19)

§ 00-09-100-06. ESTABLISHMENT OF UNSAFE BUILDING FUND.

(A) Pursuant to I.C. 36-7-9-14 there is hereby created a new fund, the Unsafe Building Fund.

(B) Money for the fund may be received from any source, including appropriations by local, state, or federal governments, and donations. The following money shall be deposited in the fund:

1. Money received as payment for or settlement of obligations or judgments under I.C. 36-7-9-9 through 13 and 17 through 22;

2. Money received from bonds posed under I.C. 36-7-9-7;
3. Money received in satisfaction of receivers' notes or certificates issued under I.C. 36-7-9-20 and purchased with money from the unsafe building fund;
4. Money received for payment of settlement of civil penalties or fines imposed under I.C. 36-7-9-7; and
5. Money received from the collection of special assessments under I.C. 36-7-9-13.5.

(C) Money in the fund may be used for the expenses incurred in carrying out the purpose of the Unsafe Building Law and this ordinance, including:

1. The cost of obtaining reliable information about the identity and location of each person who owns a substantial property interest in unsafe premises;
2. The cost of an examination of an unsafe building by a registered architect or registered engineer not employed by the Town of Cumberland;
3. The cost of surveys necessary to determine the location and dimensions of real property on which an unsafe building is located;
4. The cost of giving required notices;
5. The bid price of work by a contractor under I.C. 36-7-9-10 or I.C. 36-7-9-17 through 22;
6. The cost of emergency action under I.C. 36-7-9-9; and
7. The cost of notes or receivers' certificates issued under I.C. 36-7-9-20.

§ 00-09-100-07. PUBLIC NUISANCE.

All buildings or portions thereof within the town which are determined by the Director to be unsafe as defined in this ordinance are declared to be public nuisances and, in addition to the remedies provided herein, the Town may seek the abatement of such nuisances under any applicable Town ordinance or state statute governing nuisances."

CHAPTER 101: SNOW AND ICE REMOVAL POLICY

Section 00-09-101 Snow and Ice Removal Policy

§ 00-09-101-01. SNOW AND ICE REMOVAL POLICY

(A) *Definitions*.

- Owner – any person, owner, owner's designee, lessee, or occupant occupying the first floor of any building or structure for business, residence, or other purpose. If the first floor of a building or structure is unoccupied, the owner, for purposes of this section, will be the owner or lessee of the entire premises.

- Premises - any building or structure for business, residence or other purpose with a sidewalk or walk way in front of or adjacent to the premises.

(B) *Policy*. In order to facilitate pedestrian use of sidewalk and walkways, the owner of any premises must use all practical and reasonable efforts to clear, or cause to be cleared, all sidewalks and walkways in front of or adjacent to the owner's premises from snow and ice from

8:00 a.m. to 7:00 p.m. Owners must, at a minimum, clear a five (5) foot path along the sidewalk or walkway.

The Town of Cumberland shall be responsible for the clearing and removal of snow and ice for property owned by the Town, including the Town Hall, Police Department, and all trials of the Town.

(C) *Violations*. If any person or owner violates any of the provisions of this section, the Town of Cumberland may remove the snow and ice and the owner will be fined $75.00 for each offense. Each day the owner does not reasonably keep all sidewalks and walkways in front of or adjacent to the premises clear from snow and ice constitutes as a separate offense.

(D) *Payment of Fines*. All fines must be paid to the Clerk-Treasurer within 30 days of the notice. If the violator appeals the notice, as provided below, this 30-day period will be stayed until the resolution of the appeal. If the violator fails to timely pay the fine, the Clerk-Treasurer may authorize the Town Attorney to file an action for the collection of the fine in Town Court. If the Town initiates a case for the collection of a fine, the Town may recover the amount of the fine, reasonable attorney's fees and court costs incurred in the collection case. Nothing in this Section will be construed as a punishment or criminal penalty. Penalties provided for in this section are civil in nature.

(E) *Right of Appeal*. If a violation occurs, the Town will issue a notice of violation. The violator named in the notice may appeal the notice of violation by filing a written appeal with the Clerk-Treasurer within 15 days of receipt of the notice. Within 30 days of receipt of the appeal, the Town Council will conduct a hearing on the appeal. The Town Council will provide notice of the hearing to the appealing party at least 10 days prior to the hearing. After the hearing, the Town Council will make written findings of fact and conclusions and mail the findings and conclusions to the appealing party. The appealing party may appeal the decision to a court of competent jurisdiction by filing a written appeal within 30 days of the date of the findings and conclusions.

(Ord. 2018-25, passed 11-7-18)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. PEDDLERS AND SOLICITORS

111. AMUSEMENT DEVISES

112. TAX ABATEMENT

CHAPTER 110: DIRECT SELLERS

Section

11-110-01 Definitions
11-110-02 Exemptions
11-110-03 Registration Requirements
11-110-04 Additional information required
11-110-05 License and license fee
11-110-06 Investigation and Refusal
11-110-07 Appeal
11-110-08 Conduct regulations
11-110-09 Notice of Fine; Appeal; Payment of Fines; Collection

§ 00-11-110-01 DEFINITIONS

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

(A) *CHARITABLE ORGANIZATION.* Any not-for-profit corporation or benevolent or philanthropic organization whose purpose is to promote education, religion or other philanthropic interests.

(B) *DIRECT SELLER.* Any individual who, individually, or for a partnership, association or corporation, sells goods or takes sales orders for the later delivery of goods, at any location other than the permanent business place or residence of the individual, partnership, association or corporation, and shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.

(C) *GOODS.* Personal property of any kind, including goods provided incidental to services offered or sold.

(D) *PERMANENT MERCHANT.* A direct seller who, for at least one year prior to the consideration of the application of this article to the merchants, has continuously operated an established place of business in this Town or has continuously resided in this Town and now does business from his residence.

§ 00-11-110-02 EXEMPTIONS

The following shall be exempt from all provisions of this article:

(A) Any person delivering newspapers, fuel, dairy products or bakery goods to and at the request of regular customers on established routes;

(B) Any person selling goods at wholesale to dealers in the goods;

(C) Any person selling agriculture products which the person has grown or produced in the town and is being sold by a resident of the town;

(D) Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by the merchant within the town and who delivers the goods in their regular course of business;

(E) Any person who has an established place of business where the goods being sold are offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested a home visit by the person;

(F) Any person who has had, or one who represents a company which has, a prior business transaction, such as a prior sale of credit arrangement, with the prospective customer;

(G) Any person selling or offering for sale a service unconnected with the sale of goods;

(H) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law; or

(I) Any employee, officer or agent of a charitable organization which has secured a permit as provided for elsewhere in this code.

§ 00-11-110-03 REGISTRATION REQUIREMENTS

(A) Applicants must complete and return to the Town of Cumberland Town Manager's Office, during the hours of 8 a.m. to 4 p.m. Monday through Friday, at least three days before the applicant shall be authorized to do business, a registration form furnished by the Town which shall require the following information:

(1) Name, permanent address, telephone number and temporary address, if any;

(2) Age, height, weight, color of hair and eyes;

(3) Name, address and telephone number of the person, firm association or corporation that the direct seller represents or is employed by, or whose merchandise is being sold;

(4) Temporary address and telephone number from which business will be conducted, if any;

(5) Nature of business to be conducted and a brief description of the goods and any services offered;

(6) Make, model and license number of any vehicle to be used by the applicant in the conduct of his business;

(7) The last three previous cities, counties, or towns where the applicant conducted similar business;

(8) Place where applicant can be contacted for at least seven days after leaving the town; and

(9) Statement as to whether applicant has been convicted of any crime or ordinance violation related to the applicant's transient merchant business within the last five years, the nature of the offense and the place of conviction.

(B) Any person, firm or corporation who violates any provision of this article for which another penalty is not specifically provided shall, upon conviction, be subject to a fine in the amount of $500. Separate offense shall be deemed committed upon each day during which a violation occurs or continues.

§ 00-11-110-04 ADDITIONAL INFORMATION REQUIRED

Each applicant shall present to the Cumberland Town Manager's Office for examination:

(A) A driver's license or some other proof of identity as may be reasonably required;

(B) A state certificate of examination and approval from the sealer of weights and measures where the applicant's business requires use of weighing and measuring devices approved by state authorities; and

(C) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law. The certificate shall state that the applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application for license is made.

§ 00-11-110-05 LICENSE AND LICENSE FEE

Upon completion and submission of the application form to the Town Manager, along with payment of a $25 license fee, the Town Manager will issue a Solicitation License to the applicant, unless, after investigation, the applicant is found by the Town Manager to be in compliance with § 00-11-110-06. Each individual engaging in the activities of a solicitor must have his or her own license and show that license upon request by any Town official or individual with whom they are doing business in the Town as a solicitor.

§ 00-11-110-06 INVESTIGATION AND REFUSAL; REVOCATION

(A) Upon receipt of each application, the Town of Cumberland Town Manager will refuse to register the applicant if it is determined pursuant to the investigation above, that:

(1) The application contains any material omission or materially inaccurate statement;

(2) Complaints of a material nature have been received and proven against the applicant by authorities in any of the three previous cities, counties and towns in which the applicant conducted similar business;

(3) The applicant was convicted of a crime, statutory violation or ordinance violation within the last five years the nature of which is directly related to the applicant's fitness to engage in direct selling; or

(4) The applicant failed to comply with any applicable provisions of §§ 00-11-110-03 and 04.

(B) Any license issued pursuant to this chapter may be revoked by the Town Manager for any of the following reasons:

(1) Any fraud, misrepresentation or false statement provided on the permit application form;

(2) any fraud, misrepresentation or false statement made in connection with the selling of goods, wares, merchandise, or services;

(3) conducting business in an unlawful manner or in a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public; and/or

(4) Any violation of the requirements of this chapter or any other provision of the Town Code.

If the Town Manger determines that license is revoked, the Town Manger will notify the solicitor in writing.

§00-11-110-07 APPEAL OF DENIAL OR REVOCATION

(A) Any person whose registration is denied or revoked may appeal the denial to the Town of Cumberland Town Council by filing with the Clerk-Treasurer within ten (10) days of the denial or revocation a written appeal. This appeal must state the reasons the application or registrant believes that the denial or revocation is contrary to this ordinance or otherwise contrary to law.

(B) Upon receiving the appeal, the Clerk-Treasurer will notify the Town Council of the appeal. The Town Council will conduct a hearing on the appeal within 14 days of the Clerk-Treasurer's receipt of the appeal and will provide to the appellant written notice of the appeal hearing. This notice must be mailed to the appellant at the address provided by the appellant at least seven days prior to the appeal hearing.

(C) At the hearing on the appeal, the appellant may be represented by an attorney, may present evidence supporting the appeal, and may cross examine witnesses called by the Town Manager in support of the denial or revocation.

(D) Within 10 days of the hearing, the Town Council will make written findings and conclusions and mail the same to the appellant and the Town Manager.

(E) Either the Town Manager or the appellant may appeal the decision of the Town Council by filing an appeal with a court of competent jurisdiction within 30 days of the Town Council's decision.

§ 00-11-110-08 CONDUCT REGULATIONS

The following regulations shall govern the conduct of the registrant.

(A) It shall be unlawful for any direct seller to:

(1) Call at any dwelling or other place between the hours of 7:00 p.m. and 9:00 a.m., except by appointment;

(2) To call at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning;

(3) To call at the rear door of any dwelling place; or

(4) To remain on any premises after being asked to leave by the owner, occupant or other person having authority over the premises.

(B) It shall be unlawful for a direct seller to misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purpose of the visit, his or her identity or the identity of the organization he or she represents.

(C) It shall be unlawful for any direct seller to impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulation shall be observed.

(D) It shall be unlawful for any direct seller to make any loud noises or use any sound amplifying device to attract customers in the noise produced is capable of being plainly hear outside a 100-foot radius of the source.

(E) It shall be unlawful for any direct seller to allow rubbish or litter to accumulate in or around the area in which he is conducting business.

(F) Any person, firm or corporation who violates any provision of this article for which another penalty is not specifically provided shall, upon conviction, be subject to a fine in the amount of $500. Separate offense shall be deemed committed upon each day during which a violation occurs or continues.

§00-11-110-09 NOTICE OF FINE; APPEAL; PAYMENT OF FINE; COLLECTION

(A) In the event the Town Manager determines that a violation of this section has occurred, the Town Manager will deliver to the violator a fine citation. This citation will either be delivered personally to the violator or mailed to the violator.

(B) All fines are payable to the Clerk-Treasurer's Office within 30 days of the date of the fine citation.

(C) The violator has 10 days from the date of the issuance of the fine citation to appeal the citation to the Town Council. The violator must file a written appeal with the Clerk-Treasurer. This appeal must state the reasons the violator believes that the fine is in error.

(D) Upon receiving the appeal, the Clerk-Treasurer will notify the Town Council of the appeal. The Town Council will conduct a hearing on the appeal within 14 days of

the Clerk-Treasurer's receipt of the appeal and will provide to the appellant written notice of the appeal hearing. This notice must be mailed to the appellant at the address provided by the appellant at least seven days prior to the appeal hearing.

(E) At the hearing on the appeal, the appellant may be represented by an attorney, may present evidence supporting the appeal, and may cross examine witnesses called by the Town Manager in support of the denial or revocation.

(D) Within 10 days of the hearing, the Town Council will make written findings and conclusions and mail the same to the appellant and the Town Manager.

(E) Either the Town Manager or the appellant may appeal the decision of the Town Council by filing an appeal with a court of competent jurisdiction within 30 days of the Town Council's decision.

(F) If the violator fails to pay the fine within 30 days of the issuance of the citation, or 30 days from the date of the Town Council's decision if an appeal is filed, the Town Manager will refer the matter to the Town Attorney for collection. If the matter is referred to the Town Attorney for collection, the violator is liable to the Town of Cumberland for all court costs, filing fees, and reasonable attorney's fees incurred by the Town in the collection of the fine and those expenses incurred by the Town in conjunction with any appeal.

(Ord. 2018-20, passed 9-5-18)

CHAPTER 111: AMUSEMENT DEVICES

Section

General Provisions

00-11-111-01 Gambling devise prohibited
00-11-111-02 Definition

Licenses

00-11-111-15 Required
00-11-111-16 Issuance
00-11-111-17 Affixing to machine

00-11-111-99 Penalty

GENERAL PROVISIONS

00-11-111-01 GAMBLING DEVICES PROHIBITED.

Pursuant to laws of the state, the presence or use of any type of lawfully defined, illegal gambling device within the corporate limits of the town is hereby expressly prohibited.

Establishment of this code shall hereby authorize immediate seizure and destruction of any illegal gambling devices, wherever found within the town, by the Town marshal or the Marshal's duly designated representatives.
(1995 Code, § 00-11-113-01) Penalty, see § 00-11-111-99

§ 00-11-111-02 DEFINITION.

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

AMUSEMENT DEVICES. The term includes, but is not limited to: recreational alleys or other similar games of sport; pinball machines of any nature; jukeboxes, phonographs, or other playback equipment for the reproduction of musical recordings; mechanical projection equipment or electronically televised devices and/or any electronically operated games or devices used for recreational, sport, or entertainment purposes.
(1995 Code, § 00-11-113-02)

LICENSES

§ 00-11-111-15 REQUIRED.

The owner of any amusement device that is made available for public use or group use in any establishment other than a residence shall obtain and maintain a license for the amusement device and comply with the provisions of this chapter.
(1995 Code, § 00-11-113-10) Penalty, see § 00-11-111-99

§ 00-11-111-16 ISSUANCE.

(A) The Clerk-Treasurer shall issue a license for the operation of amusement devices upon application therefor.

(1) Each owner or lessee of mechanical amusement equipment shall pay a fee of $25 to acquire a license from the town for operation and use of each device within the corporate limits of the town.

(2) The license shall be good for one full calendar year or until the end of the calendar year in which initial application is made. The license shall remain in full force and effect for that period of time, provided it shall comply with the provisions of this chapter at all times.

(B) For renewal purposes, the license fee for each device shall be due and payable on or before January 1 of each year. This fee shall be paid directly to the Clerk-Treasurer.
(1995 Code, § 00-11-113-11) Penalty, see § 00-11-111-99

§ 00-11-111-17 AFFIXING TO MACHINE.

(A) All licenses issued under the provisions of this chapter shall bear an expiration date. Each license certificate shall be numbered and shall be placed in a conspicuous place on each amusement device operated in the town. No amusement device shall be operated without a current license certificate fixed in a prominent position thereon.

(B) The Clerk-Treasurer shall keep a register of each person, firm, or corporation owning or operating an amusement device licensed under this chapter, together with the license number of each amusement device. The records shall be open to inspection at all reasonable hours and shall be a matter of public record.
(1995 Code, § 00-11-113-12) Penalty, see § 00-11-111-99

§ 00-11-111-99 PENALTY.

Any person who fails to have a license for an amusement device shall be subject to a fine of $95. Any person who has licensed amusement devices who violated the provisions of this chapter shall be subject to revocation of their license or licenses.

CHAPTER 112: TAX ABATEMENT

Section

00-11-112-01 Authorization
00-11-112-02 Eligible Projects
00-11-112-03 Factors for Consideration of Property Tax Abatement
00-11-112-04 Targeted Businesses
00-11-112-05 Other Requirements
00-11-112-06 Applications
00-11-112-07 Guidelines for Abatement Period of Time

§ 00-11-112-01 AUTHORIZATION

Property tax abatement is authorized under Indiana Code 6-1.1-12.1-1. Indiana code allows these abatements for a period of 1 to 10 years when attributed to redevelopment or rehabilitation activities in Economic Revitalization Areas. The Town Council decides whether or not to designate areas as Economic Revitalization Areas, after receiving a recommendation from the Redevelopment Commission.

§ 00-11-112-02 ELIGIBLE PROJECTS

Project will be considered for abatement only if the proposed new investment is at least $1 Million and development has not begum and/or equipment has not been ordered or the equipment will be new to the State of Indiana. The proposed use must be a permissible use under the applicable zoning restrictions. If the use is not permissible the appropriate variance or rezoning must be on file at the time application is made. The Town Council will not consider abatement for speculative projects unless there are exceptional circumstances. Used identified in IC 6-1.1-12.1-3€ are ineligible for tax abatement.

§ 00-11-112-03 FACTORS FOR CONSIDERATION OF PROPERTY TAX ABATEMENT

The following factors for considering and evaluating application for Economic Revitalization Areas and Tax Abatement will be used to determine the length of abatement:

1. The number of full-time equivalent permanent jobs created and the associated wages/salaries
2. The number of full-time equivalent permanent jobs retained and the associated wages/salaries
3. Results in investment in real or personal property and the level of that investment
4. Increases the property tax base
5. Avoid environmental harm or involves remediating or removing environmentally hazardous materials and/or substances
6. Results in providing community benefits
7. Results in supporting a Women/Minority Business Enterprise certified in accordance with 25 IAC 5
8. Any need for additional public infrastructure or other additional public support for the project will be considered in determining the length of the abatement. Support of additional infrastructure will be considered as a local incentive to the company applying
9. The time period of depreciation of equipment will be considered in the length of abatement for equipment
10. Economic Revitalization Areas (ERAs) designated by the Town Council for personal property will include a Memorandum of Understanding that may provide for the repayment to the Town of all or a portion of the tax savings realized through the designation in the event that the ERA is terminated because the property is removed from the Town or the company is unable to fulfill its obligation for job and salary targets under the abatement request.
11. A limited tax abatement may be considered in a Tax Increment Finance (TIF) District

§ 00-11-112-04 TARGETED BUSINESSES

The Town of Cumberland will offer additional consideration for businesses within certain target businesses. Target Businesses include green technology, advanced manufacturing, life sciences, and high tech.

§ 00-11-112-05. OTHER REQUIREMENTS

The applicant for tax abatement or an authorized representative must attend all Redevelopment Commission and Town Council meetings where the application for tax abatement will be discussed.

Property owners receiving tax abatement are required to file forms pursuant to state law on an annual basis by the dates required by the Town/State law with the Town Clerk Treasurer for each year during which tax abatement is received. The Clerk-Treasurer will send a notice of the information required for filing with the Hancock County Auditor. The Town staff will report annually to the Town Council on the granted abatement(s).

§ 00-11-112-06. APPLICATIONS

The applicant must provide reasons why the project site qualifies as an Economic Revitalization Area as defined under Indiana Code including factors like lack of development; cessation of growth, deterioration of improvements, or character of occupancy, age,

obsolescence, substandard buildings, or other factors. The application shall also include the total amount of investment to be made in real and personal property, the number of new full-time jobs being created, the average wage of the new employees, and infrastructure requirements for the taxpayer's investment.

§ 00-11-112-07. GUIDELINES FOR ABATEMENT PERIOD OF TIME

The length of the abatement period for real and personal property abatement will be considered based on the guidelines listed in this policy and determined in the attached Application Score Sheet. The Town uses a scoring system as a guide for determining the appropriate length of time for tax abatements. IN general, manufacturing and technology based business real estate and some equipment may qualify for a 6 – 10 year abatement while most equipment and office real estate will qualify for 3 – 7 years of abatement. For projects that do not meet the threshold for tax abatement, demonstrated community involvement in the form of voluntary labor or financial support will be looked upon favorably. Borderline projects that provide community support may be awarded one (1) point for community projects they participate in. Community projects include projects associated with the Town, schools, United Way, seniors, etc. Involvement or intended involvement must be documented.

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

Section

00-13-130-01 Congregating
00-13-130-02 Discharging firearms
00-13-130-03 Littering
00-13-130-04 Noise

00-13-130-99 Penalty

§ 00-13-130-01 CONGREGATING.

(A) It shall be unlawful for anyone to congregate upon any street, alley, sidewalk or other public place in the town, in such numbers or in such manner so as to hinder or obstruct unreasonably the free passage of pedestrians or vehicles thereon or the free access to the entrance to any building open to the public.

(B) This section shall not apply to any public meeting of the citizens of the town, or to any persons lawfully engaging in a labor strike.
(1995 Code, § 00-13-130-02) Penalty, see § 00-13-130-99

§ 00-13-130-02 DISCHARGING FIREARMS.

(A) It shall be unlawful for any person to shoot any firearm within the limits of the town.

(B) This section shall not apply to any legally appointed officer performing his or her duty, nor to any person when acting in defense of his or her own person, family or property.

(C) Any use or display of firearms or other deadly weapons that do, or ten to, endanger persons or property and prevent the free and unfettered use of the public streets, alleys, sidewalks, or other public place within the corporate limits of the town is prohibited.

(1995 Code, § 00-13-130-04)

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

DEADLY WEAPON. A firearm, an electric stun gun, dart gun, bow or other device for shooting arrows, a fixed blade knife or a knife with a folding blade of four inches or more.

FIREARM. Any weapon that is capable of or designed to or that may readily be converted to expel a projectile by means of an explosion, including any weapon commonly referred to as a pistol, revolver, handgun, rifle, shotgun or gun.
Penalty, see § 130.00

§ 00-13-130-03 LITTERING.

It shall be unlawful for any person, firm, or corporation to cast or deposit upon any public street, alley, sidewalk, or other public place within the corporate limits of the town any dirt, filth, offal, noisome or filthy liquids, carcasses of dead animals, vegetable matter, manure, garbage, ashes, shavings, straw, papers, scraps, iron, boards, timber, rags, tacks, nails, glass, tin, tin cans, hoops, or other refuse matter of any kind.
(1995 Code, § 00-13-130-07) Penalty, see § 00-13-130-99

§ 00-13-130-04 NOISE.

(A) Making, or continuing, or causing or aiding to be made or continued, any loud, unnecessary, or unusual noises which annoy, injure, or endanger the comfort, repose, health, or safety of others, unless the making or continuing is necessary for the protection or preservation of property or the health, safety, life, or limb of some person, is hereby declared unlawful and a public nuisance.

(B) The following acts within the town are declared to be unlawful and a public nuisance; but, their enumeration shall not be taken as being all-inclusive:

(1) Sounding horns excessively and unreasonably when there is no apparent need for such action;

(2) Using vehicles with noise-making apparatus;

(3) Using sound trucks or public address systems when they are not being employed for purposes of community service by an authorized town official or his or her designated representative; and/or
(1995 Code, § 00-13-130-09)

(4) Operating radios and other equipment or devices that produce music or other vocal sounds at volume levels which may reasonably distract, intrude upon or otherwise adversely affect persons who have sought exposure to the sounds.
Penalty, see § 00-13-130-99

§ 00-13-130-99 PENALTY.

Any person who violates §§ 00-13-130-01, 00-13-130-03 and 00-13-130-04 shall be subject to a fine of $25 and costs and § 00-13-130-02 shall be subject to a fine of $95 and costs.

TITLE XV: LAND USAGE

Chapter

150. Building Code

151. Trailers and Trailer Parks

152. Flood Damage Prevention

153. Zoning Code

154. Public Health, Safety and General Welfare Relative to Construction Activity

155. Fees

156. Permit Application, Inspection and Completion Requirements

157. Subdivision Control Ordinance

CHAPTER 150: BUILDING CODE

Section

00-15-150-01	Title
00-15-150-02	Purpose
00-15-150-03	Authority
00-15-150-04	Scope
00-15-150-05	Adoption of Rules by Preference
00-15-150-06	Application for Permits
00-15-150-07	Permit Required
00-15-150-08	Other Ordinances
00-15-150-09	Fees
00-15-150-10	Review of Application
00-15-150-11	Inspections
00-15-150-12	Inspection Assistance
00-15-150-13	Entry
00-15-150-14	Stop Work Order
00-15-150-15	Certificate of Occupancy
00-15-150-16	Workmanship
00-15-150-17	Violations
00-15-150-18	Right of Appeal
00-15-150-19	Remedies
00-15-150-20	Penalties
00-15-150-21	Effective Date

§ 00-15-150-01 TITLE.

This ordinance and all ordinances supplemental or amendatory hereto, shall be known as the "Building Code of the Town of Cumberland, Indiana," may be cited as such, and will be referred to herein as "this code."

§00-15-150-02 PURPOSE.

The purpose of this code is to provide minimum standards for the protection of life, health, environment, public safety and general welfare, and for the conservation of energy in the design and construction of buildings and structures.

§00-15-150-03 AUTHORITY.

The Building Commissioner is hereby authorized and directed to administer and enforce all of the provisions of this code. Whenever it is provided in this code that an action must be done to the approval of or subject to the direction of the Building Commissioner, or any other officer of the Town of Cumberland, such a provision shall be construed to give such officer only the discretion of determining whether compliance with this code has occurred. No such provision shall be construed as giving any officer discretionary powers as to what this code shall be, or power to require conditions not prescribed by this ordinance or other Town ordinances or

to enforce this code in an arbitrary or discriminatory manner. Any variance from adopted building rules are subject to approval under IC 22-13-2-7(b).

§ 00-15-150-04 SCOPE.

The provisions of this code apply to the construction, alteration, repair, use, occupancy, and additions to all buildings and structures, other than industrialized building systems or mobile structures certified under Indiana Code 22-15-4, as amended, in the Town of Cumberland, Indiana.

§ 00-15-150-05 ADOPTION OF RULES BY REFERENCE.

(A) Building rules of the Indiana Fire Prevention and Building Safety Commission as set out in the following Articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this code and shall include later amendments to those Articles as the same are published in the Indiana Register, as a final rule, or the Indiana Administrative Code with effective dates as fixed therein:

(1) Article 13 Indiana Building Code
Fire and Building Safety Standards
(2) Article 14 Indiana Residential Code
(3) Article 16 Indiana Plumbing Code
(4) Article 17 Indiana Electrical Code
(5) Article 18 Indiana Mechanical Code
(6) Article 19 Indiana Energy Conservation Code
(7) Article 20 Indiana Swimming Pool Code
(8) Article 22 Indiana Fire Code
Fire and Building Safety Standards

(B) Copies of adopted rules, codes and standards are on filed in the office of the Building Commissioner.

§ 00-15-150-06 APPLICATION FOR PERMITS.

No building permit shall be issued for the foregoing purposes, unless the application for a permit is accompanied by a plat sketch of the proposed location showing lot boundaries, and by plans and specifications showing the work to be done. In addition, a copy of a Design Release, issued by the State Building Commissioner and the State Fire Marshall pursuant to Indiana Code 22-15-3, shall be provided to the Building Commissioner before issuance of a permit for construction covered by such Design Review. Applications for a building permit for a Class 1 or Class 2 structure, as defined in Indiana Code 22-12-1-4 and 22-12-1-5, respectively, must provide the following information:

(1) The street address of qualifying property containing advanced structural components. Advanced structural components mean lightweight I-joists or lightweight roof trusses that have less mass cross-sectional area than sawn lumber of equivalent proportions used in an equivalent application and are assembled from combustible or noncombustible materials, or both. Advances structural components does not mean a structural assembly, joist, or truss that provides at least one hour of

fire resistance when tested in accordance with the American Society for Testing and Materials Standard E119;

(2) The name of the township and the county in which the qualifying property is located;

(3) The types of advanced structural components used in the qualifying property; and

(4) The location of the advanced structural components used in the floor, or roof, or both, of the qualifying property.

(Am. Ord 2018-31, passed 12-5-18)

§ 00-15-150-07 PERMIT REQUIRED.

A permit shall be obtained before beginning construction, alteration or repair of any building or structure, the cost of which exceeds five hundred dollars ($500.00), using forms furnished by the Building Commissioner, and all fees required by this code shall be paid to the Town of Cumberland.

§ 00-15-150-08 OTHER ORDINANCES.

All work done under any permit shall be in full compliance with all other ordinances pertaining thereto, and in addition to the fees for permits, there shall be paid the fees prescribed in such ordinances.

§ 00-15-150-09 FEES.

Permits required by Section 7 of this ordinance shall be issued upon the prior payment of an application and inspection fee as established, from time to time, by the Town Council of the Town of Cumberland, Indiana. The owner of the property subject to the permit or inspection and, if different, the applicant shall be jointly and severally liable for such fee. Failure to pay such fee shall be grounds for refusing to issue the requested permit or conduct the requested inspection thereto.

§ 00-15-150-10 REVIEW OF APPLICATION.

Prior to the issuance of any building permit, the Building Commissioner shall:

(1) Review all building permit applications to determine full compliance with the provisions of the code.

(2) Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding.

(3) Review all building permit applications for major repairs within flood plain area having special flood hazards to determine that the proposed repair (1) uses construction materials and utility equipment that are resistant to flood damages, and 92) uses construction methods and practices that will minimize flood damage.

(4) Review building permit applications for new construction or substantial improvements within the flood plain area having special flood hazards to assure that the proposed construction (including prefabricated and mobile homes) (1) is protected against flood damage, (2) is designed (or modified) and anchored to prevent floatation, collapse, or lateral movement of the structure, flood damages, and (3) uses construction methods and practices that will minimize flood damage.

Within 90 days after the issuance of any building permit, the Building Commissioner will send electronic notification, read receipt requested, of the structure's use of advanced structural components as defined in section 00-15-150-06, to the local fire department and 911 telephone call center responsible for the area where the structure is located.

(Am. Ord. 2018-31, passed 12-5-2018)

§ 00-15-150-11 INSPECTIONS.

(A) After the issuance of any building permit, the Building Commissioner shall make, or shall cause to be made, inspections of the work being done as are necessary to insure full compliance with the provisions of this code and the terms of the permit. Re-inspections of work found to be incomplete or not ready for inspection are subject to assessment of re-inspection fees as prescribed by this code.

(B) If the building administrator, or the building administrator's designee, finds that a building, structure, improvement, or other project violates an applicable law, order, or interpretation under Indiana Code § 36-7-2-9, the administrator, or the administrator's designee must provide, in writing, a detailed statement to the building permit applicant regarding the finding of noncompliance. In providing this statement, the administrator or designee must identify the specific feature of the building, structure, improvement, or project that is noncompliant and identify the specific law, order, or interpretation upon which the finding of noncompliance is based, specifying the edition, chapter, and section of any applicable building or fire code.

(Amd. Ord. 2018-17, passed 10-1-2018)

§ 00-15-150-12 INSPECTION ASSISTANCE.

The Building Commissioner may call upon the assistance of the Fire Chief of the Warren Township Fire Department, or his designated representative, the Fire Chief of the Buck Creek Township Fire Department, or his designated representative, or the Fire Chief of the Sugar Creek Township Fire Department, or his designated representative, as the case may be according to their jurisdiction within the Town of Cumberland, in the inspection of fire suppression, detection and alarm systems. Where such assistance is rendered, the respective Fire Chief shall provide the Building Commissioner with a written report regarding such inspections.

§ 00-15-150-13 ENTRY.

The Building Commissioner or his duly authorized representative may, upon the presentation of proper credentials, enter at reasonable times any building, structure or premises in the Town of Cumberland, Indiana, to perform any duty imposed upon him by this code.

§ 00-15-150-14 STOP WORK ORDER.

The Building Commissioner may, whenever any work is being done contrary to the provisions of this code, order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done. Upon service, any such persons shall forthwith stop such work until authorized by the Building Commissioner to proceed with the work.

§ 00-15-150-15 CERTIFICATE OF OCCUPANCY.

No certificate of occupancy for any building or structure constructed after the adoption of this code shall be issued unless such building or structure was constructed in compliance with the provisions of this code. It shall be unlawful to occupy any such building or structure unless a full, partial, or temporary certificate of occupancy has been issued by the Building Commissioner.

§ 00-15-150-16 WORKMANSHIP.

All work on the construction, alteration and repair of buildings and other structures shall be performed in a good and workmanlike manner according to accepted standards and practices in the trade.

§ 00-15-150-17 VIOLATIONS.

It shall be unlawful for any person, firm or corporation, whether as owner, lessee, sub-lessee, or occupant, to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equity, use, occupy or maintain any building or structure, other than fences, in the Town of Cumberland, Indiana, or cause or permit the same to be done, contrary to, or in violation of, the provisions of this code.

§ 00-15-150-18 RIGHT TO APPEAL.

All persons shall have the right to appeal any order of the Building Commissioner first through the Board of Zoning Appeals of the Town of Cumberland, Indiana, and then to the Fire Prevention and Building Safety Commission of Indiana in accordance with the provisions of Indiana Code 22-13-2-7 and Indiana Code 4-21.5-3-7.

§ 00-15-150-19 REMEDIES.

Upon the determination of the Building Commissioner that a violation of this ordinance has occurred, the Town Attorney shall bring a cause of action in a court of competent jurisdiction for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders of the Building Commissioner. The cause of action shall be brought in the name of the Town of Cumberland, Indiana. Any such cause of action may be joined with an

action to recover the penalties provided for in this code, including reasonable attorney fees of the Town of Cumberland, Indiana.

§ 00-15-150-20 PENALTIES.

Any person, firm or corporation who shall violate any of the provisions of this code, or shall fail to perform any duty lawfully enjoined, or shall fail, neglect or refuse to obey any lawful order given by the Building Commissioner in connection with the provisions of this code shall be subject to the penalties for violation prescribed herein. For each such violation, failure or refusal, such person, firm or corporation shall be fined a sum not less than Ninety-Five Dollars ($95.00) and not more than Two Thousand Five Hundred Dollars ($2,500.00). Each day such unlawful activity is continued shall constitute a distinct and separate offense.

§ 00-05-150-21 EFFECTIVE DATE.

This code shall be in full force and effect from and after its adoption by the Town Council of Town of Cumberland, and approval by the Fire Prevention and Building Safety Commission of Indiana, and publication as required by law.
(Adopted by Cumberland Town Council on May 1, 2002 – Ordinance No. 2002-9)

CHAPTER 151: RECREATIONAL VEHICLES AND RECREATIONAL VEHICLE PARKS

Section

00-15-151-01	Definitions
00-15-151-02	Prohibition
00-15-151-03	Parking
00-15-151-04	Authorized Sites
00-15-151-99	Penalty

§ 00-15-151-01 DEFINITIONS

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

Recreational Vehicle. Any vehicle or structure designed and constructed to permit occupancy thereof as sleeping quarters for one or more persons or the conduct of any business or profession, occupation or trade. The vehicle or structure may be designed so that it is or may be mounted on wheels and used as conveyance on highways or city streets, or propelled or drawn by its own or other motive power. Recreational Vehicle does not include a device used exclusively upon stationary rails or tracks.

Recreational Vehicle Camp. Any park, site, lot, recreational vehicle park, recreational vehicle court, court camp, parcel or tract of land designed, maintained or intended for the purpose of supplying a location or accommodations for any recreational vehicle. It shall include all building used or intended for use as part of the appurtenances thereof, whether a charge is made for the use of the recreational vehicle camp and its facilities or not. Recreational Vehicle Camp shall not include automobile or recreational vehicle sales lots on which unoccupied recreational vehicles are parked for the purposes of inspection and sale.

('83 Code, Section 5-1-1; Amended By Ordinance 96-1, Effective 5-1-96)

§ 00-15-151-02 PROHIBITION

Any recreational vehicle camp, park site, recreational vehicle park, recreational vehicle court, parcel or tract of land designed or maintained for the uses defined in Section 00-15-151-01 shall be unlawful within the corporate limits of the Town

('83 Code, Section 5-1-2; Amended By Ordinance 96-1, Effective 5-1-96) Penalty, See Section 00-15-151-99.

§ 00-15-151-03 PARKING

(A) No recreational vehicle, other than one temporarily parked or transient, shall be parked, located or used for residence or business purposes upon any lot, parcel or tract of real estate within the corporate limits of the Town.

(B) No recreational vehicle without wheels or one which is immovable may be placed on a foundation or situated permanently for residence or business purposes on any real estate within the corporate limits of the Town.

('83 Code, Section 5-1-3; Amended BY Ordinance 96-1, Effective 5-1-96) Penalty, See Section 00-15-151-99.

§00-15-151-04 AUTHORIZED SITES

(A) Storage or parking of recreational vehicles in the open is subject to the following conditions

(1) In any zone district, the wheels or transporting devises of any recreational vehicle shall not be removed except for repairs, nor shall such vehicle be otherwise permanently affixed to the ground in a manner that would prevent ready removal of these types of mobile structures

(2) Recreational vehicles may be stored or parked by the owner thereof behind or alongside the principal building in such a manner that no part of any such vehicle shall project beyond the front setback or side setback lines of the lot.

(3) Not more than one recreational vehicle will be permitted to be parked or stored in the open on residential property at any one time; however, one additional vehicle is permitted for visitation for 7 consecutive days and not to exceed 14 days in any one year.

(4) At no time shall such parked or stored recreational vehicle be occupied or used for living, sleeping, or housekeeping purposes, except as provided for visitations in division (3) above.

(Ordinance 96-1, Effective 5-1-96)

§ 00-15-151-99 PENALTY.

Any person, firm or corporation who violates any of the provisions of this chapter shall, upon conviction, be fine not less than $10 nor more than $100 for such offense. Each day a violation occurs or continues shall be separate offenses.

('83 Code, Section 5-1-6; Amended By Ordinance 96-1, Effective 5-1-96)

Chapter 152. REGULATION OF DEVELOPMENT IN FLOOD HAZARD AREAS

Section

00-15-152-01 Statutory Authorization
00-15-152-02 Findings of Fact
00-15-152-03 Statement of Purpose
00-15-152-04 Objectives
00-15-152-05 Definitions
00-15-152-06 Lands to Which this Ordinance Applies
00-15-152-07 Basis for Establishing Regulatory Flood Data
00-15-152-08 Establishment of Floodplain Development Permit
00-15-152-09 Compliance
00-15-152-10 Abrogation and Greater Restrictions
00-15-152-11 Discrepancy between Mapped Floodplain and actual Ground Elevations
00-15-152-12 Interpretation
00-15-152-13 Warning and Disclaimer of Liability
00-15-152-14 Penalties for Violation
00-15-152-15 Designation of Administrator
00-15-152-16 Permit Procedures
00-15-152-17 Duties and Responsibilities of the Floodplain Administrator
00-15-152-18 General Standards
00-15-152-19 Specific Standards
00-15-152-20 Standards for Subdivision Proposals
00-15-152-21 Critical Facility
00-15-152-22 Standards for Identified Floodways
00-15-152-23 Standards for Identified Fringe
00-15-152-24 Standards for SFHAs without Established Base Flood Elevation and/or Floodways/Fringes
00-15-152-25 Standards for Flood Prone Areas
00-15-152-26 Designation of Variance and Appeals Boards
00-15-152-27 Duties of Variance and Appeals Board
00-15-152-28 Variance Procedures
00-15-152-29 Conditions for Variances
00-15-152-30 Variance Notification
00-15-152-31 Historic Structures
00-15-152-32 Special Conditions
00-15-152-33 Severability

§ 00-15-152-01. STATUTORY AUTHORIZATION.

The Indiana Legislature has in IC 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Town Council of the Town of Cumberland does hereby adopt the following floodplain management regulations.

§ 00-15-152-02. FINDINGS OF FACT.

(A) The flood hazard areas of the Town of Cumberland are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, inadequately flood-proofed, or otherwise unprotected from flood damages.

§ 00-15-152-03. STATEMENT OF PURPOSE.

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(A) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.

(B) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.

(D) Control filling, grading, dredging, and other development which may increase erosion or flood damage.

(E) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(F) Make federally subsidized flood insurance available for structures and their contents in the Town by fulfilling the requirements of the National Flood Insurance Program.

§ 00-15-152-04. OBJECTIVES.

The objectives of this ordinance are:

(A) To protect human life and health.

(B) To minimize expenditure of public money for costly flood control projects.

(C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

(D) To minimize prolonged business interruptions.

(E) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.

(F) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas.

§ 00-15-152-05. DEFINITIONS.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

A zone means portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM. The definitions are presented below:

Zone A: Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.

Zone AE and A1-A30: Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A1-A30.)

Zone AO: Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

Zone AH: Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

Zone AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.

Zone A99: Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

Accessory structure (appurtenant structure) means a structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

Addition (to an existing structure) means any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance.

Area of shallow flooding means a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BEE) means the elevation of the one-percent annual chance flood.

Basement means that portion of a structure having its floor sub-grade (below ground level) on all sides.

Boundary River means the part of the Ohio River that forms the boundary between the Kentucky and Indiana.

Boundary River Floodway means the floodway of a boundary river. Building - see "Structure."

Community means a political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

Community Rating System (CRS) means a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

Critical facility means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

Development means any man-made change to improved or unimproved real estate including but not limited to:

(1) construction, reconstruction, or placement of a structure or any addition to a structure;

(2) installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;

(3) installing utilities, erection of walls and fences, construction of roads, or similar projects;

(4) construction of flood control structures such as levees, dikes, dams, 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 activities such as the maintenance of existing structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

Elevated structure means a non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

Elevation Certificate is a certified statement that verifies a structure's elevation information.

Emergency Program means the first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA means the Federal Emergency Management Agency.

Flood means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

Flood Boundary and Floodway Map **(FBFM)** means an official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

Flood Insurance Rate Map **(FIRM)** means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study **(FIS)** is the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

Flood Prone Area means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See "Flood")

Flood Protection Grade **(FPG)** is the elevation of the regulatory flood plus two feet at any given location in the SFHA. (see "Freeboard")

Floodplain means the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain management regulations means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

Floodproofing **(dry floodproofing)** is a method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

Floodproofing certificate is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.

Floodway is the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

Freeboard means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

Fringe is those portions of the floodplain lying outside the floodway.

Hardship (as related to variances of this ordinance) means the exceptional hardship that would result from a failure to grant the requested variance. The Board of Zoning Appeals requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

Historic structures means any structures individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

Increased Cost of Compliance **(ICC)** means the cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

Letter of Final Determination **(LFD)** means a letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

Letter of Map Change **(LOMC)** is a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F). The definitions are presented below:

Letter of Map Amendment **(LOMA)** means an amendment by letter to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.

Letter of Map Revision **(LOMR)** means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

***Letter of Map Revision Based on Fill* (LOMR-F)** means an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

Lowest adjacent grade means the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

Lowest floor means the lowest elevation described among the following:

(1) The top of the lowest level of the structure.

(2) The top of the basement floor.

(3) The top of the garage floor, if the garage is the lowest level of the structure.

(4) The top of the first floor of a structure elevated on pilings or pillars.

(5) The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:

(a) the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;

(b) the total net area of all openings shall be at least one (1) square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,

(c) such enclosed space shall be usable solely for the parking of vehicles and building access.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle,"

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market value means the building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

Mitigation means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.

National Flood Insurance Program **(NFIP)** is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

National Geodetic Vertical Datum **(NGVD) of 1929** as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

New construction means any structure for which the "start of construction" commenced after the effective date of the community's first floodplain ordinance.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.

Non-boundary river floodway means the floodway of any river or stream other than a boundary river.

North American Vertical Datum of 1988 **(NAVD 88)** as adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

Obstruction includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

One-percent annual chance flood is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Regulatory Flood".

Physical Map Revision **(PMR)** is an official republication of a community's FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

Public safety and nuisance means anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational vehicle means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-

propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

Regular program means the phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

Regulatory flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Section 00-15-152-07 of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and “100-Year Flood".

Repetitive loss means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeds 25% of the market value of the structure before the damage occurred.

Section 1316 is that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

Special Flood Hazard Area **(SFHA)** means those lands within the jurisdiction of the Town subject to inundation by the regulatory flood. The SFHAs of the Town of Cumberland are generally identified as such on the Hancock County, Indiana and Incorporated Areas Flood Insurance Rate Map dated December 4, 2007 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

Start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred 'repetitive loss Of "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

Suspension means the removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

Variance is a grant of relief from the requirements of this ordinance, which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

Violation means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodic-ally. Watercourse includes specifically designated areas in which substantial flood damage may occur.

X zone means the area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 percent chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.

Zone means a geographical area shown on a FIRM that reflects the severity or type of flooding in the area.

Zone A (see definition for A zone)

Zone B, C, and X means areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C.)

§ 00-15-152-06. LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all SFHAs and known flood prone areas within the jurisdiction of the Town of Cumberland.

§ 00-15-152-07. BASIS FOR ESTABLISHING REGULATORY FLOOD DATA.

This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below.

(A) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the Town of Cumberland shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Hancock County, Indiana and Incorporated Areas and the corresponding Flood Insurance Rate Map dated December 4, 2007 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.

(B) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the Town of Cumberland, delineated as an "A Zone" on the Hancock County, Indiana and Incorporated Areas Flood Insurance Rate Map dated December 4, 2007 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review, subsequently approved.

(C) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.

(D) Upon issuance of a Letter of Final Determination (LED), any more restrictive data in the new (riot yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

§ 00-15-152-08. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard.

§ 00-15-152-09. COMPLIANCE.

No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

§ 00-15-152-10. ABROGATION AND GREATER RESTRICTIONS.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

§ 00-15-152-11. DISCREPANCY BETWEEN MAPPED FLOODPLAIN AND ACTUAL GROUND ELEVATIONS.

(A) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.

(B) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.

(C) If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

§ 00-15-152-12. INTERPRETATION.

In the interpretation and application of this ordinance all provisions shall be:

(A) Considered as minimum requirements.

(B) Liberally construed in favor of the governing body.

(C) Deemed neither to limit nor repeal any other powers granted under state statutes.

§ 00-15-152-13. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this ordinance 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 ordinance does not create any liability on the part of the Town of Cumberland, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.

§ 00-15-152-14. PENALITIES FOR VIOLATION.

Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the Town of Cumberland.

(A) A separate offense shall be deemed to occur for each day the violation continues to exist.

(B) The Floodplain Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

(C) Nothing herein shall prevent the Town of Cumberland from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible. 00-15-152-15. Designation of Administrator. The Town Council of the Town of Cumberland hereby appoints the Planning Administrator to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

§ 00-15-152-16. PERMIT PROCEDURES.

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:

(A) Application Stage.

(1) A description of the proposed development.

(2) Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.

(3) A legal description of the property site.

(4) A site development plan showing existing and proposed development locations and existing and proposed land grades.

(5) Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.

(6) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.

(7) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is

required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See Section 00-15-152-17(6) for additional information.)

(B) Construction Stage.

(1) Upon establishment/placement of the lowest floor, before framing continues, to include any approved floodproofing, it shall be the duty of the applicant to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor or floodproofed elevation, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular structure said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the floodproofing certification shall be at the applicant's risk. (The Floodplain Administrator shall review the lowest floor and floodproofing elevation survey data submitted.) The applicant shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project. Any work undertaken prior to submission of the elevation certification shall be at the applicant's risk. The Floodplain Administrator shall review the lowest floor or floodproofed elevation survey data submitted. The applicant shall correct any deficiencies detected by such review. Failure to submit the elevation certification or failure to make correction required shall be cause to issue a stop-work order for the project.

(C) Finished Construction.

(1) Upon completion of construction, a FEMA elevation certificate, Form 81-31, which depicts all finished construction, is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, a FEMA floodproofing certificate, Form 81-65, is required to be submitted by the applicant to the Floodplain Administrator.

§ 00-15-152-17. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.

Duties and Responsibilities of the Flood plain Administrator shall include, but are not limited to:

(A) Review all floodplain development permits to assure that the permit requirements of this ordinance have been satisfied.

(B) Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations.

(C) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Section 00-15-152-22 and 00-15-152-24(1) of this ordinance, and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).

(D) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit.

(E) Maintain and track permit records involving additions and improvements to residences located in the floodway.

(F) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.

(G) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this ordinance.

(H) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.

(I) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished. (10)Review certified plans and specifications for compliance.

(J) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Section 00-15-152-16.

(K) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with Section 00-15-152-16.

(L) Stop Work Orders

(1) Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease

(2) Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

(M) Revocation of Permits

(1) The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

(2) The floodplain administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

§ 00-15-152-18. GENERAL STANDARDS.

In all SFHAs and known flood prone areas the following provisions are required:

(A) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(B) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

(C) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.

(D) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.

(E) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.

(F) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(G) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(H) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(I) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance

§ 00-15-152-19. SPECIFIC STANDARDS.

In all SFHAs, the following provisions are required:

(A) In addition to the requirements of 00-15-152-18, all structures to be located in the SFHA shall he protected from flood damage below the FPG. This building protection requirement applies to the following situations:

(1) Construction or placement of any structure having a floor area greater than 400 square feet.

(2) Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).

(3) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to it's before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.

(4) Installing a travel trailer or recreational vehicle on a site for more than 180 days.

(5) Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.

(6) Reconstruction or repairs made to a repetitive loss structure.

(7) Addition or improvement made to any existing structure with a previous addition or improvement constructed since the community's first floodplain ordinance.

(B) Residential Structures. New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of 00-15-152-19(4).

(C) Non-Residential Structures. New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of 00-15-152-19(4) Structures located in all "A Zones° may be floodproofed in lieu of being elevated if done in accordance with the following:

(1) A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in 00-15-152-17(12).

(2) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

(D) Elevated Structures. New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:

(1) Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).

(2) The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.

(3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(4) Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

(5) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

(6) The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.

(E) Structures Constructed on Fill. A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:

(1) The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method, which shall be retained in permit file.

(2) The fill shall extend 10 feet beyond the foundation of the structure before sloping below the BFE.

(3) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading, If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.

(4) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

(5) The top of the lowest floor including basements shall be at or above the FPG.

(F) Standards for Manufactured Homes and Recreational Vehicles. Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:

(1) These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred 'substantial damage" as a result of a flood:

(a) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(b) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in 00-15-152-19(4).

(c) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

(2) These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood-

(a) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(b) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in 00-15-152-19(4).

(c) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

(3) Recreational vehicles placed on a site shall either:

(a) be on site for less than 180 days: or,

(b) be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions): or

(c) meet the requirements for "manufactured homes" as stated earlier in this section.

(G) Accessory Structures. Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:

(1) Shall not be used for human habitation.

(2) Shall be constructed of flood resistant materials.

(3) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.

(4) Shall be firmly anchored to prevent flotation.

(5) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.

(6) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in 00-15-152-19(D).

(H) Above Ground Gas or Liquid Storage Tanks. All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

§ 00-15-152-20. STANDARDS FOR SUBDIVISION PROPOSALS.

(A) All subdivision proposals shall be consistent with the need to minimize flood damage.

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(D) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres.

(E) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.

(F) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

§ 00-15-152-21. CRITICAL FACILITY.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have

the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

§ 00-15-152-22. STANDARDS FOR IDENTIFIED FLOODWAYS.

Located within SFHAs, established in 00-15-152-07, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway, This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of a non-substantial addition/ improvement to a residence in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.)

No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in 00-15-152-18 through 00-15-152-25 of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

No development shall be allowed, which acting alone or in combination with existing or future development, that will adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse affect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

For all projects involving channel modifications or fill (including levees) the Floodplain Administrator shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.

§ 00-15-152-23. STANDARDS FOR IDENTIFIED FRINGE.

If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in 00-15-152-18

through 00-15-152-25 of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

§ 00-15-152-24. STANDARDS FOR SFHAs WITHOUT ESTABLISHED BASE FLOOD ELEVATION AND FOR FLOODWAYS/FRINGES.

(A) Drainage area upstream of the site is greater than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway permit (including letters of authorization) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper permit for construction in a floodway permit (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in 00-15-152-18 through 00-15-152-25 of this ordinance have been met.

(B) Drainage area upstream of the site is less than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent annual chance flood elevation for the site Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in 00-15-152-18 through 00-15-152-25 of this ordinance have been met.

(C) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood more than 0.14 of one foot and will not increase flood damages or potential flood damages.

§ 00-15-152-25. STANDARDS FOR FLOOD PRONE AREAS.

All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per 00-15-152-18 through 00-15-152-25.

§ 00-15-152-26. DESIGNATION OF VARIANCE AND APPEALS BOARD.

The Board of Zoning Appeals shall hear and decide appeals and requests for variances from requirements of this ordinance.

§ 00-15-152-27. DUTIES OF VARIANCE AND APPEALS BOARD.

The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision to the Hancock County Circuit Court.

§ 0015-152-28. VARIANCE PROCEDURES.

In passing upon such applications, the board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and;

(A) The danger of life and property due to flooding or erosion damage.

(B) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(C) The importance of the services provided by the proposed facility to the community.

(D) The necessity to the facility of a waterfront location, where applicable.

(E) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.

(F) The compatibility of the proposed use with existing and anticipated development,

(G) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.

(H) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(I) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.

(J)The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

§ 00-15-152-29. CONDITIONS FOR VARIANCES.

(A) Variances shall only be issued when there is:

(1) A showing of good and sufficient cause.

(2) A determination that failure to grant the variance would result in exceptional hardship.

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

(B) No variance for a residential use within a floodway subject to 00-15-152-22 or 00-15-152-24(A) of this ordinance may be granted.

(C) Any variance granted in a floodway subject to 00-15-152-22 or 00-15-152-24(A) of this ordinance will require a permit from the Indiana Department of Natural Resources.

(D) Variances to the Provisions for Flood Hazard Reduction of 00-15-152-19, may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

(E) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(F) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic. Sites and Structures.

(G) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See Section 00-15-152-30).

(H) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See 00-15-152-30).

§ 00-15-152-30. VARIANCE NOTIFICATION.

Any applicant to whom a variance is granted that allows the lowest floor of a structure to be built below the flood protection grade shall be given written notice over the signature of a community official that:

(A) The issuance of a variance to construct a structure below the flood protection grade will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and;

(B) Such construction below the flood protection grade increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance.

§ 00-15-152-31. HISTORIC STRUCTURE.

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

§ 00-15-152-32. SPECIAL CONDITIONS.

Upon the consideration of the factors listed in 00-15-152-26 through 00-15-152-32, and the purposes of this ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

§ 00-15-152-33. SEVERABILITY.

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

(Ord. 2014-02, passed _____)

CHAPTER 154: PUBLIC HEALTH, SAFETY AND GENERAL WELFARE RELATIVE TO CONSTRUCTION ACTIVITY

Section

00-15-154-01	Public Property; Walkways
00-15-154-02	Removing Structures
00-15-154-03	Safety Fences and Railings
00-15-154-04	Trash and Debris Containment and Disposal
00-15-154-05	On- Site Equipment and Material Storage
00-15-154-06	Open Burning
00-15-154-07	Theft, Vandalism and Destruction of Private Property
00-15-154-08	Specific Health and Safety Hazards
00-15-154-09	Construction Activity Affecting Town Infrastructure
00-15-154-10	Erosion, Sediment and Pollution Control Requirements
00-15-154-99	Penalties

§00-15-154-01 PUBLIC PROPERTY; WALKWAYS

Any person, partnership or corporation carrying out construction activity in the Town shall comply with the following requirements:

(A) The use of public property shall meet all the requirements of the Town

(B) Building equipment and materials shall not be placed or stored on public property as to obstruct free and convenient access to and function of any fire hydrant, utility devise, drainage and/or utility easement, manhole, street, alley, gutter or right-of-way.

(C) A protective frame be provided for any fire hydrant or utility device which might be damaged by construction activity.

(D) Bridges or covers shall be provided for sidewalks and manholes which might be damaged by construction activity.

(E) Walkways.

(1) A walkway shall be constructed and maintained on the sidewalk, street and alley around the site of construction activity involving the erection, construction, major alteration or razing of any structure, except signs, grandstands, tents, or air-supported structures, which:

(a) Has an initial or ultimate height in excess of fifteen (15); and

(b) Has all or any part of an excavation relative to the construction activity which is in excess of eight (8) feet in depth; and

(c) is located within twenty (20) feet of the structure or excavation.

(2) The Building Commissioner has the discretion to waive the requirement of placing the walkway on a showing that omission of the walkway will not significantly increase the possibility of injury to persons or damage to property as a result of the construction activity on the site. The walkway may be placed further from the site on a sidewalk or within a street or alley if the Town gives appropriate authorization.

(3) The walkway shall be equipped with suitable lighting devices and illumination shall be provided in the walkway at all times.

(4) The walkway, at all items, shall be maintained in a clean and sanitary condition and shall be kept free from rubbish, litter and advertising display and shall be provided with suitable solid, inclined approaches.

(5) The walkway shall not be less than four (4) feet wide and shall have a durable wearing surface capable of supporting a live load of two hundred (200) pounds per square foot.

(6) The walkway shall be provided with a fence along the construction side, a railing along the street side and a full roof above, so as to afford maximum protection to pedestrians.

(a) The protective fence shall be no less than eight (8) feet high above the grade and be constructed from ¾ inch boards or plywood laid tightly together and securely fastened to four (4) inch uprights, set no more than four (4) feet apart, with 2 x 6 inch bracing and girts. The posts shall be set and braced securely to prevent buckling and overturning.

(b) Opening in the fence shall be protected by doors which normally are kept closed.

(c) The protective railing shall be substantially built and, when of wood, shall be constructed of new material having a nominal sixe of at least 2 x 4 inches. Railings shall be at least four (4) feet in height and, when adjacent to the excavation, shall be provided with midrail.

(7) The protective roof shall have a clear height of eight (8) feet above the walkway. The roof shall be tightly sheathed. The sheathing shall be tow (2) inch nominal wood planking or the equivalent.

(8) Walkways shall be maintained in place and kept in good condition for the length of time construction activity continues, after which they shall be removed within thirty (30) days.

§ 00-01-154-02 MOVING STRUCTURES

Any person, partnership or corporation carrying out construction activity limited to demolishing, dismantling, dismembering, razing or removing structures in the Town shall, in addition to the requirements of Section 00-15-1543-01, comply with the following requirements.

(A) Notice must be given to the Building Commissioner at least fourteen (14) days prior to demolishing, dismantling, dismembering, razing or removing structures in the Town. The Building Commissioner or an authorized representative may, if reasonably necessary to ensure public safety, require the wrecking contractor to submit plans and a complete schedule for demolition. Where those are required, no work shall be accomplished until the plans and schedule area approved by the Commissioner or Commissioner's representative.

(B) No open fires or other sources of flame, except necessary cutting torches, are permitted on the inside of the structure being wrecked or in close proximity to flammable materials located outside the structure. Every reasonable precaution shall be taken to prevent the possibility of fire.

(C) In accordance with Section 00-15-154-04, suitable provisions shall be made for the disposal of materials which are accumulated during the wrecking of a structure.

(D) The buildings, foundations, curbs, sidewalks, concrete or asphalt drives and all appurtenances shall be removed to one (1) foot below the ground line or one (1) foot below subgrade elevation, whichever of the two is lower. Removal also shall include the removal and disposal of buried or exposed tanks. Concrete slabs, under which a basement, pit, well or cistern exits, shall be broken and removed.

(E) All rubbish and debris, including any goods, merchandise, commodities, products or materials of any kind which may have been stored within the structure being wrecked or on the property shall be removed and cleaned away, the ground leveled and the premises put in a clean and sanitary condition, provided that if the property is properly fenced and the erection of a new structure is to begin within ninety (90) days, the ground need not be leveled until all work on the premises is completed.

(F) Material used for fill and grading shall be only material that can be properly compacted in order to avoid future settlement of filled-in earth or the structure erected over the fill. No pieces of stone, lumber, boards or other material which, due to their size or character, prevent proper compaction or later would cause settlement of the surface shall be used in the fill.

(G) Where a structure is wrecked and an excavation which, at any point, is eight (8) or more feet below grade level is left unfilled, the fence portion of the walkway required by Section 00-15-154-01 shall remain at the site. The Building Commissioner may approve a fence that does not meet the standards of Section 00-15-154-01 if it is sufficient to persons, especially children, to protect from falling into the excavation.

§ 00-01-154-03 SAFETY FENCES AND RAILING

Requirements for temporary safety fences and railings for all construction activity occurring in the Town, except as otherwise required in Sections 00-15-154-01 and 00-15-154-02.

(A) Temporary Safety Fence.

(1) A temporary safety fence not less than four (4) feet high shall be installed entirely around any open excavation that is more than three (3) feet below the surrounding grade (i.e. – basements, swimming pools, utility installations or repairs), and that will remain open for longer than twelve (12) consecutive hours.

(2) The temporary safety fence around a basement excavation shall remain in place, and maintained in good condition, at all times until the excavation is back-filled by the construction of the basement structure, including the construction of the first floor framing and decking, and by aggregate and/or soil fill around the entire perimeter of the basement structure. In addition, if the stairway from the first floor to the basement is not completed with the framing and decking of the first floor surface, then a temporary safety fence shall be required around the stairway opening until such time as the stairway is constructed.

(3) The temporary safety fence around a swimming pool excavation shall remain in place, and maintained in good condition, at all times until the swimming pool construction is completed and the required permanent safety features have been installed in accordance with 675 IAC 10 – Indiana Swimming Pool Code.

(4) The temporary safety fence around an excavation for the purpose of the installation or repair of any utility, or other similar purposes, shall remain I place, and maintained in good condition, at all times until the excavation has been fully back-filled and restored to level with the surrounding grade.

(5) The Building Commissioner shall determine if the temporary safety fence is adequate and in compliance with the provisions of this section.

(6) The Building Commissioner shall determine when temporary safety fences are necessary and required, and when the fences can be removed in compliance with the provisions of this section.

(B) Temporary Safety Railings.

(1) A temporary safety railing not less than three (3) feet high shall be installed along al open floor surface edges that are more than three (3) feet above a floor or grade surface below.

(2) A temporary safety railing not less than three (3) feet high shall be installed along all open edges of a stairway where the step or landing surfaces of the of the stairway are more than three (3) feet above the floor or grade below.

(3) The temporary safety railing shall remain in place, and maintained in good condition, until the required permanent railing is installed in accordance with 675 IAC 13 Indiana Building Code and/or 675 IAC 14 Indiana Residential Code.

(4) The Building Commissioner shall determine if the temporary safety railing is adequate and in compliance with the provisions of this section.

(5) The Building Commissioner shall determine when temporary safety railings are necessary and required, and when the railings can be removed in compliance with the provisions of this section.

(C) The Building Commissioner shall have the authority to enforce the provisions of this section.

§ 00-01-154-04 TRASH AND DEBRIS CONTAINMENT AND DISPOSAL

Any person, partnership or corporation obtaining a building permit for construction activity in the Town (the "permit holder") shall be required to provide for on-site containment of all construction related trash and debris, and shall be fully responsible for the proper disposal of such trash and debris upon completion of the constructions activity.

(A) All construction related trash and debris shall, at all times during the construction activity, be kept in a metal storage and disposal unit (dumpster) or other fully enclosed containment facility approved by the Building Commissioner.

(B) All reasonable measures shall be taken to prevent construction related trash and debris from being blown or scattered onto adjoining properties. In the event that construction related trash and debris is blown or scattered onto adjoining properties, the permit holder shall be fully responsible for cleaning up and properly disposing of such trash and debris.

(C) Upon completion of the construction activity, all construction related trash and debris shall be fully and completely removed from the site and disposed of in an approved and legal manner.

(D) It shall be unlawful for construction related trash and debris to be dumped or disposed of on vacant building lots in the Town, or in containment facilities located on other active construction sites.

(E) It shall be unlawful for construction related trash and debris to be buried on the site of the construction activity, or on any vacant building lot in the Town.

§ 00-15-154-05 ON-SITE EQUIPMENT AND MATERIALS STORAGE

Any person, partnership or corporation obtaining a building permit for construction activity in the Town (the "permit holder") shall be required to make provisions for the storage of construction related equipment and materials entirely within the property where the construction activity is occurring.

(A) Construction related equipment and materials shall not be stored on adjoining properties to the property where the construction activity is occurring without the prior written consent of the owner of the adjoining property. Such written consent shall be required to be filed with the Building Commissioner prior to the equipment and materials being stored on the adjoining property.

(B) Construction related equipment and materials shall, at no time, be stored on any vacant building lot in the Town, except for equipment and materials necessary for the installation of the utility infrastructure for an approved subdivision or development.

(C) It shall be unlawful, at all times, for construction related equipment and materials to be stored on any street alley, right-of-way, sidewalk, utility device, manhole, or other public area in the Town.

(D) Construction related equipment and materials shall, at all times, be stored in a neat and orderly manner.

§ 00-15-154-06 OPEN BURNING

No person, partnership or corporation shall cause, suffer or allow any open burning of any kind on any construction site in the Town of Cumberland.

§ 00-15-154-07 THEFT, VANDALISM AND DESTRUCTION OF PRIVATE PROPERTY

Any person, partnership or corporation obtaining a building permit for construction activity in the Town (the "permit holder') shall comply with the following requirements regarding theft, vandalism and destruction of private property on, or related to, the construction site.

(A) The permit holder shall report all acts of theft, vandalism and destruction of private property occurring on the construction site to the Cumberland Police Department and the Department of Building and Planning Services.

(B) Any person that witnesses an act of theft, vandalism or destruction of private property on, or relating to, a construction site in the Town shall report such act to the Cumberland Police Department and the Department of Building and Planning Services.

(C) It shall be unlawful for a permit holder, or anyone employed or contracted by the permit holder, while engaged in construction activity on the construction site, to use any utility connected to a property adjoining the construction site without the prior written consent of the owner of the adjoining property. Such written consent shall be required to be filed with the Building Commissioner prior to the use of the utility by the permit holder.

(D) The owner of a property adjoining a construction site shall report any unauthorized use of a utility by a permit holder, or anyone employed or contracted by the permit holder, while engaged in construction activity on the construction site, to the Cumberland Police Department and the Department of Building and Planning Services.

§ 00-01-154-08 SPECIFIC HEALTH AND SAFETY HAZARDS

Construction activity on either a structure or building equipment where the activity, if done improperly, is a potential health or safety hazard shall require that a permit be obtained from the Building Commissioner.

(A) Construction activity relative to a structure which, if done improperly would be a potential health or safety hazard includes:

(1) The construction or alteration of a chimney or venting system;

(2) The stripping and reapplication of roofing material;

(3) A change in exterior bulk or façade;

(4) The creation or cutting away of any load-bearing wall, partition, or portion thereof;

(5) The addition of concentrated roof loading;

(6) The creation, removal or change of any required means of egress;

(7) The rearrangement of parts of a structure affecting the exitway requirements;

(8) A change of the use group, occupancy or structure type.

(B) Construction activity relative to building equipment which, if done improperly, would be a potential health or safety hazard includes:

(1) The installation, significant alteration or relocation of any water distribution system, soil, waste, vent or similar piping within a structure;

(2) The relocation of any plumbing fixtures;

(3) The installation, significant alteration or relocation of an electrical power distribution system;

(4) The installation of a heating system, space heating equipment, cooling system or space cooling equipment;

(5) The installation of a water heater:

(6) The replacement of a water heater with one that is not identical as to temperature or pressure protection, venting arrangement, and type of fuel or energy input;

(7) The connection, provision or use of temporary electrical power for on-site construction activity;

(8) The construction or placement of an above ground swimming pool that is more than thirty (30) inches deep and/or more than fifteen (15) feet wide at its widest point.

§ 00-15-154-09 CONSTRUCTION ACTIVITY AFFECTING TOWN INFRASTRUCTURE

Construction activity on a structure, accessory structure, building equipment or other installations incidental to the use of the property (i.e. – fences, swimming pools, decks, etc.) which, if done or placed improperly, would have an adverse or detrimental effect on Town infrastructure shall require that a permit be obtained from the Building Commissioner.

(A) Construction activity allowed under the provisions of this section includes:

(1) The construction or replacement of a concrete or asphalt driveway;

(2) The construction of any driveway that abuts a Town street or road, or that crosses a publicly used sidewalk;

(3) The construction or replacement of a sidewalk that will be for public use (along a Town street or road);

(4) The construction or placement of any non-permanent accessory structure, building equipment or other installation within, or over, a drainage and/or utility easement;

(5) The construction or placement of any fence within, or over, an open surface drainage swale or channel.

(B) Construction activity prohibited under the provisions of this section includes:

(1) The construction or placement of a permanent structure, accessory structure, building equipment or other installation within, or over, any drainage and/or utility easement;

(2) The construction or placement of a permanent or non-permanent structure, accessory structure, building equipment or other installation within any street, road or other right-of-way;

(3) The alteration of any open surface drainage swale or channel.

§ 00-15-154-10 EROSION, SEDIMENT AND POLLUTION CONTROL REQUIREMENTS

Any person, partnership or corporation involved in the grading, removal of protective ground cover of vegetation, excavation, land filling, landscape, or other similar construction activity on any property in the Town shall comply with the requirements of this section.

(A) Provide written notification to the Department of Building and Planning Services at least two (2) working days prior to commencing any land disturbing activity.

(B) Provide temporary sediment basins that shall detain sediment-laden water flowing from the site. Such water shall not be discharged in a manner that causes erosion in the receiving channels.

(C) All waste and unused building materials, including garbage, debris, cleaning wastes, wastewater, toxic materials and hazardous materials, shall be properly disposed of and not allowed to go offsite or into storm sewers or drainage channels.

(D) Provide graveled roads, access drives, driveways and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private streets and roadways. Any sediment reaching a public or private street or roadway shall be removed by street cleaning (not flushing) by those responsible before the end of each workday.

(E) All storm drainage inlets shall be protected with straw bales, filter fabric or an equivalent barrier meeting accepted design criteria, standards and specifications.

(F) All sediment shall be controlled and contained on-site.

(G) For vacant land held for development, grass or other vegetative ground cover shall be provided and regular mowing or herbicide spray treatment must control noxious weeds.

(H) Single building lots that remain inactive for thirty (30) days or more shall be provided with temporary ground cover vegetation. This requirement may be waived if the landowner has sold the lot and construction activity is scheduled to commence within thirty days after the lot is sold.

(I) Maintain all erosion, sediment and pollution control measures necessary to meet the requirements of this section during the entire period of land disturbance and/or land development on the site.

(J) In addition to complying with the requirements of this section, all requirements of the Hancock County Soil Conservation Division of the Indiana Department of Natural Resources shall be complied with.

(K) Repair any sedimentation or erosion damage on adjoining surfaces, storm sewers or drainage channels resulting from land disturbing or land developing activities.

(L) In addition to complying with the requirements of this section, all requirements of the Indiana Department of Environmental Management and the Cumberland Stormwater Utility Board, relative to Stormwater Phase II, shall be complied with.

§ 00-15-154-99 PENALTIES

Any person partnership or corporation who shall violate any of the provisions of this chapter, or shall fail to perform any duty lawfully required, or shall fail, neglect or refuse to obey any lawful order given by the Building Commissioner, or other designated Town Staff, in connection with the provisions of this chapter shall be subject to the penalties for violation prescribed herein. For each such violation, failure or refusal, such person, partnership or corporation shall be fined a sum of not less than Ninety-Five Dollars ($95.00). Each day such unlawful activity occurs or continues shall constitute a distinct and separate offense.

(Adopted by Cumberland Town Council on May 1, 2002 – Ordinance No. 2002-10)

CHAPTER 155: FEES

Section

00-15-155-01 Permit Fees for Residential Structures and Accessory Structures
00-15-155-02 Permit Fees for Commercial, Industrial, Institutional, and Multiple Family Structures and Accessory Structures
00-15-155-03 Permit Fees for Signs and Non-Categorized Construction
00-15-155-04 Inspection Fees
00-15-155-05 Subdivision Plat Application Fees
00-15-155-06 Planned Unit Development (PUD) Plan Application Fees
00-15-155-07 Board of Zoning Appeals Petition Fees
00-15-155-08 Geographic Information System (GIS) Information Access Fees

§ 00-15-155-01 PERMIT FEES FOR RESIDENTIAL STRUCTURES AND ACCESSORY STRUCTURES

(A) Structural Permit.

(1) Base Fee: $200.00, plus inspection fees.

(2) $0.05 additional charge for each square foot of floor area in excess of 1,200 square feet.

(B) Improvement Location Permit: $150.00
(C) Footing/Foundation Inspection: $95.00
(D) Rough-in Electric Inspection: $95.00
(E) Rough-in plumbing inspection: $95.00
(F) Rough-in HVAC Inspection: $95.00
(G) Rough-in framing inspection: $95.00
(H) Permanent Electrical Meter: $95.00
(I) Final Inspection: 380.00
(J) Re-Inspection: $95.00 per hour
(K) Alterations, Roof, fence & Deck: $75.00
(L) Misc. inspections not listed $50.00

§ 00-15-155-02 PERMIT FEES FOR COMMERCIAL, INDUSTRIAL, INSTITUTIONAL, AND MULTIPLE FAMILY STRUCTURES AND ACCESSORY STRUCTURES

The following fees shall be paid for the permits required for the construction, repair, replacement or addition to commercial, industrial, institutional and multiple family structures and accessory structures.

(A) Building Permit: $300.00 base fee, plus $0.10 additional charge for each square foot of floor area in excess of 1,200 square feet.
(B) Improvement location permit: $375.00
(C) Footing/Foundation Inspection: $190.00

(D) Rough-in Electric Inspection: $190.00
(E) Rough-in plumbing inspection: $190.00
(F) Rough-in HVAC Inspection: $190.00
(G) Rough-in framing inspection: $190.00
(H) Permanent Electrical Meter: $190.00
(I) Final Inspection: 760.00
(J) Re-Inspection: $95.00 per hour
(K) Alterations, Roof, fence & Deck: $75.00
(L) Misc. inspections not listed $50.00

Cellular Facility inspection: $95.00 per hour
Street Cut Permit: $25.00 per linear foot with a minimum of $200.00

§ 00-15-155-03 PERMIT FEES FOR SIGNS AND NON-CATEGORIZED CONSTRUCTION

(A) Sign Permit (installation or placement).

(1) Non-illuminated: $35.00, plus inspection fees.

(2) Illuminated: $70.00, plus inspection fees.

(B) Non-Categorized Construction Permit.

(1) Non-Categorized (as required by law): $35.00, plus inspection fees.

Note: Non-Categorized Construction shall include, but not be limited to, the construction, installation or placement of fences (any type); swimming pools; concrete or asphalt driveways, sidewalks and stoops; patios, decks and related walkways, preplacement doors and windows (excluding storm doors and windows): siding, soffit and related trims; roofing materials (on existing structures); and any other construction activity not specifically described I this chapter.

§ 00-15-155-04 INSPECTION FEES

(A) Each Inspection [Except Re-Inspections as provided in (B) and (C) below]: $25.00.

(B) Signs; Annual Re-Inspection.

(1) Non-Illuminated: $15.00 each inspection.

(2) Illuminated: $20.00 each inspection.

(C) Each Re-Inspection required as a result of a Violation Citation (Red Tag), Any Type: $40.00.

§ 00-15-155-05 SUBDIVISION PLAT APPLICATION FEES

(A) Preliminary Plat Application: $300.00, plus all legal notice advertising costs, and all Town Consulting Engineer review costs.

(B) Secondary (final) Plat Application: $500.00, plus all Town Consulting Engineer review costs.

§ 00-15-155-06 PLANNED UNIT DEVELOPMENT (PUD) PLAN APPLICATION FEES

(A) Preliminary Plan Application: $500.00 plus all legal notice advertising costs, and all Town Consulting Engineer review costs.

(B) Secondary (Final) Plan Application: $300.00, plus all Town Consulting Engineer review costs.

§ 00-15-155-07 PLAN COMMISSION AND BOARD OF ZONING APPEALS PETITION FEES

(A) Zoning Map Change [except for Planned Unit Development (PUD) Zoning]: $350.00

(B) Zoning Text Change [except for Planned Unit Development (PUD) Zoning]: $750.00

(C) Development Plan Approval: $350.00

(D) Conditional or Special Use: $300.00

(E) Variance of Land Use: $200.00

(F) Variance from Development Standards: $200.00

(G) Subdivision RE-Plat: $200.00

(H) Special Exception [Residential]: $200.00

(I) Special Exception [Commercial/Industrial]: $300.00

(J) Plat Amendment: $200.00

(K) Appeals: $50.00

§ 00-15-155-08 GEOGRAPHIC INFORMATION SYSTEM (GIS) INFORMATION ACCESS FEES

(A) General Town Information Map (8 ½" X 11" Color or Black & White): $1.00 Each Sheet General Town information may include, but not be limited to, parcel, subdivision plat, zoning, land use, Town infrastructure, street & road, parks, property address and public safety information. [Note: Information on items such as private utilities, aerial photography, property ownership, etc. that is provided to the Town by the various private utility companies and

Hancock County or Marion County for internal use only, and may not be accessed through the Town's GIS by without the written consent of those entities.]

(B) Special Project Information Map (8 ½" X 11" Color or Black & White): $1.00 each sheet, plus $35.00 per hour for the staff time necessary to research, collect and generate the specific property or area information and create the map layout for the special project.

(Adopted by Cumberland Town Council on May 1, 2002 – Ordinance No. 2002-11)

CHAPTER 156: PERMIT APPLICATION, INSPECTION AND COMPLETION REQUIREMENTS

Section

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§ 00-15-156-01 PERMIT APPLICATION REQUIREMENTS

(A) Application for a permit shall be made to the Building Commissioner. The application shall be in writing and contain the information required by a form prescribed by the Commissioner and approved by the Town Council, and shall be supported with:

(1) Three (3) copies of detailed plans and specifications drawn to an acceptable scale which indicate in a precise manner the nature and the location of all work to be accomplished pursuant to the permit. In lieu thereof, it shall be within the discretion of the Building Commissioner to accept three (3) copies of a written statement indicating the nature and location of the work to be done pursuant to the permit, where the written statement describes the work as precisely as a copy of detailed plans and specifications drawn to scale.

(2) Three (3) copies of a plot plan drawn to an acceptable scale which reflect the location of the structure(s) in relation to existing property lines and which show streets, curbs and sidewalks and proposed changes or additions to streets, curbs and sidewalks. The plot plan shall not be required in the instance where all of the construction activity is to occur inside an existing structure or where the construction activity consists only of demolition, removal or razing of a structure.

(3) Three (3) copies of a soil composition and compaction report, if the construction activity is one which includes the construction of a permanent foundation. The soil report shall not be required if the lot where the construction activity is to be

located is part of an approved subdivision for which a soil report was previously submitted and approved.

(4) A Design Release issued by the State Building Commissioner if required by Indiana law or any rule of the Fire Prevention and Building Safety Commission.

(5) A connection permit obtained from the Cumberland Sewer Utility, if required by any ordinance.

(6) In the instance where a permit is requested for the purpose of allowing the demolition or removal of a structure, the application shall be supported with a written statement from each utility that its service to the premises has been disconnected, and with either a written statement from the record titleholder of the premises authorizing the demolition or removal, or a court order or administrative order requiring the demolition or removal of the structure.

(B) In the instance where a permit is requested for allowing the demolition or removal of a structure which is in excess of seventy-five (75) feet in height, the application shall be supported by a certificate of insurance reflecting that the obtainer of the permit has a public liability and property damage insurance policy naming the licensee and the Town as the assured and providing also for the payment of any liability imposed by law on the licensee or the Town in the minimum amounts of One Million Dollars ($1,000,000.00) for any occurrence relative to where there is injury to or death of one or more persons, and Five Hundred Thousand Dollars ($500,000.0) for any occurrence relative to which there is property damage.

(C) A permit shall be issued if:

(1) The application and supporting information required by this section have been property prepared and submitted; and

(2) The application and supporting information filed in accordance with this section reflect compliance with all applicable state codes and local ordinances; and

(3) The proposed construction activity will not violate any zoning ordinance of the Town, will not encroach on any easement or adjoining property, and will not violate any restrictive covenant applicable to the property; and

(4) The permit fee has been paid in compliance with Chapter 155.

(D) By making payment for the permit, the applicant shall be deemed to represent and certify that the information contained in that permit is complete and accurate, unless the applicant shall, within ten (10) days, provide in writing to the Building Commissioner any additions or corrections to that information.

(E) The issuance or granting of a permit or design release shall not be construed to be a permit for, or an approval of, any violation of any provision of applicable state codes or local ordinances. No permit presuming to give authority to violate or cancel any applicable provision of state codes or local ordinances shall be valid, except insofar as the work or use which is authorized as lawful.

(F) The permit issued based upon the plans and specifications shall not prevent the Building Commissioner from requiring the correction of errors in plans and specifications or from preventing construction activity being carried on thereunder when in violation of any applicable provision of state codes or local ordinances.

§ 00-15-156-02 PLAN SHEETS AND SCALE REQUIREMENTS

(A) All plans shall be drawn to scale suitable to illustrate the work using accepted professional practices. The drawing scale must be noted on each sheet.

(B) All plans with more than one (1) sheet shall be numbered.

(C) Except with respect to residential structures, an index shall be furnished on the first sheet setting forth the character of each sheet in the set of plans.

(D) The address appearing on the permit shall be placed in letter at least ¼ inch high on the face of each sheet.

§ 00-15-156-03 EXAMINATION OF DETAILED PLANS AND SPECIFICATIONS

(A) The purpose of any examination of detailed plans and specifications and plot plans shall be to determine consistency with applicable state codes and local ordinances.

(B) Design characteristics not affecting consistency with applicable state codes and local ordinances shall not be considered in any examination of detailed plans and specifications and plot plans.

(C) Issuance of a permit relative to plans which do not comply with applicable state codes and local ordinances shall not relieve the person, partnership or corporation who applied for, or obtained, the permit of the responsibility of complying with all applicable state codes and local ordinances.

(D) The Building Commissioner shall stamp all acceptable plans and specifications and plot plans “Approved,” then return one (1) copy of the detailed plans and specifications and one (1) copy of the plot plan to the applicant.

(E) The Building Commissioner shall retain one (1) copy of the approved plans and specifications and one (1) copy of the plot plan for a period not less than ninety (90) days from the date of completion of the work covered thereby.

(F) The Building Commissioner shall file one (1) copy of the approved plans and specifications and one (1) copy of the plot plan with the Hancock County Assessor’s Office.

§ 00-15-156-04 PAYMENT OF PERMIT FEES

Fees required for permits issued by the Building Commissioner shall be collected by the Clerk-Treasurer of the Town before the issuance of any permit. A permit shall not be considered valid until such fees have been paid in full.

§ 00-15-156-05 EXPIRATION OF PERMIT

(A) If the construction activity for which a permit has been issued has not commenced within sixty (60) days from the date of its issuance, the permit shall expire by operation of law and no longer shall be of any force or effect.

(1) The Building Commissioner may, for good cause shown in writing before expiration of the sixty (60) days, extend the validity of any permit for an additional period which is reasonable under the circumstances, but in no event shall the continuance exceed sixty (60) days.

(2) The extension shall be confirmed in writing.

(B) If the construction activity has been commenced but only partially completed and thereafter substantially no construction activity occurs on the construction over a period of sixty (60) days, the permit shall expire by operation of law an no longer shall be of any force or effect.

(C) The Building Commissioner may, for good cause shown in writing before expiration of the sixty (60) days, extend the validity of any permit for an additional period which is reasonable under the circumstance to allow re-initiation of construction activity. In no event shall the extension exceed sixty (60) days.

(D) If a permit expires by operation of law under this section, before work can be commenced, a new permit first shall be obtained and the fee therefor shall be one half (1/2) the amount required for the original permit for the work, provided that no change shall have been made in the original plans and specifications for the work, and the failure to commence construction activity or the suspension of construction activity shall not have exceeded one (1) year.

§ 00-15-156-06 DEFACING OF PERMIT

It shall be unlawful for any person intentionally to remove, deface obscure, mutilate, mark or sign a posted permit without authorization from the Building Commissioner, or the Commissioner's authorized representative, until fifteen (15) day after both the construction activity is completed and the Building Commissioner is notified of the completion.

§ 00-15-156-07 STRUCTURAL INSPECTION REQUIREMENTS

(A) The Building Commissioner, or an authorized assistant, shall inspect each structure being constructed for which a permit is required.

(1) If the work fully complies with the provisions of all applicable state codes and local ordinances governing the construction, the Commissioner, or authorized assistant, shall approve it.

(2) If the work does not comply with the applicable state codes and local ordinances governing the construction, the Commissioner, or authorized assistant, shall require the construction to be altered so as to comply.

(B) The construction of, remodeling of, or addition to a structure shall require, as applicable, the following inspections:

(1) A footing inspection, to be made after polies or piers are set, trenches are excavated, forms are erected and any required reinforcing steel is in place, but before placing of the concrete;

(2) A basement inspection, to be made after basement areas are excavated, forms are erected and any required reinforcing steel is in place, but before placing of the concrete;

(3) A framing and masonry inspection, to be made after the roof, masonry, all framing, firestopping and bracings are in place and all electrical wiring, pipes, chimneys and vents are complete, but before interior covering of walls;

(4) A final inspection, to be made after construction activity is complete and the structure is ready for occupancy;

(5) A finish grading inspection, to be made after all finish grading around the structure and on the entire lot is completed, and all sodding and seeding has been installed.

(C) The Building Commissioner, when satisfied that structure construction is, or will be, ready for inspection, shall examine the work and approve or reject it, or parts thereof, as soon as possible from the time of the construction activity.

(D) If the structure construction has been rejected the Building Commissioner shall re-inspect the structure upon notice from the permit holder that the structure is in compliance and shall assess an additional charge for the re-inspections as required by Town ordinance.

(E) No person, partnership or corporation shall use or occupy any structure for which a permit has been, or is required to be, obtained pursuant to applicable state codes and local ordinances until after a Certificate of Occupancy has been issued.

§ 00-15-156-08 ELECTRICAL INSPECTION REQUIREMENTS

(A) The Building Commissioner, or an authorized assistant, shall inspect each structure where the construction activity involves electrical work or wiring.

(1) If the work fully complies with the provisions of all applicable state codes and local ordinances governing it, the Commissioner, or authorized assistant, shall approve it.

(2) If the electrical work or wiring does not comply with applicable state codes and local ordinances governing it, the Commissioner, or authorized assistant, shall require the electrical work or wiring to be altered so as to comply.

(B) All new building construction requiring electrical service shall be required to have the following electrical inspections:

(1) A temporary service inspection, to be made after the temporary service equipment has been installed, but before electrical service is connected by the electric power utility provider.

(2) A rough-in inspection, to be made after all electrical wiring, conduit and boxes are installed, but before any electrical devices, appliances or equipment are installed and before covering the interior ceilings and walls;

(3) A final inspection, to be made after all electrical work is completed, and before the use or occupancy of the structure.

(4) A permanent service inspection, to be made after the permanent service equipment has been installed, but before electrical service is connected by the electric power utility provider.

(C) When notified that any electrical work or wiring is, or will be, ready for inspection, the Building Commissioner, or an authorized assistant, shall examine it and approve or reject the work, or parts thereof, as soon as possible from the time of notification.

(D) If the electrical work has been rejected, the Building Commissioner, or authorized assistant, shall re-inspect the work upon notice from the permit holder that the electrical work is in compliance and shall assess an additional charge for re-inspection, as required by Town ordinance.

(E) No person, partnership or corporation shall use any electrical power in or on a structure where construction activity for which a permit has been, or is required to be, obtained pursuant to applicable state codes and local ordinances until after an inspection has been made and approval given.

§ 00-15-156-09 PLUMBING INSPECTION REQUIREMENTS

(A) The Building Commissioner, or an authorized assistant, shall inspect each structure where the construction activity involves plumbing work or sanitary drainage, water pipe fitting, and any sanitary appliances connected therewith.

(1) If the work fully complies with the provisions of all applicable state codes and local ordinances governing it, the Commissioner, or authorized assistant, shall approve it.

(2) If the work or sanitary drainage, water pipe fitting and any sanitary appliances connected therewith does not comply with applicable state codes and local ordinances governing it the Commissioner, or authorized assistant, shall require the work to be altered so as to comply.

(B) All new building construction requiring plumbing service shall be required to have the following plumbing inspections:

(1) An under-slab inspection shall be required when plumbing pipes and fittings are installed in an area that will be covered by concrete. The inspection shall be made before any concrete is poured over the plumbing work.

(2) A rough-in inspection, to be made after all plumbing pipes and fittings are installed, but before any plumbing fixtures or appliances are installed and before covering the interior ceilings and walls.

(3) A final inspection, to be made after all plumbing work is completed, and before the use or occupancy of the structure.

(C) When notified that any plumbing work or sanitary drainage, water pipe fitting and any sanitary appliances connected therewith is, or will be, ready for inspection, the Building Commissioner, or authorized assistant, shall examine it and approve or reject the work, or parts thereof, as soon as possible from the time of notification.

(D) If the plumbing work has been rejected, the Commissioner, or authorized assistant, shall re-inspect the work upon notice from the permit holder that the plumbing work is in compliance and shall assess an additional charge for re-inspection, as required by Town ordinance.

(E) No person, partnership or corporation shall use any plumbing in or on a structure where construction activity for which a permit has been, or is required to be, obtained pursuant to applicable state codes and local ordinances until after an inspection has been made and approval given.

§ 00-15-156-10 HEAT, VENTILATION AND AIR CONDITIONING INSPECTION REQUIREMENTS

(A) The Building Commissioner, or an authorized assistant, shall inspect each structure where the construction activity involves heating, ventilating or air conditioning work.

(1) IF the work fully complies with the provisions of all applicable state codes and local ordinances governing it, the Commissioner, or authorized assistant, shall approve it.

(2) If the heating, ventilating or air condition work does not comply, the Commissioner, or authorized assistant, shall require it to be altered so as to comply.

(B) All new building construction requiring heating, ventilating or air conditioning service shall be required to have the following inspections:

(1) A rough-in inspection, to be made after all natural gas pipes and fittings, plumbing pipes and fittings, electrical wiring and conduits, and duct work is installed, but before any heating, ventilating or air conditioning appliances are installed, and before covering the interior ceilings and walls in the areas where the above are installed.

(2) A final inspection, to be made after all heating, ventilating and air conditioning work has been completed, and before the use or occupancy of the structure.

(C) When notified that any heating, ventilating and air conditioning work is, or will be, ready for inspection, the Building Commissioner, or authorized assistant, shall examine it and approve or reject the work, or parts thereof, as soon as possible from the time of notification.

(D) If the heating, ventilating and air conditioning work has been rejected, the Commissioner, or authorized assistant, shall re-inspect the work upon notice from the permit holder that the work is in compliance and shall assess an additional charge for re-inspection, as required by Town ordinance.

(E) No person, partnership or corporation shall use any heating, ventilating and air conditioning in or on a structure where the construction activity for which a permit has been, or is required to be, obtained pursuant to applicable state codes and local ordinances until after an inspection has been made and approval given.

§ 00-15-156-11 NOTICE OF AVAILABILITY FOR INSPECTION

Whenever a stage of construction activity is reached for which an inspection is required, the permit holder, or the permit holder's agent, shall be under a duty to give appropriate notice to the Building Commissioner that the construction activity is available for inspection. Notice of availability shall be given either by telephone communication over a specified telephone line in the office of the Department of Building and Planning Services, by hand-delivered written notice or by a letter delivered by the United States Postal Service.

§ 00-15-156-12 CONSTRUCTION ACTIVITY TO REMAIN AVAILABLE FOR INSPECTION

(A) Whenever a stage of construction activity designated in this chapter is reached, no person shall take any action or accomplish any additional construction activity which would substantially impede the opportunity of the Building Commissioner, or an authorized assistant, to inspect that stage of construction activity for a period of at least forty-eight (48) hours after notice of availability for inspection has been received during business hours in the Department of Building and Planning Services office or until after an inspection is made, whichever first occurs.

(B) The forty-eight (48) hour period shall begin to run upon actual receipt of the notice during business hours but shall not run during any day when an inspection attempt by the Building Commissioner, or authorized assistant, is unsuccessful because the work is not accessible or on Saturdays, Sundays or legal holidays.

(C) A person, partnership or corporation may pour a footing two (2) hours after notification is received in the office of the Department of Building and Planning Services. If a footing is so poured, the remainder of the excavation must remain open for a period of at least forty-eight (48) hours from the time when notice is received, and the person, partnership or corporation must assist the inspector in making the excavation available for proper inspection.

§ 00-15-156-13 FILING OF CERTIFICATE OF COMPLETION AND COMPLIANCE

Within ten (10) days after completion of the construction activity for which a permit has been issued pursuant to the provisions of this chapter, and applicable state codes and local ordinances, and before the use or occupancy of the structure, the person who applied for the permit for the construction activity shall execute and file a Certificate of Completion and

Compliance with the Building Commissioner in the form specified by the Commissioner and approved by the Town Council.

§ 00-15-156-14 CERTIFICATE OF OCCUPANCY

Upon receipt of the Certificate of Completion and Compliance, satisfactory completion of all final inspections and receipt of certification from the Superintendent of the Sewage Utility that all sewer connections have been completed in compliance with Chapter 51 of the Town Code and that grading of the property upon which the construction activity was completed does not cause surface water to flow into the sanitary sewer, the Building Commissioner, or authorized assistant, shall issue a Certificate of Occupancy.

§ 00-15-156-15 PENALTY

Any person, partnership or corporation violating any provision of this chapter, failing to perform any duty lawfully given within the time prescribed by the Building Commissioner, or authorized assistant, or failing, neglecting or refusing to obey any lawful order given by the Commissioner shall, upon conviction, be fined not less than Ninety-Five Dollars ($95.00) nor more than Twenty-Five Hundred Dollars ($2,500.00). Each day a violation occurs or continues shall constitute a separate offense.

(Adopted by Cumberland Town Council on May 1, 2002 – Ordinance No. 2002-12)

APPENDIX A
TOWN OF CUMBERLAND
EMPLOYEE HANDBOOK

Town of Cumberland
Employee Handbook

Adopted: April 1, 2016

IMPORTANT NOTICE

The information contained in this handbook is designed to provide employees with an overview of the employment policies for the Town of Cumberland. Certain provisions of the handbook apply only to employees of the Town who are not regular members of the Cumberland Police Department, and these provisions are delineated in the handbook. The Cumberland Police Department has Standard Operating Procedures and other General Orders and Rules which apply to its officers. For these Officers, the provisions of this handbook and all procedures, orders and rules of the Police Department apply. Where special rules apply to members of the Police Department, these provisions are noted. All statements are intended as general in nature.

THIS EMPLOYEE HANDBOOK MAY BE AMENDED BY THE TOWN COUNCIL FROM TIME TO TIME. THIS HANDBOOK DOES NOT CREATE A CONTRACT FOR EMPLOYMENT FOR ANY SPECIFIC DURATION. THE EMPLOYEE UNDERSTANDS THAT HIS OR HER EMPLOYMENT IS AT-WILL. THE TERM "AT-WILL" MEANS THAT EITHER THE EMPLOYER OR THE EMPLOYEE MAY TERMINATE THE EMPLOYMENT RELATIONSHIP AT ANY TIME, WITH OR WITHOUT CAUSE. ALTHOUGH THIS HANDBOOK MAY CREATE MUTUAL OBLIGATIONS AND RIGHTS FOR BOTH THE EMPLOYER AND THE EMPLOYEE, IT DOES NOT CREATE A CONTRACT FOR EMPLOYMENT OR OTHERWISE ESTABLISH A RELATIONSHIP UNDER WHICH THE EMPLOYER MAY ONLY TERMINATE THE EMPLOYEE FOR CAUSE. NO TOWN REPRESENTATIVE OR EMPLOYEE HAS AUTHORITY TO ENTER INTO ANY AGREEMENT OR TO MAKE ANY REPRESENTATIONS WHICH ARE CONTRARY TO THIS PARAGRAPH. BY SIGNING THE ACKNOWLEDGEMENT OF RECEIPT OF THIS HANDBOOK, THE EMPLOYEE ACKNOWLEDGES THIS NOTICE.

The policies contained herein have been adopted with the intent to fully comply with all applicable laws governing employment practices and procedures. Nonetheless, if any policy contained in this handbook conflicts in any way with a federal, state, or local law, it is the Town of Cumberland's intent to fully comply with the applicable law.

You should read, understand, and comply with all of the provisions of the handbook. It describes many of your responsibilities as an employee and outlines the programs developed by The Town of Cumberland to benefit employees. Question about this handbook may be directed to your supervisor or to the Town Manager.

USE OF THIS HANDBOOK

The Town of Cumberland is committed to the establishment of sound personnel practices. As a result, this Employee Handbook has been developed to explain employee responsibilities, employee benefits, and policies and procedures for the Town. It shall be the purpose of this Employee Handbook to promote the efficiency and economy of government, the morale and well-being of employees, and equal employment opportunity for all Town employees and candidates.

The Town Council has adopted and may amend the Employee Handbook. The Town Manager, Clerk-Treasurer and Police Chief shall be responsible for administration and maintenance of the personnel rules and regulations in their respective Departments.

All previously issued rules and procedures governing Town personnel policies are hereby rescinded and superseded by this Employee Handbook. Town ordinances related to Town employees are not rescinded and superseded unless expressly covered, by the adoption of this Employee Handbook.

Individual departments may adopt additional policies as needed to ensure the achievement of the Town's commitment to service. These policies may not conflict with the provisions of this Employee Handbook, however, and shall be developed with the guidance and approval of the Town Manager's office for the Administrative Department, the Clerk-Treasurer for her Department and Police Chief for the Police Department. Amendments to this Employee Handbook shall only be made by the Town Council and no department or office of the Town may amend or alter this Employee Handbook.

The contents of this Employee Handbook summarize current Town policies and programs and are intended as guidelines only. The Town retains the right to change, modify, suspend, interpret, or cancel in whole or in part any of the published or unpublished policies or practices of the Town, without advance notice, at its sole discretion without having to give cause or justification to any employee.

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1. THE EMPLOYMENT RELATIONSHIP

1.01 EQUAL EMPLOYMENT OPPORTUNITY POLICY

It is the policy of the Town of Cumberland that there shall be equal employment opportunity for all employees and applicants without regard to race, color, religion, sex, sexual preference, national origin, age, disability, genetic information, immigration status or ancestry. The Town provides for fair treatment of employees. All employment and advancement opportunities will be based on merit, qualifications, and abilities. In addition, the Town will make reasonable accommodations for qualified individuals with known disabilities unless doing so will result in an undue hardship. The Town complies with all applicable federal, state, and local labor laws.

1.02 IMMIGRATION LAW COMPLIANCE

The Town of Cumberland is committed to employing only United States citizens and aliens who are authorized to work in the United States. The Town does not unlawfully discriminate on the basis of citizenship or national origin or immigration status.

In compliance with the Immigration Reform and Control Act of 1986, each new employee, as a condition of employment, must complete the Employment Eligibility Verification Form, I-9, and present documentation establishing identity and employment eligibility. Former employees who are rehired must also complete the form if they have not completed an I-9 with the Town within the past three years, or if their previous I-9 is no longer retained or valid.

Employees with questions or seeking more information on immigration law issues are encouraged to contact the Town Manager. Employees may raise questions or complaints about immigration law compliance without fear of reprisal.

1.03 HIRING PROCESS

1.03.1 New Hires: The Town of Cumberland is committed to hiring only qualified applicants. Qualifications considered include education, training, experience, ability and skills. All hiring is conducted in accordance with the Town's commitment to equal employment opportunity and in compliance with the Americans with Disabilities Act.

1.03.1.1 Preliminary Hiring Procedure: To be considered for employment with the Town, all applicants must:

1.03.1.1.1: Complete a Town application for employment;
1.03.1.1.2: Provide proof of a valid Indiana Driver's License;
1.03.1.1.3: Complete a Nepotism Affidavit;
1.03.1.1.4: Complete all tests and other screening procedures relevant to the position. These screenings may include fingerprinting, testing, background investigation, driver's license check;
1.03.1.1.5: Pass a physical examination for Town positions requiring certain physical abilities.

1.03.1.2 Conditional Offer Procedure: If, after an applicant completes the preliminary hiring procedure and receives a conditional offer of employment, the applicant must:

1.03.1.2.1: Provide proof of U.S. citizenship or evidence of the right to work in the U.S.;
1.03.1.2.2: Complete Employment Eligibility Verification Form, I-9.
1.03.1.2.3: Complete a criminal background consent form and authorize such background check to be completed by the Town; and
1.03.1.2.4: If appropriate, authorize a credit investigation.

1.03.1.3. Criminal Background Investigation Policy: In conducting criminal background investigations during the conditional offer procedure, Cumberland will comply with all federal and state regulation of such investigations. Because Cumberland believes that hiring qualified individuals is a priority and that a safe and productive work environment is important, these investigations are necessary. In conducting these investigations, Cumberland will follow the procedure below:

1.03.1.3.1 Prohibitions: Cumberland will not ask applicants whether they have criminal histories that are restricted or sealed;

1.03.1.3.2 Expunged Records: Cumberland will not ask applicants whether they have criminal histories that have been expunged;

1.03.1.3.3 Nondiscrimination: Cumberland will investigate all applicants receiving conditional offers, and Cumberland

will not discriminate against applicants in the administration of these investigations;

1.03.1.3.4 Infractions: Cumberland will not require disclosure of or consider adverse judgments for infractions if (a) a judgment against the applicant has been satisfied and at least five years have passed since the satisfaction of the judgment, (b) the applicant was not prosecuted for the infraction charged, (c) the applicant was found not to have committed the infraction, or (d) the applicant was found to have committed the infraction but the judgment was subsequently vacated.

1.03.1.3.5 Class D Felonies Treated as Misdemeanors: Cumberland will not require applicants to disclose nor will it consider convictions of Class D Felonies which were given Misdemeanor treatment by a court.

1.03.1.3.6 Evaluation of Criminal Histories: In considering information obtained from these investigations, a conviction will not automatically preclude the employment of the applicant. Rather, Cumberland will consider all relevant factors regarding the convictions, including but not limited to the type of offense, the seriousness of the offense, how much time has passed since the conviction, the nature of the job applied for and how much supervision the applicant will have and how much interaction the applicant will have with members of the public and co-workers;

1.03.1.3.7 Right to Request Review: If the applicant is notified that his or her conditional offer of employment is withdrawn because of this investigation, the applicant is entitled to a copy of the information considered by Cumberland in making this decision and is entitled to request that Cumberland reconsider its decision if the applicant believes either that the information contains incorrect information or was improperly considered by Cumberland in violation of this policy, federal law, or Indiana law. The applicant must request a review within seven days of receiving notice of the withdrawal of the conditional offer.

1.03.1.4 Credit Investigations: For certain positions which involve financial accounting, handling financial transactions, or security concerns, Cumberland may require credit investigations. In conducting these investigations, Cumberland will follow the procedure below:

1.03.1.4.1 Nondiscrimination: Cumberland will require all applicants for positions which involve financial accounting, handling financial transactions or security concerns to authorize credit investigations, and Cumberland will not discriminate against applicants in the consideration of this information;

1.03.1.4.2 Consent: Cumberland will obtain consents for credit investigations from applicants prior to conducting its investigations.

1.03.1.4.3 Copies and Notice of Rights: Cumberland will provide to all applicants authorizing credit investigations copies of documents obtained in the investigation and a notice of the applicants rights under the Fair Credit Reporting Act. Cumberland will also provide to the applicant the name, address, and telephone numbers of any provider of information;

1.03.1.4.4. Evaluation of Credit Histories: If the applicant's credit history causes Cumberland to withdraw its conditional offer of employment, Cumberland will provide to the applicant of this decision in writing. The applicant is entitled to request that Cumberland reconsider its decision if the applicant believes either that the information contains incorrect information or was improperly considered by Cumberland in violation of this policy, federal law, or Indiana law. The applicant must request this review within seven days of receiving notice of the withdrawal of the conditional offer.

1.03.2 Rehires – Former employees who seek reemployment with the Town must apply and be processed as any other applicant. Applicants who are reemployed within 30 days of separation retain their original rate of employment and are credited with previously unpaid accrued benefits. Applicants previously discharged from Town employment WILL NOT be considered for reemployment for one year from date of termination.

1.03.3 Police Officer Hiring – The hiring of police officers is governed by Indiana Law and the Police Department has its own rules for the hiring of Police Officers.

1.04 EMPLOYMENT AT WILL

1.04.1 Administrative Employees --Employment with the Town is entered into voluntarily, and the employee is free to resign at will at any time, with or without cause and with or without notice. Similarly, the Town may terminate the employment relationship at will at any time, with or without cause and with or without notice.

1.04.2 Police Officers – The employment relationship of police officers and the Town is governed by the Indiana Law, and officers have all of the rights provided for by Indiana law.

1.05 EMPLOYEE CLASSIFICATIONS

1.05.1 Fair Labor Standard Act Classification: Each employee shall be categorized as exempt or non-exempt for purposes of overtime and compensatory time rules and such status shall be indicated on the employee's job description.

1.05.1.1 Non-Exempt – Non-exempt employees are eligible for overtime pay and/or compensatory time under the specific provisions of federal and state laws.

1.05.1.2 Exempt – Exempt employees are not eligible for overtime or compensatory time according to specific provisions of federal and state wage and hour laws. Exempt employees are typically paid on a salary basis and include executive, administrative and professional employees, and certain highly skilled computer employees.

1.05.2 Other Classifications: In addition to the above categories, each employee will belong to one other employment category:

1.05.2.1 Full Time – Full time employees are those who regularly work forty (40) hours per week and who are employed on a year-round basis. Full time employees are eligible for Town benefits subject to the terms, conditions and limitations of each benefit program.

1.05.2.2 Part Time – Part time employees are those who are regularly scheduled to work less than forty (40) hours per week. While they do receive all legally mandated benefits (such as Social Security and workers' compensation insurance), they are not eligible for most Town benefits, unless specifically provided for in the Town's salary ordinance.

1.05.2.3 Temporary / Seasonal – Temporary/seasonal employees are those who are hired for a predetermined or limited period of time or for a project. Interns and summer employees are part of this group. While they do receive all legally mandated benefits (such as Social Security and workers' compensation insurance), temporary/seasonal employees are not eligible for most Town benefits. Temporary/seasonal employees are not guaranteed re-employment at the end of the season or their temporary period of employment and must re-apply for employment.

1.05.2.4 Administrative – All employees of the Town who are not police officers. This classification includes all employees who report to the Town Manager or Department Heads who report to the Town Manager, and civilian employees of the Cumberland Police Department.

1.05.2.5 Probationary Employees – New employees, other than police officers, are probationary employees for a period of 90 days from their date of hiring. During the probationary period, these employees may have their employment terminated with or without cause. At the discretion of the employee's department head, this probationary period may be extended for a period of not more than an additional 90 days.

1.06 NEPOTISM

1.06.1 Definitions: The following definitions apply to the Town's Nepotism Policy:

1.06.1.1 Direct Line of Supervision: The phrase "direct line of supervision" means an elected officer or employee who is in a position to affect the terms and conditions of another individual's employment, including making decisions about work assignments, compensation, grievances, advancement, or performance evaluation. The phrase does not include the responsibilities of the Town Council to make decisions regarding salary ordinances, budgets or personnel policies of the Town;

1.06.1.2 Employed: The term "employed" means an individual

who is employed by the Town on a full–time, part-time, temporary, intermittent, or hourly basis. The term does not include an individual who holds only an

elected office. The term includes an individual who is a party to an employment contract with the Town;

1.06.1.3 Relative: The term "relative" means any of the following:

(a) a spouse;

(b) a parent or stepparent; and,

(c) a child, an adopted child or stepchild;

(d) a brother, sister, stepbrother, stepsister, or a brother or sister by the half-blood;

(e) a niece or nephew;

(f) an aunt or uncle; and,

(g) a daughter-in-law or son-in-law.

1.06.2 Nepotism Prohibited: The Town may not employ individuals who are relatives, as defined in § 2-198(A) (3), in a position that results in one relative being in the direct line of supervision of the other relative.

1.06.3 Application of Policy to Relatives of Elected Officials: Unless a specific exemption applies, this policy applies to an individual who is employed by the Town on the date the individual's relative begins serving a term of an elected officer of the Town. When the elected official begins serving a term of elected office, the relative employed by the Town may remain employed by the Town and maintain his or her position or rank. However, the relative of the elected official may not be promoted to a position that results in one relative being in the direct line of supervision of the other relative. For an individual who is a member of a merit police department, the individual may not be promoted to a position that is not within the merit ranks if the promotion would result in the individual being in the direct line of supervision of the other relative. This policy does not abrogate or affect an employment contract with the Town that an individual is a party to and is in effect on the date the individual's relative begins serving a term of an elected office of the Town.

1.06.4 Exceptions: The following exceptions apply to the Town's Nepotism Policy:

1.06.4.1 Employees on July 1, 2012: an individual who is employed by the Town on or before July 1, 2012 is not subject to the nepotism prohibition unless after July 1, 2012 the individual has a break in employment with the Town. The following are not considered to be a break in employment with the Town:

(a) the individual is absent from the workplace while on paid or unpaid leave, including vacation, sick, or family medical leave or worker's compensation;

(b) the individual's employment with the Town is terminated followed by the immediate reemployment with the Town, without loss of payroll time;

1.06.4.2 Precinct Election Officers: the performance of duties of a precinct election officer, as defined by Indiana Code § 3-5-2-40.1, that are imposed by Title 3 is not considered employment by the Town;

1.06.4.3 Volunteer Firefighters: the performance of duties of a volunteer firefighter is not considered employment by the Town;

1.06.5 Annual Reports: Each year, the following officials must file the following annual reports:

1.06.5.1 Annual Filing: The President of the Town Council will file with the annual report filed by the Town with the State Board of Accounts under Indiana Code § 5-11-13-1 a statement that the Town has implemented a Nepotism Policy under Indiana Code § 36-1-20.2 and § 36-1-21.

1.06.5.2 Annual Certification: Each elected official of the Town will annually certify in writing, subject to the penalties of perjury, that the officer has not violated Indiana Code § 36-1-20.2. This certification will be

submitted to the President of the Town Council not later than December 31 of each year;

1.06.6 Violation Reporting: Each Town Council member shall annually certify in writing, subject to the penalties for perjury, that the officer has not violated Indiana Code § 36-1-21. This certification shall be submitted to the President of the Town Council not later than December 31 of each year.

1.06.7 Contracting With the Town: The Town may enter into a contract or renew a contract for the procurement of goods and services or a contract for public works with an individual who is a relative of a Town Council member or a business entity that is wholly or partially owned by a relative of a Town Council member only if the requirements of the Town's policy are satisfied and the Town Council member does not violate the Indiana Conflicts of Interest rules are contained in Indiana Code § 35-44-1-3.

1.06.7.1 Disclosure: The Town may enter into a contract or renew a contract with an individual or business described in Section 2-198(F) if:

(a) The Town Council member files with the Clerk-Treasurer at a public meeting of the Town Council prior to final action on the contract or purchase a full disclosure which must:

(i) be in writing;

(ii) describe the contract or purchase to be made by the Town;

(iii) describe the relationship that the Town Council Member has to the individual or business entity that contracts or purchases;

(iv) be affirmed under the penalty for perjury;

(v) be filed, not later that fifteen (15) days after final action on the contract or purchase, with the State Board of Accounts and the Clerk of the Circuit Court of the County;

(b) The appropriate Town agency makes a certified

statement that the contract amount or purchase price was the lowest amount or price bid or offered or makes a certified statement of the reasons why the vendor or contractor was selected;

(c) The Town Council accepts in a public meeting the

disclosure prior to final action on the contract or purchase;

(d) The Town satisfies any other requirements under the

public purchasing and bidding laws contained in Indiana Code § 5-22 or § 36-1-12;

(e) The Town Council member must also comply with the

disclosure laws of Indiana Code § 35-44-1-3, if applicable.

1.06.7.2 Existing Contracts: These rules do not affect the

initial term of a contract in existence at the term of office of the Town Council Member begins.

1.07 JOB DUTIES

Employees will receive an explanation of their job responsibilities and performance standards. Job responsibilities may change at any time during the course of employment and employees may be asked to work on special projects or to assist with other work necessary or important to the operation of the Town. The Town reserves the right, at any time, with or without notice, to alter or change job responsibilities, reassign or transfer job positions, or assign additional job responsibilities.

2. COMPENSATION

2.01 HOURS OF WORK

2.01.1 General: Hours of work for Town employees will be determined in accordance with the reasonable needs of Town services and the reasonable needs of the public. The Town Manager shall normally establish the hours of work for each employee under his/her supervision. Supervisors will normally establish the hours of work for each employee under his/her supervision.

2.01.2 Administrative Employees: Non-police full-time employees will work forty (40) hours per work week. The work week shall be from 12:00 a.m. on Saturday through 11:59 p.m. on Friday. The Town Hall shall be open from 8:30 a.m. to 4:00 p.m. Monday through Friday. Supervisors shall ensure that there is adequate office coverage during the Town Hall Open Hours.

2.01.3 Police Officers: Police Officer work various number of hours each week, but not more than 84 hours in a fourteen (14) day period. The Police Department is open at all times, but the office will be open from 8:00 a.m. to 8:00 p.m. Monday through Thursday, and 8:00 p.m. to 2:00 p.m. on Friday. The Police Chief will ensure that there is adequate coverage in the Police Department.

2.01.4 Lunch and Other Breaks: Employees shall be entitled to a ½ hour lunch break and two 15 minute breaks for each 8 hours of employment. Administrative employees are compensated for breaks but not entitled to compensation for lunch breaks. Non-exempt police officers are entitled to compensation for these breaks and lunch breaks since, because of the relatively small number of officers on duty at any time, they are regularly answer calls for service during these periods. Breaks may not be used at the beginning or end of a shift or work day.

2.02 TIMEKEEPING REQUIREMENTS AND PAYDAYS

Accurate recording of time worked is the responsibility of every employee. All employees must accurately record time worked on a time sheet at the beginning and end of each work period. Employees also must record their time whenever they are not working for the Town during their regular work period. Filling out another employee's timesheet, allowing another employee to fill out your timesheet, altering any timesheet, failing to comply with timekeeping rules or reporting will be grounds for discipline up to and including termination of employment. Any errors on a timesheet should be reported

immediately to your supervisor, who will attempt to promptly correct the legitimate errors. Supervisors will review the timesheets of their employees and make corrections as required by law or Town policy. The Town pays its employees every other Friday. Each paycheck represents wages earned by the employee during the two week period ending on the previous Sunday. Immediate supervisors should be notified of any errors in pay. The supervisor will in turn take steps to review the situation. A lost check should be reported immediately so that payment may be stopped at the bank and another check can be issued.

2.03 OVERTIME

2.03.1 Administrative and Civilian Employees: The Town Manager and Clerk-Treasurer shall establish the hours of work for each employee under his/her supervision which shall be determined in accordance with the needs of the Town services, and which shall take into account the reasonable needs of the public. Supervisors shall establish the hours of work for each employee under his/her supervision. The work week consists of 40 hours from Saturday through Friday. Authorized overtime for non-exempt employees is time worked over 40 hours in the work week and may be taken either in overtime pay or compensatory time, subject to the election of employees as provided for in Subsection (C)(3) of this Section. The overtime or compensatory time award rate is determined by multiplying the hours exceeding 40 hours in the work week by 1.5. Overtime requests shall use the Town overtime form. Exempt employees are not eligible for overtime compensation or compensatory time. The Police Chief will establish the work hours of each civilian employee under his/her supervision. The rules for overtime for civilian employees are the same as those for administrative employees.

2.03.2 Police Officers: The Police Chief shall establish the hours of work for each police officer. Authorized overtime for all non-exempt police officers is time worked in excess of 84 hours in a 14 day period and may be taken either in pay or compensatory time, subject to the election of officers provided for in Subsection (C)(3) of this Section, as determined by the Police Chief. The overtime rate is determined by multiplying the hours exceeding 84 hours in a 14 day period by 1.5.

2.03.3 Election By Employees To Decline Compensatory Time.

2.03.3.1 Administrative Employees: On or before January 1st of each year, the Town Manager shall provide to all non-exempt administrative employees a Notice of Overtime Compensation (hereinafter the "Notice"). The Notice shall advise eligible employees that compensatory time will be provided for all authorized overtime in lieu of paid overtime. The Notice shall further advise

eligible employees that consent to receive compensatory time in lieu of paid overtime will be assumed, as a condition of employment, unless written notice of objection is received by the Town Manager.

2.03.3.2 Police Officers: On or before January 1st of each year, the Police Chief shall provide to all non-exempt police officers a Notice of Overtime Compensation (hereinafter the "Notice"). The Notice shall advise eligible police officers that compensatory time will be provided for all authorized overtime in lieu of paid overtime. The Notice shall further advise eligible police officers who consent to receive compensatory time in lieu of paid overtime will be assumed, as a condition of employment, unless written notice of objection is received by the Police Chief.

2.03.4 Hours Counting Toward Overtime and Compensatory Time: For purposes of a determination of overtime or compensatory time for all employees, hours worked and hours of vacation leave, sick leave, bereavement leave, holidays not worked, and compensatory time taken are counted. Family Medical Leave Act leave and Military leave do not count. For non-exempt police officers, the following additional rules apply:

2.03.4.1 Substitution Time: When an officer substitutes time with Another officer by mutual agreement, the time worked by the substitute counts;

2.03.4.2 On-Call Duty: Time spent on-call does not count unless the on-call officer is called to duty and works, in which case the time actually worked counts;

2.03.4.3 Training: Time spent at the police academy in training or other training, and travel to and from such training, count. Time spent by officers at the academy or other training which is outside of training or class, including but not limited to time sleeping or free time, do not count;

2.03.4.4 Travel to and from Work: Time spent traveling to and from an officer's home to the police station or duty area do not count unless the officer has marked on duty and is discharging his or her official duties. Officers may not mark on duty outside of the Town limits unless they are engaged in law enforcement activities. If the officer is required to travel to places other than the police station or duty area for work, the travel time counts to the extent that it

exceeds the officer's normal travel time from home to the police station or duty area.

2.03.5 Compensatory Time Limitation and Carry Forward: Accrued compensatory time may be accumulated up to 40 hours for administrative employees and 84 hours for police officers. Accrued compensatory time should be used by the end of each calendar year. If work demands prevent the use of accrued compensatory time by the end of the calendar year, employees may carry unused compensatory time to the next calendar year, but supervisors should schedule work in the following year in a manner to use the compensatory time carried over within the first six months of the next calendar year. All accrued compensatory time at the time of retirement, resignation, promotion to an exempt position or termination will be paid in the next payroll cycle.

2.04 FLEXIBLE SCHEDULING

The Town recognizes that the duties of some employees may necessitate work schedules different than the Town normal working hours. In those special cases, the Town Manager, Clerk-Treasurer, or the Chief of Police may authorize flexible scheduling for employees under his/her supervision to the extent these changes are in the best interests of the Town. As a result, the following procedures will be followed in the implementation of flexible time:

2.04.1. Approval of Flexible Scheduling: Each employee's flexible time work schedule must be approved in writing by the Town Manager, Clerk-Treasurer, or Chief of Police, or their designees. In situations where job responsibilities or emergency situations require an employee to work on a weekend or holiday, the Town Manager, Clerk-Treasurer, or Chief of Police, or their designees, may grant the employee corresponding time off at a time mutually agreeable to the employee and the Town Manager, Clerk-Treasurer, or Chief of Police or their designees.

2.04.2. Coverage: Adequate personnel, including supervisory personnel, must be available to carry out work activities without creating any loss in services to the public.

2.04.3. Abuse of Privilege: If it is determined that the flexible time option is hindering operations or is being abused, the Town Manager, Clerk-Treasurer, or Chief of Police may discontinue flexible time on an individual or work group basis at any time.

2.04.4. Permanent Changes: Permanent changes in the employee's work schedule require the prior approval of the Town Manager, Clerk-Treasurer or Chief of Police.

2.05 DIRECT DEPOSIT

Employees will have their paychecks deposited into their personal bank account by making arrangements with the Clerk-Treasurer.

2.06 EMERGENCY DUTY PAY

The Town Council may establish emergency duty pay in the Salary Ordinance.

2.07 LONGEVITY PAY

All full-time employees of the Town are eligible to be paid longevity pay upon completing three years of service to the Town. Each employee having at least three years of service will earn longevity pay in the first calendar year after reaching three years of service. The longevity pay will be equal to $600 in the first year and $200 additional per year thereafter. This longevity pay will be added to the base pay of the employee and will be paid over the number of pay periods for the year.

2.08 PAYROLL DEDUCTIONS

Deductions will be made from each employee's pay for required withholding taxes and for certain other items for which the Town has been specifically authorized to withhold.

The deductions are made as required by Federal, State and Local governments or for the convenience of both the employee and the employer in the administration of certain employee benefit plans made available by the employer.

It is the policy of the Town that employees will not have improper deductions from their compensation. If an employee believes that an improper deduction has been made from his or her compensation, the employee must report the improper deduction to his or her supervisor and the Town Clerk-Treasurer within seven (7) days of becoming aware of the improper deduction. If the deduction the Town makes is improper, the Town will promptly reimburse the employee for the improper deduction.

3. EMPLOYEE BENEFITS

3.01 INTRODUCTION

The Town has established a variety of employee benefit programs designed to assist employees in meeting the financial burdens that can result from illness and disability as well as to help employees plan for retirement. The descriptions in this Employee Handbook are intended as summaries for informational purposes only. This Employee Handbook does not change or otherwise interpret the terms of the official plan documents. In the event any information contained in this Employee Handbook is inconsistent with official plan documents, the provisions of the official document will govern in all cases. If federal or state law, rules, orders or regulations require a change to the benefits provided by the Town to employees, changes will be made to the benefits provided, and the provisions of this handbook will be deemed to have changed in order to comply with such law, rule, order or regulation.

For more complete information regarding any of the benefit programs available, contact the Town Manager's office for a copy of the applicable plan document.

3.02 INSURANCE

3.02.01 Insurance for Employees: The Town provides a health insurance program that includes medical, dental, vision, life, and accidental death and dismemberment. Depending on an employee's individual and/or family needs, single or family coverage options are available. Employees may choose to have certain core insurance premiums deducted from pay on a before or after tax basis.

In the event that more than one family member is hired by the Town, both are eligible for coverage. The policy holder will be based on the spouse whose birthday comes first in the calendar year.

3.02.02 Insurance for Council Members: Council Members may participate in the Town's medical insurance, dental insurance, and/or vision insurance programs. Any Council Member choosing to participate in any of these programs must reimburse the Town for 100% of the premium and administrative costs, either through a deduction from his/ her Council pay or through direct payment to the Town.

3.03 RETIREMENT PLAN

3.03.1 Public Employee Retirement Fund: The Town has elected to participate in the Indiana Public Employee Retirement Fund (PERF) for its employees. The town will make an annual monetary contribution for each employee to the Fund. The amount contributed is determined by Indiana law.

3.04 SUPPLEMENTAL INSURANCE

Supplemental insurance policies such as disability, life and cancer insurance, and many others, may be offered to employees at the discretion of the Town Council.

3.05 WORKERS COMPENSATION

In the event of a work-related injury or illness, the Town provides Worker's Compensation Insurance, which will pay the injured or sick employee at the rate of sixty-six and two-thirds percent (66 2/3%) of his average weekly wage in accordance with the Indiana Worker's Compensation Act.

All work-related injuries and illnesses must be reported to the injured employee's supervisor and the Town Manager as soon as possible even though medical attention may not be needed at the time. If the severity of injury or illness prevents immediate notification of the employee's supervisor and/or Town Manager, notification shall occur no later than 24 hours of the injury or illness. Employees will be required to complete a written statement of the injury or illness and to cooperate fully in the investigation of the matter. Employees who fail to promptly notify their supervisor and the Town Manager or who fail to fully cooperate in the investigation may lose their rights to benefits under Indiana's Workers' Compensation laws and be subject to disciplinary action. The Town is covered under Indiana's Worker's Compensation laws. All on-the-job accidents, injuries or illnesses, no matter how slight, must be reported to management immediately. Failure to do so may disqualify an employee from receiving workers compensation benefits and may result in disciplinary action. Employees are expected to report promptly to management any apparent health or safety hazards.

Workers compensation benefits are not available for injuries, illnesses or death which arise from an employee's intentional self-inflicted acts, intoxication, horseplay, commission of a crime, willful failure or refusal to perform a statutory duty, and/or refusal to follow a plan of medical care as prescribed by law.

Under Indiana law, the Town has the right to direct medical care and choose an employee's doctor. If an employee refuses to comply with the doctor's treatment plan and requirements, or if he/she refuses to be treated by the doctor selected by the Town, that employee may lose the rights to benefits under Indiana's Worker's Compensation laws.

In order to protect all employees, an employee must present to his/her supervisor a physician's statement releasing that employee to return to work following any injury or illness for which three or more consecutive scheduled working days have been missed. This release must state whether the employee is able to work either (a) without limitation; or (b) with limitations, listing each limitation specifically.

The Town will furnish without charge, to a Town of Cumberland police reserve officer who is injured or contracts an illness in the course of or as the result of performing duties as a police reserve officer of the Town, any services and supplies of a physician, surgeon, hospital and nurse as deemed necessary by the physical or surgeon in charge, including care, medicines, x-rays and recovery care, as specified in Indiana Code 36-8-3-22.

The Town may purchase may purchase policies of group insurance or establish a plan of self-insurance to meet this obligation. Any expense incurred for premiums for insurance or other charges or expenses incurred pursuant to this policy will be paid out of the Town's general fund.

If the Town police reserve officer is unable to pursue the officer's usual vocation as a result of the injury or illness occurring in the course of the performance of the officer's duties, the Town will pay the police reserve office a weekly amount that is not less than Indiana minimum wage and computed on the basis of a 40 hour work week. In this event, the Town will also pay a weekly amount that is the period the police officer is unable to pursue the officer's usual vocation or 260 weeks, whichever is less.

The Town may purchase may purchase policies of group insurance or establish a plan of self-insurance to meet this obligation. Any expense incurred for premiums for insurance or other charges or expenses incurred pursuant to this policy will be paid out of the Town's general fund.

The Town reserves the right to bring a cause of action against a third party who the police reserve officer has a cause of action for the injuries sustained because of, or an illness caused by, the third party. The Town's cause of action will be considered in addition to the cause of action of the individual officer's cause against the third party.

3.06 OTHER BENEFITS

At the discretion of the Town Council, employees may be eligible for additional benefits such as clothing allowances, reimbursements for exercise club memberships or flu shots.

4. POLICIES

4.01 CODE OF CONDUCT.

Employees of the Town are employed to provide service to the citizens of the Town and the public in general and are expected to conduct themselves in a manner that will reflect positively on the Town government, public officials, fellow employees and themselves. Employees must avoid any action which might result in or create the impression of using public office for private gain, giving preferential treatment to any person, or failing to be impartial in conducting public business.

Employees shall not use or permit the use of any funds or property belonging to the Town for private benefit including, but not limited to, office supplies, tools, machinery, office equipment, etc.

Employees may deal with plans, programs and information of significant public interest. Employees must not use this privileged information for their own financial advantage. If an employee finds that he/she has an outside financial interest which could be affected by Town plans or activities, he/she must immediately report the situation to his or her supervisor. Use of privileged information for private gain is just cause for disciplinary action up to and including termination of employment.

It is not possible to list all the forms of behavior that are considered unacceptable in the workplace. The following are examples of unacceptable conduct that may result in disciplinary action, up to and including termination of employment:

- Theft or inappropriate use, removal or possession of property.
- Falsification or unauthorized tampering of Town records or any records kept by the Town.
- Working under the influence of alcohol or illegal drugs.
- Possession, distribution, sale, transfer, or use of alcohol or illegal drugs in the workplace, while on duty, or while operating Town vehicles or equipment and/or any violation of the Town's Drug and Alcohol Abuse Policy and Rules.
- Fighting or threatening employees or others while on the job.
- Boisterous or disruptive activity in the workplace.
- Insubordination or other disrespectful conduct.
- Careless or inappropriate operation of Town vehicles or other equipment which risks or results in injury or damage to the property of the Town or others.

- Violation of federal, state or local safety or health rules.
- Smoking in violation of Town policy or Indiana law.
- Sexual or other unlawful or unwelcome harassment.
- Possession of dangerous or unauthorized materials, such as explosives, in the workplace.
- Violation of Town ordinances or of federal or state laws.
- Making false or base statements, written or verbal, about other employees or Town officials.
- Gambling during work hours or on Town property.
- Receipt of any gifts or compensation, other than that received from the Town, for services rendered on behalf of the Town or during scheduled working hours.
- Engaging in any election activities or political campaign-related functions while on duty or while wearing a uniform of the Town.
- Excessive absenteeism or tardiness or absence without notice.
- Unauthorized use of Town equipment.
- Violation of departmental policies
- Unsatisfactory performance or conduct.
- Representing oneself as a Town employee in order to aid in committing or attempting to commit a felony or misdemeanor.
- Unauthorized disclosure of any confidential Town information.
- Immoral or indecent conduct or use of abusive language while on the job.

Police officers are subject to additional rules of conduct which are contained in the Police Department's Standard Operating Procedures, rules and general orders.

4.02 CONFIDENTIAL NATURE OF WORK.

It is the responsibility of all Town of Cumberland employees to safeguard confidential Town information. Continued employment with the Town is contingent upon compliance with this policy. Confidential Town information is defined as, but not limited to, trade secrets or confidential information relating to processes, customers, designs, drawings, marketing data, accounting, employee records, salary information, business plans and strategies, negotiations and contracts. No Town employee may disclose confidential information or remove such information from the municipal building without written permission of the Town Manager**.**

Unless otherwise identified by management, all employees shall assume that such information is confidential. Employees who are unsure about the confidential nature of

any particular record or information should ask the Town Manager for clarification. Employees will be subject to appropriate disciplinary action, up to and including termination, for knowingly or unknowingly divulging or releasing information or records of a confidential nature.

Police officers are subject to the rules of confidentiality contained in the Police Department's Standard Operating Procedures, rules and general orders.

4.03 ATTENDANCE

To maintain a safe and productive work environment, Administrative employees are expected to be reliable and punctual in reporting to work. Absenteeism and tardiness place a burden on other employees and the Town. An employee must fill in his or her own attendance records/time sheets when work starts and ends. Anyone attempting to sign any sheet or card other than his or her own may be subject to disciplinary action, up to and including termination. An employee who is absent without proper notification may be subject to disciplinary action. An employee is expected to be in his or her work area and be ready to work at the designated time. Chronic lateness will not be tolerated and may result in disciplinary action, up to and including termination. In any unavoidable delay in reporting to work the employee shall call his or her supervisor or designee prior to the start of work. Punctuality is a critical part of performance and an employee who is late may be subject to disciplinary action up to and including termination. Supervisors are responsible for the attendance of all persons in their departments in accordance with the provisions of these Rules and Regulations. Attendance reports and time cards shall be submitted to the Town Manager's office for Administrative Employees, the Clerk-Treasurer's office for Clerk-Treasurer Employees, and to the Police Chief for employees of the Police Department for each party period. The Town Manager, Clerk-Treasurer, and Police Chief shall maintain complete attendance records for all employees and provide a copy to the Clerk-Treasurer for payroll purposes.

Police Officers are subject to attendance rules contained in the Police Department's Standard Operating Procedures, rules and general orders.

4.04 APPEARANCE, DRESS CODE/UNIFORM, DEMEANOR AND PERSON PROPERTY

4.04.1 Administrative Employees:

4.04.1.1 General Guidelines: Appearance is a reflection of professionalism. The public responds positively to a professional presence. Acceptable personal appearance is an ongoing requirement of employment. Discretion in style of dress and behavior is essential to the efficient operation of Town government. Employees should conduct themselves at all times in a way that best represents them and the Town. Professional dress is expected at all times. Employees that report to work improperly dressed may be instructed to return home to change. Time spent traveling to and from home to change clothing will be unpaid.

4.04.1.2 Uniforms – Employees in certain departments of the Town are furnished with uniforms which must be worn at all times during the employee's normal work day. It is the responsibility of the employee to make sure that the uniform is kept clean and neat. An employee may not wear a uniform off-duty except when directly traveling to and from work. When in uniform, employees shall not enter bars, lounges, taverns, casinos or other places where alcoholic beverages are served. Employees shall wear identification badges when working outside the office. Employees shall wear safety vests, per OSHA, when working in the right of way.

4.04.1.3 Hair – Hair must be neat and combed in a natural style that is appropriate in the work environment. Unconventional or extreme colors of hair and/or styles are not acceptable. Beards and mustaches must be neat and trimmed.

4.04.1.4 Accommodations: When brought to the attention of the Town Manager, reasonable accommodations will be made for those employees whose religious beliefs or medical conditions require deviations from this policy.

4.04.1.5 Safety Rule Reservation: The Town reserves the right to adopt safety rules regarding jewelry and hair.

4.04.1.6 Personal Hygiene – Employees must follow all reasonable personal grooming standards, including regular bathing and use of deodorant. Employees failing to adhere to these standards may be subject to disciplinary action, up to and including termination.

4.04.1.7 Personal Property – Employees are responsible for his/her personal property. The Town is not responsible for personal property.

4.04.1.8 Town Purchased Protective Work Equipment - The Town may, at the Town Manager's discretion, purchase or reimburse employees for work equipment necessary to protect employees from work related hazards. Equipment which the Town furnishes for an employee shall be worn at all times a hazard of the workplace has been identified. Employees are responsible for the safe-keeping and maintenance of all equipment. Loss or damage to equipment must be immediately reported to the employee's supervisor. Employees must not wear or use the equipment outside the employee's scope of employment. The provisions of this section shall not apply to the Cumberland Police Department.

4.04.2 Police Rules: Police officers are subject to the rules regarding appearance and uniforms that are contained in the Department's Standard Operating Procedures, rules and general orders.

4.05 EMPLOYEE RECORDS

The Town Manager, Clerk-Treasurer and Chief of Police maintain the official record file for each employee under their respective supervision. This file contains information needed to conduct Town business, comply with legal requirements and adhere to governmental regulations.

The following provisions apply with respect to the Town's standards for establishing, maintaining and handling employee personnel files:

4.05.1 Completeness and Confidentiality: All official records concerning an employee will be kept up to date insofar as possible, and all employees shall promptly report all pertinent personal information and data changes to the Town Manager or Chief of Police, and to the Clerk-Treasurer's office. All information in the employee personnel files is considered confidential, with any disclosure to third parties made as required by law. This information will only be available to the Town Manager or Chief of Police, the Clerk-Treasurer, the employee, and the employee's direct supervisor or Department Head.

4.05.2 Access: The above named individuals will be permitted to review the personnel files as permitted by applicable laws in the presence of their supervisor, Clerk-Treasurer, or the Town Manager. Employees may submit their request in writing to the Town Manager or Chief or Police or Clerk-Treasurer

4.05.3 HIPAA Procedures: Information regarding the medical condition or history of an employee will be maintained in accordance with applicable federal and state laws and the Town's HIPAA policies and procedure, and will be maintained in a separate file under the supervision of the Clerk-Treasurer.

4.05.4 Retention: The personnel file of a terminated employee will be maintained in accordance with applicable state and federal laws.

Employees may view their personnel file by submitting written request to the Town Manager or Chief of Police.

4.06 CHANGES TO PERSONAL INFORMATION

The Town maintains records of each employee's home address, contact telephone numbers and emergency contact information .This information needs to be accurate for insurance, pay, and tax purposes, for emergencies and to ensure that the employee received important notices sent to his or her home address. Therefore, it is very important that an employee notify his or her supervisor of any change in this information so that the Town's records can be kept up to date. Supervisor should forward such information to the offices of the Town Manager or Chief of Police and Clerk Treasurer.

4.07 HEALTH INSURANCE PORTABILITY & ACCOUNTABILITY ACT (HIPAA) POLICY

The Town will comply with all applicable portions of the Health Insurance Portability & Accountability Act (HIPAA). In order to do so, the Town will take all steps necessary to reasonably safeguard protected health information from any intentional or unintentional use or disclosure that is in violation of the standards of HIPAA. The Town has implemented a plan to reasonably safeguard protected health information. Employees who have complaints regarding the Town's policies or procedures or conduct regarding its duties under HIPAA should submit a written complaint to his or her department head and to the Town Council President. Upon receipt of the complaint, the department head will notify the Town Attorney. The Town will properly document its receipt of the complaint and then respond to any such complain within ten days. The Town's response will be in writing and will be delivered to the employee filing the complaint. Employees violating the Town's policies, procedures and/or HIPAA will be subject to discipline for such violation. To the extent that the Town discovers a harmful effect of its policies and/or

procedure, the Town will take all necessary action to mitigate such effects. The Town will not retaliate or intimidate any employee who exercises his or her rights under the Town's policies, procedures of HIPAA. The Town will not require an employee to waive his or her rights under HIPAA as a condition of the provision of treatment, payment, enrollment in a health plan or eligibility for benefits. In order to ensure that no waiver of rights is required under the Town's health insurance plan, the Town will review all enrollment materials.

4.08 DRIVING RELATED EXPENSE – MILEAGE & CDL – REIMBURSEMENT, TOWN VEHICLES

4.08.1 Administrative Employees: The Town pays the expenses of employees required to obtain a Commercial Driver's License. In the event an employee of the Town is required to use his or her personal vehicle for Town business, the employee shall be reimbursed for mileage at a rate equal of the IRS approved rate upon completion of proper documentation. Employees shall receive authorization from his/her supervisor prior to using their personal vehicle for Town business. Employees shall use Town vehicles for Town business whenever possible. The Town Manager may assign Town vehicles to any employee who may be needed on a twenty-four-hours-a-day basis, business use only

4.08.2 Police Department. The Town allows police officers to take their police vehicles home. Officers are subject to the take-home care policy contained in the Police Department's Standard Operating procedures, rules and general orders.

4.09 USE OF TOWN PROPERTY

It is expected that all employees use common sense and sound judgment when utilizing Town-owned equipment. Equipment includes, but is not limited to, office and cellular telephones, computers, laptops, pagers, facsimile, vehicles, trimmers, mowers, power tools, chain saws, digging equipment, etc.

Duplication of any software or any other use that would violate software licenses is prohibited. Employees are prohibited from using or allowing the use of Town property of any kind for other than official duties. All employees guilty of violating this policy may be subject to disciplinary action up to and including discharge.

4.10 INTERNET USAGE AND ELECTRONIC MESSAGING

The Town encourages the use of electronic mail, internet and messaging programs as a tool to help accomplish the Town's legitimate business objectives by enhancing the quality and efficiency of communication. Employees are expressly prohibited from sending any messages or materials containing obscene, profane, lewd, derogatory, or otherwise potentially offensive language or images. The use of material containing racial, sexual or similar comments or jokes is forbidden. Users should respect the rights and sensitivities of recipients or potential recipients or viewers and should ensure that all messages reflect the professional image that the Town wishes to portray. Employees, however, may not text while driving Town vehicles.

Accordingly, employees are strictly prohibited from using the Town's email system or Internet access for any of the following purposes:

- Personal gain, including the solicitation of or engagement in any non-Town business.
- Viewing, transmitting, retrieving or storing material that may in any way be considered obscene or offensive.
- Transmitting any messages containing derogatory, harassing, or inflammatory remarks about an individual or group's race, color, religion, national origin, age, disability or other characteristic or attribute not related to their job performance.
- Transmitting any abusive, profane, or offensive language.
- Transmitting any information which the employee knows or has reason to believe may be false, misleading or libelous.
- Sending or posting chain letters, jokes, solicitations or advertisements, not directly related to some business purpose or activity or for any other purposes which are legal, may damage the Town's reputation or is otherwise contrary to the Town's best interest.

Emails should be read and deleted daily as indicated by Town policy. Emails and attachments which should be retained to perform work or as required by law should be maintained using best practices as indicated by Town policy.

Employees may respond to personal email during their lunch break or other breaks during the day. Employees may access programs or applications using the Town's internet access for listening to music, radio, news or other programs, unless such access impairs productivity or exceeds the capacity of the Town's internet system.

Personal cell phone calls should be limited. Employees should not allow private phone calls to interfere with the performance of work.

Users should be aware that messaging systems and networks cannot be considered private and may be monitored by the Town. Such messages also may be subject to public records requests and disclosure to third parties, such as courts or law enforcement agencies. Employees should always ensure that the business information contained in Internet electronic mail messages and other transmissions are accurate, appropriate, ethical, and lawful.

All equipment, services and technologies provided to employees as part of the Town's computer system constitute the exclusive property of the Town. Similarly, all information composed, transmitted, received or stored via the Town's computer system is also considered the property of the Town. The Town reserves the right to monitor Internet traffic and retrieve and read any data composed, sent, or received through our online connections and stored in our computer systems.

Copyrighted materials belonging to entities other than the Town, including software, publications, articles, graphics or other proprietary information may not be transmitted on the Town's email system or via the Town's Internet access.

Violators of this policy will be subject to appropriate disciplinary action up to and including termination of employment. Any known or suspected violations of the policy should be reported immediately to management.

4.11 CRIMINALLY CHARGED EMPLOYEES

An employee who is charged with a criminal offense or who is under criminal investigation is required to immediately report the matter to his or her supervisor and Police Chief or Town Manager. The existence of the criminal charge or investigation involving an employee will not in and of itself result in a corrective measure against the employee. However, the Town must be informed so that it may independently address the allegations and determine the appropriate response, including but not limited to suspension or termination. The employee shall notify his or her supervisor about any charges in the criminal charges and about the resolution of any charges.

Criminal charges may be grounds for immediate termination and failure to notify the Town of the pending charges may be grounds for immediate dismissal.

4.12 POLITICAL ACTIVITIES

The Town of Cumberland recognizes the right of employees to engage in political activities and participate in community, state, and national programs provided that such participation does not prevent the full discharge of the employee's job responsibilities.

Employees covered under this handbook shall not:

- Participate in the management, affairs, or political campaign of any candidate for political office during work hours.

- Solicit any assessments, contributions or service for any political party during work hours.

- Use official authority or influence for the purpose of interfering with or affecting the results of an election or nomination for office.

4.13 OUTSIDE EMPLOYMENT

Circumstances may arise in which a Town employee desires employment in addition to Town employment. The Town allows employees to be employed outside of the Town as long as the employee adheres to the following guidelines:

- The hours of outside employment do not coincide or conflict with scheduled hours of work for the Town in a normal work week.
- The outside employment does not conflict with the Town job responsibilities and/or affect the ability to satisfactorily perform the Town job in the normal work week.
- The outside employment does not cause an employee to arrive late or leave early from scheduled work hours of the Town's job.
- The outside employment does not constitute a conflict with Town interests;
- If outside employment is affecting the employee's ability to perform his/her duties or if a conflict arises from the outside employment, the Town Manager and Supervisor will instruct the employee to discontinue the outside employment. Failure to discontinue the outside employment as directed may lead to corrective action, up to and including termination.
- All exempt employees must have approval of the Town Manger or Police Chief before taking secondary employment. Special rules apply to outside employment

for Police Officers, and all Officers seeking outside employment must follow these rules.

4.14 NO SOLICITATION/DISTRIBUTION POLICY

Posting or distributing notices or other written materials on Town property at any time, without prior approval from the Town Manager is strictly prohibited. Employees are further prohibited from soliciting other employees or non-employees on Town property during the working time of either the soliciting employee or the employees being solicited.

The only exception that may apply to this policy is when an employee is engaging in distribution or solicitation related to a Town sponsored event or activity.

Persons not employed by the Town are at all times prohibited from selling, soliciting, distributing or posting written materials on Town premises.

4.15 NON-DISCRIMINATION ON BASIS OF DISABILITIES

It is the policy of the Town to employ, advance and otherwise treat qualified individuals without regard to their disability in all employment practices. In accordance with the provisions of the Americans with Disabilities Act (ADA), no program or activity administered by the Town shall exclude from participation, deny benefits to or subject to discrimination any individual solely by reason of his or her recognized disability.

The Town is committed to ensuring that there is no discrimination under any terms, conditions or privileges of employment and to making reasonable accommodations for qualified employees with physical or mental disabilities. The Town will afford reasonable accommodation to qualified applicants and employees with a known disability in order to enable them to perform the essential functions of their jobs in a safe and efficient manner, provided that the accommodations will not cause undue hardship to the Town. Applicants may inform the Town Manager and employees may inform their supervisor of the disability and may suggest, on a confidential basis, how the Town may reasonably accommodate such individual.

4.16 NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY

The Town does not accept, condone or tolerate actions of harassment on the basis of any personal characteristic, including but not limited to, race, color, religion, sex, sexual preference, national origin, age, disability, genetic information or ancestry or any other

classification protected by federal, state or local law. Harassment includes unwelcome conduct, whether verbal, physical or visual.

4.16.1 Sexual harassment defined: Sexual harassment prohibited by this policy includes any unwanted sexual advances, requests for sexual favors or visual, verbal or physical conduct of a sexual nature when:

(a) Submission to or rejection of such conduct is used as a basis for employment decisions affecting the employee; or

(b) Such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile or offensive work environment.

4.16.2 Examples of harassing conduct include:

- Unwanted physical contact or conduct, sexual flirtations, touching, advances or propositions.
- Verbal harassment of a sexual nature, lewd comments, sexual jokes or references, offensive personal references or degrading or slang terms.
- Demeaning, insulting, intimidating or sexually suggestive comments about an individual's personal appearance.
- Insulting or degrading jokes, comments or references to a person's mental or physical capabilities whether work related or personal.
- Insulting or degrading jokes, comments or references to a person's sex, race, religion, or ethnic background.
- Displaying of demeaning, insulting, intimidating or sexually suggestive objects, messages, pictures or photographs.
- Creating or forwarding demeaning, insulting, intimidating or sexually suggestive written, recorded, or electronically transmitted messages, including screensavers.
- Making or threatening retaliation after a negative response to sexual advances.

It is the policy of the Town that sexual harassment can occur between employees of the same sex. It is unlawful for a male to sexually harass either females or males or for a female to sexually harass either males or females.

Procedures for Handling Occurrences of Discrimination or Harassment.
Employees with questions or concerns about discrimination or harassment in the workplace should bring these issues to the attention of his or her supervisor. Any employee uncomfortable reporting an incident to his or her supervisor should report harassment or concerns to the Town Manager for administrative employees or Chief of Police for employees of the Police Department or to Town Council President or Town Council member with whom he or she feels most comfortable to relay the problem. Under no circumstances shall an employee be required to make a report of discrimination or harassment to the person he/she is accusing of the discrimination or harassment.

Any employee who receives a complaint of discrimination or harassment or who becomes aware of an incident of discrimination or harassment must report the matter to his or her supervisor. Supervisors who receive a complaint of discrimination or harassment or who become aware of an incident of discrimination or harassment must report the matter to the Town Manager, if an administrative employee, or Chief of Police, if an employee of the Police Department, and the Town Council President and Town Attorney immediately. The failure to make such any report may subject the employee or supervisor to discipline. Anyone found to be engaging in unlawful discrimination or harassment will be subject to disciplinary action, including possible termination of employment.

The Town Manager, if the complaint arises from an employee of the administrative department of the Town, or Chief of Police, if the complaint arises from an employee of the Police Department, shall conduct an investigation into any report of discrimination or may request another outside entity to conduct the investigation. If the claim is against the Town Manager or Chief of Police, reports shall be made with the Town Council President and the Town Attorney. In that event, an alternate discrimination investigator (ADI), shall investigate the claim. The investigation shall include a preliminary report within 3 business days.

Both the Town Manager or Chief of Police, or in the event of the appointment of an ADI, the ADI, will immediately take steps to separate the complainant and person accused of harassment. Separation may include temporary relocation of office to another location where the individuals cannot interact or paid time off for the accused until the preliminary investigation is complete.

Discipline
Appropriate action will be taken against any employee found to have engaged in prohibited harassment to ensure that the conduct will not reoccur. Appropriate action will be taken against any employee who makes any report of harassment in bad faith. Any

employee found in violation of this policy may be subject to corrective action up to and including termination of employment. The type of corrective action taken will depend on the severity of the conduct as well as any other factors presented.

All attempts are made to protect the privacy of the parties involved. The Town treats allegation of discrimination and harassment seriously and with confidentiality. All employees are expected to do the same. Complaints are treated in strict confidence and only those people with a 'need to know' will be involved in the investigation. Under no circumstances will the Town permit retaliation in any fashion against the complaining employee or others for raising or confirming the accusation of harassment. Employees, including supervisors, may be held personally liable for actions that violate this policy.

4.17 TRAVEL POLICY

4.19.1 Business Travel: The Town is responsible for authorizing employee business travel and reimbursement of reasonable travel expenses including overnight lodging, parking, meals and other travel expenses. All employees must obtain authorization from their direct supervisor before business travel. In order to be reimbursed for travel expenses, employees must provide to the Clerk-Treasurer a claim form, original receipts and any other documents necessary to properly document the claim within seven (7) days of the employee's return. The Town Council is vested with authority to approve or disapprove of any such claims for reimbursement, and the Town Council may adopt rules governing the determination of whether a travel expense is reasonable and/or prohibited.

4.19.2 Prohibited Expenses: Certain travel related and business expenses are prohibited, and the Town will not reimburse employees for such expenses. Prohibited expenses include the following:

(1) personal expenses;

(2) purchase of alcohol;

(3) any illegal purpose;

(4) purchases made to bypass the Town's accounting system or purchasing policies.

5. HEALTH AND SAFETY POLICIES

5.01 SAFETY PROGRAMS

The Town will continue to make reasonable provisions for the safety and health of its employees at its facilities during the hours of their employment. Protective devices and other equipment necessary to protect employees from injury will be provided by the Town in accordance with applicable laws and safety needs. All employees are required to use equipment properly, and are responsible for safety and other equipment issued to them. Equipment will be replaced only upon return of the item that needs to be replaced. All employees are responsible for following safety procedures as established by Town policy.

On-the-job accidents, injuries, and illnesses, regardless of how minor, must be reported to a supervisor immediately. Employees that witness a failure to follow the safety rules shall report the incident to his or her supervisor. Failure to do so may disqualify an employee from receiving worker's compensation benefits or an excused absence and may result in disciplinary action.

Drivers of Town vehicles must not use alcohol or drugs when performing safety-sensitive functions or perform safety-sensitive functions within four (4) hours after using alcohol. Safety-sensitive functions are defined as:

- All time spent at a facility or on any public property, waiting to be dispatched, unless the employee/driver has been relieved from duty by the Town.
- All time spent inspecting equipment or otherwise inspecting, servicing or conditioning any motor vehicle at any time.
- All time spent at the driving controls of a motor vehicle either while in operation or not in operation.
- All time loading and unloading a motor vehicle, supervising or assisting in the loading, attending a vehicle, being loaded or unloaded or remaining in readiness to operate the vehicle.
- All time spent performing the driver requirements relating to an accident.
- All time repairing, obtaining assistance or remaining in attendance upon a disabled vehicle.

5.02 DRUG, ALCOHOL AND SMOKE FREE WORKPLACE

The Town of Cumberland is committed to providing a safe working environment and, likewise, expects its employees to report to their jobs physically and mentally fit for work. Furthermore, the Town is committed to assuring its continued representation as a quality enterprise. This policy is intended to ensure a drug-free work environment for the benefit of employees and customers in the Town. It is also this Town's policy to assist employees who have a problem with drug and alcohol abuse. Our goal is to eliminate the abuse, not the abuser. Our goal is to help, not apprehend. No one will be disciplined for requesting assistance.

Reporting to work or being at work under the influence of alcohol or non-prescription drugs is absolutely prohibited. The Town reserves the right as a condition of initial or continued employment to administer a physical examination, alcohol or drug test to applicants or employees.

POLICY REQUIREMENTS:

1. The use, possession, sale, or transfer of an illegal drug by any employee on Town premises, in the performance of Town business, or at Town-sponsored events, is strictly prohibited.

2. The use of any legally obtained drug by any employee while performing Town business or while on Town premises is prohibited to the extent that such use may adversely affect the safety of the employee or others, the employee's job performance, or the Town's regard or reputation in the community. Employees who have been informed or have discovered that the use of a legal drug may adversely affect job performance or behavior are to report such drug use and possible side effects to management.

3. The unauthorized use, possession, sale or transfer of alcohol on Town premises is prohibited. The use of alcohol by employees while conducting Town business, attending Town-sponsored business or social functions, or otherwise representing the Town off Town premises is permitted only to the extent that it is not unlawful and does not adversely affect the safety of the employee or others, the employee's job performance, or the Town's regard or reputation in the community.

4. The presence of any illegal drug or alcohol in an employee's system while on Town premises or while otherwise performing Town business is prohibited.

TESTING:

The Town may require an employee to submit to any one of four drug and/or alcohol tests depending on various circumstances surrounding work related injuries, illness and accidents.

1. POST ACCIDENT - This section applies to all employees who are involved in an accident while driving a Town owned vehicle:

A. When a driver is involved in an accident where a fatality is involved, the driver shall submit to a post-accident drug and alcohol screening if there is a reasonable possibility that drug or alcohol use could have contributed to the reported fatality.

B. When a driver is involved in a recordable accident and receives a citation for a moving violation the driver must submit to a drug and alcohol screening if there is a reasonable possibility that drug or alcohol use could have contributed to the citation.

C. When a driver is involved in a recordable accident, if either vehicle involved requires towing away from the scene or if any person involved requires medical treatment, the driver must submit to a drug and alcohol screening if there is a reasonable possibility that drug or alcohol use could have contributed to the reported injury or illness.

D. In the event a driver is so seriously injured that he or she is unable to provide a urine or breath specimen at the time of the accident, the driver must provide the necessary authorization for the Town to obtain hospital records or other documentation that would indicate whether there were controlled substances or alcohol in the driver's system at the time of the accident.

E. Any employee involved in an on the job accident requiring medical treatment, may be asked to submit to a post-accident drug and alcohol screening.

F. The Town may conduct random drug and alcohol testing of employees at any time with or without cause or suspicion in order to assure compliance with its drug-free work place policy.

G. An employee returning from a leave of absence may be subject to a retest.

H. An employee, who alters a specimen, fails, or refuses to submit to testing when requested to do so, shall be subject to disciplinary action including termination.

All sworn personnel are subject to the Standard Operating Procedures of the Police Department.

2. REASONABLE PROBABILITY TESTING – Reasonable probability to screen an employee exists when an employee manifests symptoms or reactions commonly attributed to the use of a controlled substance or alcohol.

3. RETURN TO DUTY FOLLOW-UP – A drug and alcohol screen may be required when an employee has violated this policy and has received disciplinary action resulting in a suspension from duty. The employee's supervisor may require the employee to submit to a drug and alcohol screen prior to the employee being reinstated.

REFUSAL TO TEST – Refusal to submit to drug and alcohol screens may be grounds for termination of an existing employee. A refusal to test may be defined as conduct that would obstruct the proper administration of a test and may constitute a failure. A delay in providing a sample may also constitute an obstruction in the proper administration of a screen and may constitute a failure.

TESTING AGENCY – All testing shall be done by a qualified testing agency of the Town's choosing and at the Town's expense. The only exception is that the Town will only pay for one Return to Duty Follow-up test. An employee who fails the initial Return to Duty Follow-up test must bear the cost of each subsequent test until the employee passes and is reinstated.

PROHIBITED CONDUCT – The following shall be considered prohibited conduct for the purpose of this policy:

1. No employee shall use alcohol or illegal drugs while on duty.
2. No employee shall report for duty within four (4) hours of using alcohol or illegal drugs.
3. No employee shall report for duty or remain on duty while having a blood alcohol concentration of .04% or greater.

4. No employee shall refuse to submit to any test for alcohol or illegal drugs as outlined above.

5. No employee shall be on duty or operate a vehicle while in possession of alcohol or illegal drugs.

6. No employee required to take a post-accident test shall use alcohol or illegal drugs for eight hours following the accident or until he or she undergoes the required test, whichever comes first.

7. No employee shall report for duty or remain on duty when the employee is using a legal drug or prescription which impairs the employee's ability to perform his or her essential job functions. If an employee uses prescription medication, the employee shall report such use to his or her supervisory and provide information necessary to determine if the medication will impair the employee's ability to perform his or her essential job functions. NO EMPLOYEE IS REQUIRED TO STATE THE NAME OF THE MEDICATION, THE DOCTOR WHO PRESCRIBED IT, OR THE REASON IT HAS BEEN PRESCRIBED, in accordance with the Patient Privacy Laws under HIPAA (Health Insurance Portability and Accountability Act), and all applicable Indiana Privacy Laws. The only time that an employee may be asked to identify what medication(s) he/she is taking is during a reasonable assessment of a serious reaction to the medication, during medical treatment for an accident or injury, or for purposes of determining what medication was prescribed to an employee after a drug or alcohol test has been performed and a positive result has required reprimand or disciplinary action.

CONSEQUENCES FOR POLICY VIOLATION – Any employee who violates this policy will be subject to disciplinary action up to and including termination.

1. **Disciplinary Action:** Depending upon the seriousness of the offense, any violation of the policy requirements of this policy (except for the first positive test of an employee with more than 60 days tenure) will result in discipline up to and including termination.
2. The failure or refusal to complete the necessary paperwork to submit to a drug test or to undergo treatment pursuant to this policy will be grounds for immediate termination.
3. All performance shortcomings, prohibited conduct, and attendance problems will result in discipline pursuant to the Town's policies independently of any drug or alcohol implications or causes.

4. If an employee is aggrieved by the disciplinary process, he or she may appeal the action to the Town Council by submitting the appeal in writing within ten days to the Town Manager. The Town Manager shall notify the Town Council and The Town Council schedule a meeting within 20 days of the written appeal. The Town Council shall issue a written findings of fact. The employee may appeal the Town Council's decision to the Circuit Court of Marion County.

EMPLOYEE ACKNOWLEDGMENT

I certify that I have received a copy of, and have read the above Town's policy on drugs and alcohol testing procedures. I understand that as a condition of employment, I must comply with these guidelines and do agree that I will remain medically qualified by following the procedures. If I develop a problem with drugs and/or alcohol abuse during my employment with the Town I will seek assistance through the current drug and alcohol testing program administrator.

_____

Employee signature

_____

Date

5.03 PREVENTION OF VIOLENCE IN THE WORKPLACE

The Town is committed to preventing violence in the workplace and maintaining a safe working environment. Given the increasing violence in society, the Town has adopted the following guidelines to deal with intimidation, harassment or other threats of violence that may occur on its premises.

The Town will not tolerate any conduct that threatens, intimidates or coerces an employee, customer or member of the public at any time, including off-duty periods. Additionally, firearms, weapons, and other dangerous or hazardous devices or substances are strictly prohibited on the premises of the Town of Cumberland without proper authorization unless the possession is lawful under Indiana law.

All suspicious individuals or activities, including actual violence or threats of violence, both direct and indirect, should be reported immediately to an employee's supervisor, a member of management or to the Town Manager. This includes threats by employees, as well as threats by customers, vendors, solicitors or members of the public. Employees should not attempt to intercede or otherwise become involved with any actual or potentially intimidating, harassing or violent situation.

Any employee determined to have participated in any threatened or actual violence, or other conduct that violates these guidelines will be subject to disciplinary action, up to and including termination of employment.

5.04 WEAPONS

Under Indiana law, employees may store a firearm in their vehicle if they comply with Indiana law. Employees of the Town of Cumberland may also legally carry a handgun at work and on Town property upon meeting the following requirements:

A. The employee shall successfully complete an annual firearms training program administered by the Cumberland Police Department.

B. The employee shall successfully complete training, administered by the Town of Cumberland, on Indiana Code § 35-41-3 and applicable legal case law.

If an employee is granted the privilege to carry a handgun at work and on Town property, the employee must keep the handgun concealed and must keep the handgun in his/her

possession at all times. Eligible employees shall not store or leave a handgun unattended in any Town of Cumberland office, workspace, or Town vehicle.

An employee's ability to carry a handgun at work and on Town property may be revoked at the discretion of the Town Manager or the Chief of Police upon a finding that an employee cannot safely or reasonably possess, carry, and/or use a handgun. Upon making this determination, the Town Manager or Chief of Police shall notify the employee of the revocation in writing. The Town Manager shall place a copy of this notice in the employee's personnel file. A decision by the Town Manager or the Chief of Police to revoke an employee's ability to carry a handgun at work or on Town property is final and is not subject to appeal.

6. LEAVE POLICIES

6.01 VACATION LEAVE

6.01.1 Town Employees. The following provisions shall apply to all employees of the Town of Cumberland except for the Town of Cumberland Police Department. The Town of Cumberland Police Department Vacation Policy is located in section 6.01.2.

6.01.1.1 Generally: All Full-Time Employees are entitled to paid vacation as provided in this section.

Longevity	Paid Vacation Days	Accrues
Less than one year	80 hours	On 6-month anniversary
More than one year but less than 5 years	80 hours	January 1
More than 5 years but less than 10 years	120 hours	January 1
More than 10 years but less than 20 years	160 hours	January 1
More than 20 years	200 hours	January 1

6.01.1.2 Authorization: Employees may use vacation leave only with the approval of his or her supervisor.

6.01.1.3 Compensation: Employees will be paid for vacation based upon his or her normal base compensation amount.

6.01.1.4 Pro-Ration of Accrued Vacation Leave: Although vacation leave accrues on January 1, it will be pro-rated in the event the employee terminates his or her relationship with the Town during the year. For example, if the employee terminates his or her employment or if the Town terminates the relationship on June 30, the employee is entitled to 50% of the vacation leave which accrued on January 1.

6.01.1.5 Payment for Unused Vacation Leave: If the employee relationship ends and the employee has unused accrued vacation lave, after pro-ration, the Town will pay the employee for the unused accrued vacation leave with the employee's final paycheck If the employee has taken more than the accrued vacation after pro-ration, the Town will deduct from the final paycheck the

amount of compensation for the used vacation leave in excess of the accrued vacation leave.

6.01.1.6 Carry-Over of Unused Vacation Leave: Employees may carry-over unused accrued vacation to the next year, but the carry-over unused accrued vacation leave must be used on or before June 30 of the following year unless an employee elects to carry-over accrued vacation leave in lieu of a Town buy-out according to the provisions of 6.01.7.

6.01.1.7 Buy-Out of Unused Vacation Leave: If an employee with carry over vacation leave is unable to use the carry-over vacation leave for the previous year on or before June 30 of the following year, the Town will buy-out the carry-over vacation leave based upon the employee's base compensation rate, or, at the election of an employee, and in lieu of a Town buy-out, the employee may carry-over his or her unused vacation time, in an amount not to exceed 40 hours. If an employee elects to carry-over unused vacation time in lieu of a Town buy-out, the elected carry-over time must be used on or before December 31st. Any elected carry-over time which is not used on or before December 31st is not eligible to be carried over to the subsequent year, nor subject to a Town buy-out.

6.01.2 Police Officers. The following provisions apply only to the Town of Cumberland Police Officers

6.02 SICK LEAVE

6.02.1 General: All Full-Time Employees are eligible for up to 120 hours of paid leave for actual sickness.

6.02.2 Accrual of Sick Leave: Sick leave will accrue in full on January 1 of each year, except for the first six months of employment. During the first six months of employment, sick leave will accrue at a rate of eight hours per month on the first of each month.

6.02.3 Carry-Over of Sick Leave: Employees may carry over unused accrued sick leave not to exceed 240 hours from the previous years of service to the Town.

6.02.4 No Compensation: In the event that the employment relationship is terminated for any reason, the Town will not pay the employee for unused accrued sick leave.

6.02.5 Documentation: If the employee takes sick leave for three or more days, the employee's supervisor may request medical documentation which supports the employee's reasons for taking sick leave. If the supervisor requests such documentation, the employee will provide the documentation promptly. This documentation must be signed by the attending physician or other health care provider. If the employee fails to provide the requested documentation or if the provided documentation does not support the leave, the employee is not eligible for sick leave and will be charged with taking vacation leave, if available, and if not, then the leave will be unpaid unless the employee is eligible for another paid leave benefit.

6.02.6 Abuse of Sick Leave: If the employee abuses sick leave, the employee may be disciplined under the Town's discipline policy.

6.02.7 Use of Sick Leave for Family Members: Full-Time Employees may use sick leave for the purpose of attending to the medical and illness needs of the employee's spouse, child or children, step-child or children, foster child or children, parents, step-parents, sister or brother, step-sister or step-brother, mother-in-law or father-in-law, grandparents, grandchild or grandchildren or any person for whom the employee is a care giver.

6.02.8 Compensation While on Disability Leave: Employees on disability leave who are receiving benefits from the Town's disability insurance carrier are entitled to receive from the Town the difference between their base pay and their disability insurance benefit.

6.03 ATTENDANCE INCENTIVE

6.03.1 Earning Personal Days: Employees who are not absent from work for Sick leave during the prior calendar quarter will earn one (1) paid personal day leave.

6.03.2 Use of Personal Days: Employees earning personal days must use the benefit during the next calendar quarter. If the employee fails to use the personal days as required, the employees forfeits the personal day or days.

6.04 HOLIDAYS

6.04.1 Determination of Town Holidays: Holidays are determined by the Town Council on a yearly basis.

6.04.2 Town Employees: Town employees, other than sworn police officers, who work on a scheduled holiday will receive substitute holiday leave that can be used at any time during the next 180 days of the award of the substitute holiday leave. The number of hours of such substitute holiday leave will be equal to the number of hours actually worked on the scheduled holiday. In addition, utility employees who work on scheduled holidays will be paid at a rate for holiday pay equal to 1.5 their normal hourly rate for such holiday hours worked

6.04.3 Sword Police Officers: Police officers who work on January 1, Martin Luther King Day, President's Day, Good Friday, Easter, Race Day (Indianapolis 500), Memorial Day, July 4th, Labor Day, Veteran's Day, Thanksgiving, Christmas Day or New Year's Eve will receive a paid day of holiday leave that can be used at any time during the next 180 days of the award of the substitute holiday leave. The number of hours of such substitute holiday leave will be equal to number of hours actually worked on the holiday. In addition, police officers will be paid at a rate for holiday pay equal to twice their normal hourly rate for such holiday hours worked. In order to be eligible for this special holiday rate, officers must work their entire shift on the holiday, must work the day before or the day after the holiday, and must be in compliance with their other time off (vacation, etc.)

6.05 BEREAVEMENT LEAVE.

All Full-Time Employees are eligible to receive paid bereavement leave. Employees may request such leave from the Department Head. The number of days granted is in the discretion of the Department Head. Upon granting bereavement leave, the Department Head will report the leave to the Clerk-Treasurer.

6.05.1 Incremental Use of Vacation, Sick Leave, Personal Days and Bereavement Leave: Employees may use Vacation Leave, Sick Leave, Personal Days awarded pursuant to the Attendance Incentive, and Bereavement Leave in increments of less than a full work day. The minimum increment of leave is one hour. If an employee uses leave for a full day, the employee will be charged with the number of hours he or she was scheduled to work on the day of leave.

6.06 LEAVE UNDER THE FAMILY MEDICAL LEAVE ACT (FMLA)

6.06.1 FMLA Leave: Federal law grants to employees the right to take up to 12 weeks of unpaid leave during a 12-month period, if the employee qualifies, under the Family Medical Leave Act (FMLA) for a serious health condition. The Town recognizes an employee's rights and obligations under FMLA. Employees of the Town are eligible for up to four weeks of paid FMLA and up to eight weeks of unpaid FMLA leave per year.

6.06.2 Serious Health Condition: The Department of Labor has defined a "serious health condition" as involving any illness, injury, or physical or mental condition that involves:

- In-patient care in a medical facility; or
- Incapacity requiring three days' absence from work, school, or other daily activities; and, supervision or continuing treatment by a health care provider; or
- A chronic, long-term, or incurable condition which is under the care, supervision, or treatment of a health care provider and if untreated would result in at least three days' incapacity from work or other daily activities.

6.06.3 Events for which Leave is Available: The Town allows up to 12 work weeks of unpaid leave during any 12 month period to an employee who requests the leave:

- To care for a newborn child, or a child who is newly placed in the employee's custody through adoption or foster care;
- To care for a spouse, child, stepchild, foster child or parent (but not a parent-in-law) who has a "serious health condition," or
- Because the employee has a "serious health condition," that makes the employee unable to perform his/her job.

6.06.3.1. The Town allows up to twenty-six (26) work weeks of leave during any twelve-month period to an employee who requests the leave to be a military caregiver.

6.06.4 Eligibility Requirements: The twelve month period starts the first day that the employee takes the leave. The provisions of this policy shall not apply to any employee of the Town who has been employed for less than 12 months or who has worked less than 1,250 hours during the preceding 12 month period.

6.06.5 Notice Required: An employee who seeks to obtain leave pursuant to this policy shall give at least 30 calendar days' notice of the leave, if possible. He or she shall also schedule medical treatment to cause as little disruption to his or her employment as possible.

6.06.6 Compensation for FMLA Leave: Employees will be required to first use any vacation and sick days before taking unpaid family leave. An eligible employee shall take any accrued sick leave or vacation leave prior to taking unpaid leave under the FMLA. Such paid leave will be counted towards the employee's 12 work weeks of FMLA leave granted per leave year. For example, if an employee has one week of vacation leave that can be applied toward the 12 work weeks leave, then only 11 work weeks unpaid leave needs to be provided.

6.06.7 Intermittent or Reduced Hours Leave: Under normal circumstances, any leave obtained pursuant to this policy shall be taken in consecutive days unless the Town Manager or Chief of Police and the employee agree to another arrangement. In the case of leave taken to care for a seriously ill spouse, child, or parent, or due to the employee's own serious health condition, an employee may take leave intermittently (i.e., periodically) or on a reduced hours schedule (i.e., reduced number of working hours per day or per week) only when such leave is medically necessary, as certified by the employee's or family member's health-care provider. Otherwise, such leave is not permitted except at the sole discretion of the Town. An employee who takes leave intermittently or on a reduced leave schedule may be temporarily transferred to another position for which the employee is qualified to better accommodate that leave.

When an employee takes FMLA leave on an intermittent or reduced leave schedule basis, the employee may take such leave for any period of a day, but the minimum period of leave is one hour. However, the employee will not be charged FMLA leave for periods of time during which the employee is working. In accounting for FMLA leave taken, the Town will charge the time taken on such leave based upon the actual work week of the employee. For example, if the employee has a 40-hour 5-day regular work week, and takes off one day (eight hours), the employee will be charged with using one-fifth (1/5th) of a week. If the employee works a part-time 30-hour week and takes off 10 hours of FMLA leave, the employee will be charged with using one-third (1/3rd) of a week. If the employee's work week varies from week to week to such an extent that the Town is unable to determine with any certainty how many hours the employee would otherwise have worked (but for taking the FMLA leave), the Town will use a weekly average of hours scheduled to work over a 12 month period prior to the beginning of the

leave period (including any hours for which the employee took leave of any type) in order to calculate the employee's leave entitlement. If the employee would normally be required to work overtime, but is unable to do so because of a FMLA-qualifying reason that limits the employee's ability to work overtime, the hours which the employee would have been required to work will be counted against the FMLA entitlement. For example, if the employee would normally be required to work 48 hours in a particular week but is only able to work 40 hours, the employee would be charged with using one-sixth (1/6th) of a week of FMLA leave. Voluntary overtime will not be counted against the FMLA entitlement.

6.06.8 Health Care Provider Authorization: In cases of leave to be taken to care for a seriously ill family member or due to the employee's own serious health condition, an eligible employee must provide the Town with a completed and signed health care provider certification indicating that the employee requires FMLA leave. This certification must be returned to the Town within 15 days after the employee gives notice of his or her intent to take FMLA leave, and must contain the following information:

- The date on which the eligible event commenced.
- The probable duration of the condition.
- The treatment regimen prescribed.
- Any appropriate medical facts within the health-care provider's knowledge regarding the condition.
- If applicable, a statement that the employee is needed to provide care for his or her spouse, child, or parent and an estimated duration of such need.
- If applicable, a statement regarding the medical necessity of intermittent or reduced hours schedule leaves.

Failure to return this certification in a timely manner may result in delays in securing authorization for leave, and failure to return the certification at all will preclude the employee from taking leave.

The Town may also require, at its own expense, a second and third health care provider opinion if there is a question as to the validity of the certification provided by the employee.

An eligible employee also may be asked to furnish the Town with subsequent health care provider certifications on a reasonable basis during the employee's leave period. An

eligible employee's failure to furnish subsequent certifications may result in termination of the employee's right to leave.

An eligible employee on FMLA leave must submit to the Town a medical release (i.e., fitness-for-duty certification) indicating that the employee is able to return to work. Failure to submit such a release will preclude the employee from being restored to his or her employment with the Town.

6.06.9 Job and Benefits Security: An eligible employee who takes leave under the FMLA and who returns to work before his or her annual FMLA entitlement has expired, will be restored to the position he or she held when the leave commenced, or to an otherwise equivalent position with respect to pay, benefits, and other terms and condition of employment, unless the employee would no longer have been employed in such a position had the employee not taken such leave. Additionally, any unused employment benefits that had accrued to an eligible employee prior to the commencement of leave will be restored upon return from FMLA leave.

6.06.10 Continuation of Group Health Plan Coverage: Group health plan coverage will be maintained by the Town during an eligible employee's period of FMLA leave to the extent and under the same circumstances as it ordinarily is furnished to that employee. The employee's portion of premium payments should be paid by the employee to the Clerk-Treasurer's office on the 1st and 15th of each month. The Clerk-Treasurer's office will notify eligible employees concerning the amount of each premium payment. Failure to pay such premiums during leave will result in the loss of health coverage. An eligible employee who fails to return to work after the expiration of the FMLA leave period for reasons that are not beyond his or her control will be expected to reimburse the Town for health-care premiums paid by the Town during the leave period. Insurance coverage provided as required herein during the course of a leave is not to be counted as COBRA coverage.

6.06.11 Non-Discrimination/Non-Retaliation Policy Statement: The Town will not:

(1) interfere with, restrain, or deny the exercise of any right provided under the FMLA;
(2) discharge or discriminate against any person for opposing any practice made unlawful by the FMLA; or
(3) discharge or discriminate against any person for his or her involvement in any proceeding under or relating to the FMLA.

6.07 MILITARY LEAVE

Military leave is granted in accordance with federal and state laws. Employees who are called to active duty or drafted into military service of the United States shall receive compensation from the Town during active duty period of service based on the following formula:

Compensation = Town salary (-) military pay

If the military pay meets or exceeds the Town salary, the Town will not pay compensation to the employee while on military leave. The Town shall continue to contribute retirement benefits during the active duty period of service. If the employee has family or spouse health insurance benefits, those benefits shall continue for his or her family members during the period of service unless the Town's contract for health insurance prohibits such continuation. This paid military leave shall not apply to a period of re-enlistment that occurs during the involuntary service period. This payment of salary, pension contributions and health insurance contributions is conditioned upon four conditions:

1. The employee's return to work within 14 days or within the time prescribed by the Uniformed Services Employment and Re-employment Act of 1994, whichever period is greater;
2. The employee's honorable discharge from the military service or a regular de-activation status;
3. The employee being able to perform the essential functions of his or her position with the Town; and
4. Reinstatement will not impose undue hardship on the municipality

Uniformed services mean the Armed Forces of the United States, a ready reserve component of the Armed Forces, Indiana National Guard Units, the commissioned core of the public health service, and any other service designated by the President of the United States in time of war or emergency.

Employees absent from their respective positions because of service in the uniformed services are, if honorably discharged, entitled to reinstatement, provided that the period of absence does not exceed five years. If an absence exceeds five years, reinstatement shall be available only under the exceptions set forth in 38 U.S.C. §4312(c). An employee is entitled to reinstatement only if the employee had, prior to the time of commencing

uniformed service, given notice to the Town of the anticipated service, and has at the conclusion of the military service reported for work, or made application for reinstatement as follows:

- if the uniformed service period is for 30 days or less, the employee must report to work by the next regularly scheduled workday after allowing 16 hours for travel.
- if uniformed service is for more than 30 days but less than 181 days, the employee must submit an application for reinstatement not later than 14 days after completion of uniformed service;
- if uniformed service is for more than 180 days, the employee must submit an application for reinstatement within the 90 day period following completion of uniformed service.

Applications must be completed and filed to the Town in accordance with the provisions of 38 USC § 4312(f)(1). Exceptions to these reinstatement time periods will be made when, because of a disability or hospitalization caused by uniformed service, or because of events beyond the control of the employee, the employee was unable to report to make application within the prescribed period of time. In that event, the employee shall report to Town or submit an application of reemployment within a reasonable period of time, not to exceed two years.

Reinstatement shall be to the position last held by the employee, unless such position no longer exists, or the requirements of such position has so substantially changed that reasonable training will not qualify the employee for such position. In such circumstances, reinstatement shall be to a position similar in pay and duties. Reinstatement shall not be available, if during the period of military service, the employee would have been laid off from such position had the employee remained in public employment, and recall has not yet occurred. The employee will retain their seniority and any other rights and benefits determined by seniority as if they had been continuously employed.

Benefit accruals, such as vacation, sick leave, or holiday benefits will be suspended during the leave and will resume upon the employee's return to active employment.

If an employee is the spouse, grandparent or sibling of a person who is ordered to active duty in the United States armed forces or the National Guard, they are eligible for up to ten days of an unpaid leave of absence each year. These days can include anywhere from 30 days prior to active duty, during the time of active duty, or 30 days after active duty. Employees will be required to provide written notice and a copy of the active duty orders,

if available, before taking the leave. Employees who have vacation or sick leave will be required to use those days prior to taking unpaid leave. Upon return from the leave, employees will be restored to their position. Employees will continue to participate in all benefit plans during the period of absence.

6.08 JURY DUTY

It is the policy of the Town to support our employee's civic responsibility to serve required by jury duty. Employees who present a copy of the subpoena for jury duty to their supervisor are excused from their work schedule on the days required for participation in jury duty. Employees that are called to jury duty shall be paid their regular salary or wage, less any jury duty pay, during jury duty days that would normally be a work day.

6.09 NURSING MOTHERS

Employees who are nursing mothers of children up to one (1) year old will be provided with reasonable breaks to express breast milk as frequently as needed. Employees will be provided a place for the break, other than a bathroom, that is shielded from view and free from intrusion. Employees who wish to express breast milk during the workday must notify their department supervisor/manager, either before or after returning to work following their maternity leave. Breaks taken by employees in order to express their breast milk will be paid.

Employees are responsible for providing their own breast pump. Employees may use refrigerators on the premises to store breast milk during work if such refrigerators are available. If no such refrigerators are available, employees will be responsible for their own storage of breast milk. Employees are also responsible for cleaning up the area provided for the expression of breast milk and to take reasonable efforts to keep the area free from contamination and illness transmission.

6.10 VOLUNTARY FIREFIGHTERS

If an employee of the Town also serves as a volunteer firefighter for any entity or serves as a volunteer member of any fire department, such employee shall notify the Town in writing of his/her volunteer status by completing the Notice of Volunteer Firefighting Services. Such Notice shall be provided to the employee's supervisors.

No employee who has provided the Notice of Volunteer Firefighting Services to his/her supervisor shall be subject to discipline for the following actions:

1) For performing his/her volunteer firefighting duties in response to a fire or emergency call when the employee receives notice of such fire or emergency call prior to the time in which he/she is required to report to his services as a Town employee.
2) For temporarily leaving his/her place of employment with the Town during his/her working hours in order to respond to and/or provide volunteer firefighting services in response to a fire or emergency call provided the supervisor of such employee has provided approval to the request to leave his/her place of employment.

In addition, no employee who has provided the Notice of Volunteer Firefighting Services to his/her supervisor shall be subject to discipline for an injury or for an absence from his/her employment with the Town as the result of an injury when such injury occurs as the result of the employee performing emergency duties as a volunteer firefighter provided the following has occurred:

1) The absence from the employee's place of employment with the Town does not exceed six months from the date of injury; and
2) The employee provides his/her Town supervisor with written statement from the fire chief, other officer in charge of the volunteer fire department or other officer in charge of the volunteer emergency medical services association. This statement should indicate that the employee was injured while performing duties as a volunteer firefighter in response to emergency firefighting or other emergency activity; and
3) The employee further provides his/her Town supervisor with a written statement from a physician or other medical care provider which shows the injury incurred is related to the employee's emergency firefighting or other emergency response activities and which indicates the type of treatment received for such injury. Any information obtained by the Town as the result of this requirement shall be kept by the Town in a separate medical file for such employee and treated as a confidential medical record.

6.11 MATERNITY AND PATERNITY LEAVE

6.11.1 Leave Provided. The Town of Cumberland will provide maternity and paternity leave associated with the birth of an employee's own child or the placement of a child with the employee in connection with adoption or foster care.

6.11.2 Eligible Employees: To be eligible for these benefits an employee must have worked full time for the Town of Cumberland for a minimum of twelve continuous months and be in good employment standing.

6.11.3 Amount of Leave Available: An eligible employee may take up to 12 weeks of unpaid maternity or paternity leave associated with the birth of an employee's own child or the placement of a child with the employee in connection with adoption or foster care.

6.11.4 Use of Paid Leave; Coordination with other Town Policies: If the employee is covered under the Family Medical Leave Act ("FMLA"), the Town of Cumberland may consider maternity or paternity leave taken under this policy as FMLA leave. Eligible employees may use, in an amount not to exceed three weeks, available or accrued Vacation Leave, Sick Leave, and/or Personal days awarded pursuant to the Town's Attendance Incentive Policy, as applicable, toward the unpaid leave taken under this section. The Town may consider the use of paid Vacation Leave, Sick Leave, and/or Personal days awarded pursuant to the Town's Attendance Incentive Policy taken under this policy as FMLA leave.

6.11.5 Continuation of Health Coverage: The Town of Cumberland will continue to cover an eligible employee's health insurance premiums during the employee's leave time only if the employee returns to work for the Town of Cumberland.

6.11.6 Notice of Leave; Leave Planning: Eligible employees seeking to take maternity or paternity leave must request the leave from the employee's supervisor at least 30 days prior to taking the leave, if possible. If this is not possible, the employee must request the leave as soon as possible and immediately upon becoming aware of the need for leave. Prior to taking maternity or paternity leave, the employee and the Town will create a return to work plan that also includes the leave time. It is the responsibility of the employee to communicate to the Town of Cumberland if the leave plan or return to work plan needs to be changed while on leave. The Town may request written notification from doctor or physician in the event of a female employee who is taking leave in connection with a live birth.

6.11.7 Multiple Births, Adoption, Foster Care Placement: The fact that multiple births, adoptions, or foster care placements occur simultaneously, does not increase the length of maternal or parental leave.

6.11.8 Both Parents are Employees. If both parents are employees of the Town of Cumberland and work in the same department, only one may access the available paid benefits of section 6.11.4.

6.11.9 Benefits upon Termination: Upon termination from employment, the employee shall not be eligible for payment for any unused maternal or parental leave.

6.11.10 Policy Abuse; Discipline: The Town may initiate disciplinary action, including termination of employment, against any employee found to abuse this policy.

6.11.11 Reservation of Benefits by the Town: The Town of Cumberland, as with all other policies of the Town, reserves the right to modify this policy at any time.

7. DISCIPLINE POLICIES

7.01 DISCIPLINARY POLICY

7.01.1 Administrative Employees: The discipline policy for inappropriate behavior, performance shortcomings, or attendance problems is generally progressive. That is, minor offenses or performance issues will generally be handled through the following progressive steps; oral warning, written warning, suspension without pay, and termination; however, depending on the seriousness of the offense, one or more of the progressive steps may be bypassed. Certain violations of Town Policies or protocol may be so severe or egregious as to compel termination of employment even for the first offense. Additionally, there may be situations where transfer or demotion is used in lieu of suspension or termination.

A supervisor may discipline an employee who violates work rules including provisions of this handbook and may impose any of the following disciplinary actions without a hearing:

1. Verbal warning
2. Written reprimand
3. Suspension from work (with or without pay)
4. Discharge.

Supervisors shall meet with his or her employee to discuss the disciplinary measure. Email communications shall not be used for this purpose.

All disciplinary actions shall be documented on the Town Notice of Discipline Form. The employee and supervisor shall sign and date the Form and a copy shall be placed in the employee's personnel file.

These offenses are illustrative and not all-inclusive.

- Willful neglect in the performance of the duties of the position to which the employee is assigned.
- Disregard of or failure to report violations of Town ordinances, policies and regulations, including safety rules.
- Willful misuse, misappropriation, negligence or destruction of Town property or conversion of Town property for personal use or gain.
- Tardiness or absence from duty without prior approval from the supervisor.
- Violation of any official order, refusal to carry out lawful directions given by his or her supervisor, or other acts of insubordination.

- The use of alcoholic beverages, narcotics, drugs, or other controlled substances either while on duty or use that causes interference with job performance or efficiency of Town service.
- Criminal, dishonest, or other conduct which interferes with job performance or has an effect on the efficiency of Town service.
- Unauthorized release of privileged or confidential information or its use for private gain.
- Incompetent or unsatisfactory performance of duties.
- Conviction of a crime, including but not limited to charges such as OWI, Public Intoxication, and Reckless Driving.
- Knowingly giving false statements to supervisors or other officials.
- Any conduct, on or off-duty, that reflects unfavorably on the Town as an employer.
- Membership in any organization which advocates the overthrow of the government of the United States by force or violence.
- Discovery of a false statement in an application or in any other document used to obtain employment which had not been previously discovered.
- Acceptance of gratuities in violation of Town policy.
- Refusal to be examined by a designated physician when so directed by proper authority.
- The loss or suspension, inability to obtain, or restrictions upon an Indiana Operator or CDL License which prohibits or limits the employee's ability to operate a Town motor vehicle or otherwise interferes with an employee's job performance.
- Failure to wear the designated uniform provided by the Town.
- Any other conduct or action of such seriousness that disciplinary action is considered warranted.

7.01.2 Police Officers: Police officers are subject to the disciplinary rules required by Indiana Law and the Department's Standard Operating Procedures, rules and general orders.

7.01.3 Town Manager: The Town Manager serves at the pleasure of the Town Council, and he may be disciplined by the Town Council as it deems appropriate.

7.01.4 Police Chief: The Police Chief serves at the pleasure of the Town Council, and he may be disciplined by the Town Council as provided for by Indiana law.

7.02 IMMEDIATE DISMISSAL/MISCONDUCT

7.02.1 Administrative Employees: Any employee whose conduct, actions or performance violates or conflicts with the Town of Avon's policies may be terminated immediately and without warning.

The following are some examples of grounds for immediate dismissal of an employee:

- Breach of trust or dishonesty
- Conviction of a felony
- Willful violation of an established policy or rule
- Falsification of Town records
- Gross negligence
- Insubordination
- Recordkeeping falsifications
- Undue or unauthorized absence from duty
- Deliberate non-performance of work
- Larceny or unauthorized possession of, or use of, property belonging to the Town, a co-worker, visitor, or customer of the Town of Avon
- Possession of dangerous weapons on Town property
- Excessive absenteeism or lateness
- Marring, defacing or other willful destruction of supplied, equipment or property of the Town
- Fighting or serious breach of acceptable behavior
- Violation of the alcohol or drug policy
- Theft
- Violation of the Town's conflict of interest/outside employment policy and or confidentiality policy
- Leaving work premises without authorization during working hours
- Sleeping on duty

This list is intended to be representative of the types of activities that may result in disciplinary action. It is not exhaustive, and is not intended to be comprehensive and does not change the employment-at-will relationship between the Town and its employees.

In the event of dismissal for misconduct, all benefits end effective the day of dismissal. COBRA may not be available to anyone dismissed for gross misconduct.

7.02.2 Police Officers: Police officers are subject to the disciplinary rules required by Indiana Law and the Department's Standard Operating Procedures, rules and general orders.

8. SEPARATION POLICIES

8.01 TERMINATION OF EMPLOYMENT

Termination of employment is an inevitable part of personnel activity within any organization, and many of the reasons for termination are routine. Department Heads will schedule exit interviews for their employees at the time of employment termination. The supervisor shall conduct an exit interview on the approved exit interview form. The exit interview will afford an opportunity to discuss such issues as employee benefits, conversion privileges, repayment of outstanding debts to the Town, or return of Town owned property. Suggestions, complaints, and questions can also be voiced.

8.02 VOLUNTARY RESIGNATION

An employee should provide his or her supervisor with two weeks written notice if choosing to resign from employment with the Town...

8.03 REDUCTION IN FORCE

An employee may lose employment as a result of a reduction in force action taken by the Town.

8.04 RETURN OF TOWN PROPERTY

Employees are responsible for all property, materials, or written information issued to them or in their possession or control. An employee must return all Town property to his or her supervisor on or before the last day of work. Town property may include, but is not limited to:

- Town identification and/or security access cards
- Town issued uniforms
- Keys to Town properties or equipment
- Town provided vehicles, equipment, radios, cellular phones, computers, tools, etc.
- Any additional Town-owned or issued property
- For police officers, all badges, seals of the Town, and patches that identify the officer as a sworn officer of the Town must be returned to the Police Chief or

his designee, subject to the Department's Standard Operating Procedures, rules and general orders.

8.05 COMPENSATION UPON TERMINATION

Employees who terminate their employment from the Town will be paid for all time worked, unused vacation and personal days, and compensatory time, less appropriate deductions on the next regular pay day according to the applicable federal and state laws. The amount of unused compensatory time will be calculated at the average regular rate received by such employee during the last three years of the employee's employment or at the final regular rate received by such employment, whichever is higher.

8.06 IMPACT ON BENEFITS

When an employee separates from employment with the Town and when enrolled in the Town medical, dental and/or life insurance plans, the employee's participation in these plans will end on the last day of active employment. The separating employee may be eligible to continue health care coverage after leaving. A notice summarizing the right to elect continued health care coverage (COBRA) and a summary of the cost will be sent to the employee's home a short time after coverage ends. Updated mailing information should be given to the Town Manager.

8.07 BENEFITS UPON SEPARATION OF EMPLOYMENT: CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985 (COBRA)

COBRA Coverage - Employer sponsored group health plans may be continued at the expense of the insured for qualified persons under certain circumstances as provided by COBRA or applicable state laws when coverage might otherwise be terminated.

COBRA Qualifying Events - The qualifying events under COBRA are as follows:

- Termination of employment (except for gross misconduct) or reduction in the covered employee's scheduled work hours if it results in loss of coverage;
- Death of a covered employee;
- Divorce or legal separation of the covered employee from the employee's spouse;
- The employee's eligibility for Medicare benefits (the employee's qualified beneficiaries are then entitled to continuation of coverage, not the employee); or
- Bankruptcy of the employer on or after July 1, 1986, with respect to a covered employee who has retired at any time. Loss of coverage includes a substantial

elimination of coverage within one year before or after the date of commencement of bankruptcy proceedings.

The employee must notify the Town Manager's office within three (3) days of a qualifying event.

9. REPEALER

9.01. EFFECT OF ADOPTION OF RULES

Upon adoption by the Town Council, these rules shall govern the employees of the Town. Employees of the Police Department shall also be subject to the General Orders, Standard Operating Procedure and rules of the Police Department. All terms of the handbook are effective January 1, 2016.

Form A-1

EMPLOYEE HANDBOOK ACKNOWLEDGEMENT

(PLEASE COMPLETE THIS FORM, REMOVE THIS PAGE AND RETURN IT TO THE TOWN MANAGER'S OFFICE).

This Employee Handbook summarizes the Town of Cumberland's policies, procedures, and benefits for its employees. The Cumberland Police Department may also have additional policies outlined in the Standard Operating Procedure Manual. It is not intended to cover everything, nor is it a contract of employment. From time to time, changes may be needed and the Town of Cumberland reserves the right to make such changes and communicate those changes to employees.

By signing below, I acknowledge that I have received a copy of the Town of Cumberland Employee Handbook, revised December, 2015. I agree that, as an employee, it is my responsibility to read this manual, to ask questions of my supervisor if I need additional information regarding items covered in this m annual, and to abide by and observe any and all of the information, policies, and procedures explained in this manual. I also understand that the Town may periodically change policies, benefits and procedures and that I will be responsible to abide by and observe such changes.

Civilian Employees:

_____ I have entered into my employment relationship with the Town of Cumberland voluntarily and acknowledge that there is no specific length of employment. Accordingly, either the Town or I can terminate the relationship at will, with or without cause, at any time, so long as there is no violation of applicable federal or state law.

Police Officers:

_____ I have entered into my employment relationship with the Town of Cumberland voluntarily and acknowledge that The Police Safety Board is responsible for hiring, firing and disciplinary measures for Police Officers. The Police Chief serves at the discretion of the Town Council.

_____

Employee Signature Date Signed

_____

Printed Name

_____ _____

Department Division

Form A-2

NOTICE OF RIGHT TO ELECT OVERTIME COMPENSATION

TO: ALL EMPLOYEES OF THE TOWN OF CUMBERLAND

Non-exempt employees of the Town of Cumberland will receive either overtime pay or compensatory time in lieu of paid overtime for all authorized overtime worked. Authorized overtime for employees is 40 hours in a 7-day period for administrative employees and civilian employees of the Police Department and 84 hours in a 14-day period for police officers.

Consent to compensatory time in lieu of paid overtime shall be assumed for each eligible employee unless such employee provides a written notice of objection to the Town Manager for administrative employees, Clerk-Treasurer for employees in the Clerk-Treasurer's Office or the Chief of the Cumberland Police Department for non-exempt police officers and civilian employees of the Police Department.

I hereby make the following election (circle one):

1. Option 1: I am willing to receive compensatory time for all overtime hours;
2. Option 2: I hereby elect to receive overtime pay for my overtime hours worked rather than compensatory time for my overtime hours worked on _____, 2016:
3. Option 3: I hereby elect to receive overtime pay for my overtime hours worked rather than compensatory time for all of my overtime hours worked in 2016; or
4. Option 4: I make no election at this time.

Date:_____ _____

Printed:

Received by _____ on _____, 201___.

Form A-3

NOTICE OF VOLUNTEER

FIREFIGHTING SERVICES

I hereby affirm that I am a volunteer firefighter for or a volunteer member of the _____ Fire Department.

As required by the terms and provisions of the Town of Cumberland Employee Handbook, I hereby agree to provide prompt notice to the Town of all such circumstances in which my services as a volunteer with the above-named Department shall impact any obligations or duties I have as an employee of the Town, including but not limited to any time in which I may be absent from my employment as a Town employee as the result of such volunteer services.

Date: _____ _____

Printed:

Received by _____ on _____, 20__.

TABLE OF SPECIAL ORDINANCES

Table

I. ANNEXATIONS

II. CONTRACTS

III. ZONING MAP CHANGES

TABLE I: ANNEXATIONS

Ord. No.	Date Passed	Description
1971-6	10-27-1971	Annexing of certain area to the town's Ward #3, which begins at the southeast corner of Section 35, Township 16 North, Range 5 East
1980-07	6-13-1980	Annexation of Masonic lodge property at Rt. 40 and 700 W
86-5	6-4-1986	Annexing property contiguous to the town, Marion and Hancock Counties, Indiana, in as much as at least one-eighth of the aggregate external boundaries of the real estate coincides with the boundaries of the municipal Town of Cumberland, Marion and Hancock Counties, Indiana
-	6-10-1986	Annexing certain property starting at the southwest corner of Section 26 and going north for two miles along the west section line of Sections 26 and 23, which is common to the Hancock-Marion County line, to the northwest corner of Section 23
1988-3	7-6-1988	Annexing certain property commencing at a point on the north line and 1,340 feet west of the northeast corner of Section 2, Township 15 North, Range 5 East
1988-4	9-15-1988	Annexing certain property at a brass monument marking the southeast corner of the one-fourth section
-	6-4-1986	Annexing certain property beginning at a five-eighth inch rebar marking the southwest corner of the one-fourth section
1988-5	9-15-1988	Annexing certain property commencing at the southwest corner of the west half of the southeast quarter of the section
-	--	Annexing certain property commencing at the northeast corner of the section
2	3-1-1989	Annexing certain property contiguous to the Town of Cumberland, Marion and Hancock Counties, Indiana

Ord. No.	Date Passed	Description
1992-1	2-19-1992	Annexing contiguous territory to the town more particularly described as the northwest quarter of the southwest quarter of Section 26, Township 16 North, Range 5 East, containing 40 acres, and the southwest quarter of Section 26, township 16 North, Range 5 East, containing 40 acres
1997-04	8-2-1997	Kent D. and Cynthia Abercombie at 255 Buck Creek Road Lot 1 in Newbys Minor Subdivision
1997-07	--	Establishing the Council District for Ord. 1997-04
1999-08	8-20-1998	Annexation of Cornelius; Bangel, Kleine; Atherton; Hale; Circle & Doris Wiese property at 300; 314; 385; 465 and 495 Buck Creek Road
2000-07	2-7-2001	Annexation of Smithy-Howe Development – "The Crossing"
2000-08	2-7-2001	Annexation of CTS Development/Valley Brooke Village, Section 7
2001-10	8-15-2001	Annexation of Cowan Tucker/Cumberland Falls
2001-14	10-3-2001	Annexation of Nancy Haley/171 Buck Creek Road
2004-01	4-8-2004	Annexation of 1518 North Buck Creek Road
2004-11	2-16-2005	Annexing property located along the north side of US 40, south of Glen Oaks Village

TABLE II: CONTRACTS

Ord. No.	Date Passed	Description
-	--	Granting a franchise to Indianapolis Cablevision Company, Ltd., to construct and operate a cable television system
1995-2	1-4-1995	Granting a franchise to Comcast Cablevision of Indianapolis, L.P., to construct, operate, and maintain a cable television system in the town
2000-5	10-4-2000	Authorizing a joint agreement, between the Town of Cumberland and the Hancock County Regional Water and Sewer District, for the town to provide sanitary sewer service to certain territory within the jurisdiction of the District

TABLE III: ZONING MAP CHANGES

Ord. No.	Date Passed	Description
1988-10	9-7-1988	Rezoning certain property commencing at the northeast corner of the one-fourth section to R-2 residential district, and rezoning certain property commencing at the northeast corner of the one-fourth section to B-2 Business District
1988-14	11-2-1988	Rezoning certain property commencing at a brass monument marking the southeast corner of the one-fourth section to R-1 Residential District
1986-16	12-28-1988	Rezoning certain property commencing at the southeast corner of the west half of the southeast quarter of the section to R-3 Residential District
1989-3	4-5-989	Rezoning certain property commencing at the northeast corner of the section to R-2 Residential District
1991-2	3-6-1991	Rezoning certain property commencing at the northwest corner of the quarter section to B-1 Business District
1992-4	2-4-1992	Rezoning certain property commencing in the northwest quarter of the southwest quarter of Section 26, Township 16 North, Range 5 East, containing 40 acres, and commencing in the southwest quarter of the southwest quarter of Section 26, Township 16 North, Range 5 East, containing 40 acres, to the R-1 zoning district classification
1993-8	5-26-1993	Zoning certain property being a part of the southwest quarter of Section 35, Township 16 North, Range 5 East, in Buck Creek Township containing 17.368 acres as R-3 District
1998-09	10-7-1998	Zoning certain property being a part of the southwest quarter of section 35, Township 16 North, Range 5 in Buck Creek Township containing 43.014 acres as R-1 Residential District

Ord. No.	Date Passed	Description
2001-03	2-7-2001	Rezoning certain property being a part of the northwest quarter of section 26, Township 16 North, Range 5 in Buck Creek Township containing 15.513 acres as R-4 Residential District
2001-04	2-7-2001	Rezoning certain property being a part of the southwest quarter of section 35, Township 16 North, Range 5 East in Buck Creek Township containing 16.71 acres as R-3 Residential District
2001-15	10-3-201	Rezoning certain property being a part of the northeast quarter of section 35, Township 16 North, Range 5 in Buck Creek Township containing28.322 acres as PUD-R Planned Unit Development District – Residential District
2001-16	10-3-2001	Rezoning certain property being a part of the northwest quarter of section 2, Township 15 North, Range 5 East in Hancock County, Indiana, containing one acre as R-4 Residential District
2004-02	4-8-2004	Rezoning certain property being a part of the west half of section 26, Township 16 North, Range 5 East I Hancock County containing 80.8 acres as PUD-R Planned Unit Development – Residential District
2005-01	2-16-2005	Rezoning certain property located at 7560 and 7606 West US 40 in Sugar Creek Township, containing 15.5 acres as B-1 Commercial District
2005-02	2-16-2005	Rezoning certain property located at approximately 495 North Buck Creek Road in Buck Creek Township, containing 43.652 acres as PUD-R Planning Unit Development – Residential District
2005-08	12-14-2005	Adding a new zoning district, National Road Overlay District
2009-06-2	7-15-2009	Changing the zoning for approximately 69.007 acres of real estate known as the former Cumberland Trails, to be rezoned A-1/R-6
2013-14	_____	Annexing certain territory referred to as “US 40 East” into the Town
2014-09	_____	Authorizing the provision of fire protection and emergency response services by Sugar Creek Township in portions of the Town, without the necessity of a contract
2014-12	_____	Authorizing the provision of fire protection and emergency response services by Buck Creek Township in portions of the Town, without the necessity of a contract
2014-14	_____	Annexing certain territory referred to as “US 40 East – Phase 2” Into the Town

PARALLEL REFERENCES

References to Indiana Code
References to 1995 Code
References to Ordinances

REFERENCES TO INDIANA CODE

I.C. Cites	Code Section
1-1-1-5	00-01-10-04
1-1-1-7	00-01-10-12
1-1-1-8	00-01-10-06
1-1-4-5	00-01-10-05
1-1-5-1	00-01-10-11
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5-14-1.5	00-03-30-22
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6-3.5-1.1-21.1	00-03-35-07
6-3.5-6-17.3	00-03-35-07
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36-7-14 et seq.	00-03-34-34, 00-03-34-47
36-7-14-12.2	00-03-34-45
36-9-9	00-05-52-001, 00-05-52-006
36-10-5-2	00-03-34-01

REFERENCES TO 1995 CODE

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00-01-11-01	00-03-30-35
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